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Rules and Regulations

Federal Register
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Friday, October 1, 1999

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI68

Prevailing Rate Systems; Change in Survey Cycle for the Southwestern Michigan Appropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to change the full-scale survey cycle for the Southwestern Michigan appropriated fund Federal Wage System wage area from odd to even-numbered fiscal years. This change is being made to help even out the local wage survey workload of the Department of Defense.

DATE: This final rule is effective on November 1, 1999.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins, (202) 606–2848, FAX: (202) 606–0824, or e-mail to jdhopkin@opm.gov.

SUPPLEMENTARY INFORMATION: On May 3, 1999, the Office of Personnel Management (OPM) published an interim rule (64 FR 23531) to change the full-scale survey cycle for the Southwestern Michigan wage area from odd to even-numbered fiscal years. The interim regulation had a 30-day public comment period, during which OPM received no comments. The interim rule is therefore being made final. Under section 532.207 of title 5, Code of Federal Regulations, the scheduling of wage surveys takes into consideration the best timing in relation to wage adjustments in the principal local private enterprise establishments, reasonable distribution of workload of the lead agency, timing of surveys for nearby or selected wage areas, and scheduling relationships with other pay surveys.

This change is being made to help even out the Department of Defense's (DOD's) wage survey workload and stems from DOD's recent acquisition of lead agency responsibility for 23 Federal Wage System (FWS) wage areas from the Department of Veterans Affairs. DOD requested that a full-scale wage survey for the Southwestern Michigan wage area be conducted in October 1999 and that a wage change survey be conducted in October 2000. The timing of the Southwestern Michigan wage survey relative to private sector wage adjustments will remain unchanged.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and concurred by consensus with this change.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule (64 FR 23531) amending 5 CFR part 532 published on May 3, 1999, is adopted as final with no changes.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–25610 Filed 9–30–99; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI74

Prevailing Rate Systems; Redefinition of the Eastern South Dakota and Wyoming Appropriated Fund Wage Areas

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule that will redefine Jackson County, South Dakota, from the area of application of the Eastern South Dakota appropriated fund Federal Wage System (FWS) wage area to the area of application of the Wyoming wage area, and redefine Teton County, Wyoming, from the area of application of the Wyoming FWS wage area to the area of application of the Montana wage area. The redefinition of Jackson County will place all of Badlands National Park in one wage area and the redefintion of Teton County will place employees at Grand Teton National Park on the same wage schedule as employees at the nearby Yellowstone National Park.

DATES: *Effective Date:* This regulation is effective on November 1, 1999. *Applicability Date:* This regulation applies on the first day of the first applicable pay period beginning on or after October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins, by phone at (202) 606–2848, by FAX at (202) 606–0824, or by email at jdhopkin@opm.gov.

SUPPLEMENTARY INFORMATION: On June 23, 1999, the Office of Personnel Management (OPM) published a proposed rule (64 FR 33427) to redefine Jackson County, South Dakota, from the area of application of the Eastern South Dakota appropriated fund Federal Wage System (FWS) wage area to the area of application of the Wyoming wage area and to redefine Teton County, Wyoming, from the area of application of the Wyoming wage area to the area of application of the Montana wage area. Under section 5343 of title 5, United States Code, OPM is responsible for defining wage areas. For this purpose, we follow the regulatory criteria established in section 532.211 of title 5, Code of Federal Regulations. The Federal Prevailing Rate Advisory Committee (FPRAC), the statutory national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended by consensus that we redefine Jackson County, South Dakota, and Teton County, Wyoming. FPRAC found no compelling reasons to make other changes in the Eastern South Dakota and Wyoming FWS wage areas.

The Eastern South Dakota wage area continues to meet the regulatory requirements to remain a separate wage area. There are currently about 550 FWS workers in the wage area, the wage area's host activity continues to have the capacity to host local wage surveys, and wage surveys in the area continue to produce adequate wage data to determine local prevailing rates. Based on an analysis of the regulatory criteria for defining FWS wage areas, FPRAC found mixed results for Jackson County. However, Badlands National Park is currently split by the boundary of the Wyoming wage area. The park headquarters is located in the Eastern South Dakota wage area, while most of the park is located in the Wyoming wage area. The redefinition of Jackson County to the Wyoming wage area will place the entire park in one wage area.

The Wyoming wage area also continues to meet the regulatory requirements to remain a separate wage area. There are currently about 1,300 FWS workers in the wage area, the wage area's host activity continues to have the capacity to host local wage surveys, and wage surveys in the area continue to produce adequate wage data to determine local prevailing rates. Based on the mixed nature of the regulatory analysis findings, there was no clear indication that Teton County should be redefined to one wage area more than another. However, the two main FWS employers in northwestern Wyoming are Yellowstone National Park and Grand Teton National Park. The parks are connected by the John D. Rockefeller, Jr., Memorial Parkway, with a distance of only about 8 kilometers (5 miles) separating the parks.

The parks are located in a region geographically isolated by the Rocky Mountains from both the Montana and Wyoming survey areas. Although the regulatory criteria do not favor defining Teton County to one wage area more than another, we are placing the parks in the same wage area based on FPRAC's recommendation. This change will place all Department of the Interior FWS employees stationed in northwestern Wyoming in the same wage area, including those FWS employees assigned to Yellowstone National Park and Grand Teton National Park.

The proposed rule provided a 30-day public comment period, during which we received two comments, both of which supported these changes.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management amends 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix C to subpart B is amended by revising the wage area listings for the Montana, Eastern South Dakota, and Wyoming wage areas to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

MONTANA

Survey Area

Montana:
- Cascade
- Lewis and Clark
- Yellowstone

Area of Application. Survey area plus

Montana:
- Beaverhead
- Big Horn
- Blaine
- Broadwater
- Carbon
- Carter
- Chouteau
- Custer
- Daniels
- Dawson
- Deer Lodge
- Fallon
- Fergus
- Flathead
- Gallatin
- Garfield
- Glacier
- Golden Valley
- Granite
- Hill
- Jefferson
- Judith Basin
- Lake
- Liberty
- Lincoln
- McCone
- Madison
- Meagher
- Mineral
- Missoula
- Musselshell
- Park
- Petroleum
- Phillips
- Pondera
- Powder River
- Powell
- Prairie
- Ravalli
- Richland
- Roosevelt
- Rosebud
- Sanders
- Sheridan
- Silver Bow
- Stillwater
- Sweet Grass
- Teton
- Toole
- Treasure
- Valley
- Wheatland
- Wibaux

Wyoming:
- Big Horn
- Park
- Teton

* * * * *

SOUTH DAKOTA

EASTERN SOUTH DAKOTA

Survey Area

South Dakota:
- Minnehaha

Area of Application. Survey area plus:

South Dakota:
- Aurora
- Beadle
- Bennett
- Bon Homme
- Brookings
- Brown
- Brule
- Buffalo
- Campbell
- Charles Mix
- Clark
- Clay
- Codington
- Corson
- Davison
- Day
- Deuel
- Dewey
- Douglas
- Edmunds
- Faulk
- Grant
- Gregory
- Haakon
- Hamlin
- Hand
- Hanson
- Hughes
- Hutchinson
- Hyde
- Jerauld
- Jones
- Kingsbury
- Lake
- Lincoln
- Lyman
- McCook
- McPherson
- Marshall

Mellette
Miner
Moody
Potter
Roberts
Sanborn
Spink
Stanley
Sully
Todd
Tripp
Turner
Union
Walworth
Washabaugh
Yankton
Ziebach
Iowa:
Dickinson
Emmet
Lyon
Osceola
Minnesota:
Jackson
Lincoln
Lyon
Murray
Nobles
Pipestone
Rock

* * * * *

WYOMING

Survey Area

Wyoming:
Albany
Laramie
Natrona
South Dakota:
Pennington

Area of application. Survey area plus:

Wyoming:
Campbell
Carbon
Converse
Crook
Fremont
Goshen
Hot Springs
Johnson
Lincoln
Niobrara
Platte
Sheridan
Sublette
Sweetwater
Uinta
Washakie
Weston
Nebraska:
Banner
Box Butte
Cheyenne
Dawes
Deuel
Garden
Kimball
Morrill
Scotts Bluff
Sheridan
Sioux
South Dakota:
Butte
Custer
Fall River
Harding
Jackson
Lawrence
Meade
Perkins
Shannon

[FR Doc. 99–25611 Filed 9–30–99; 8:45 am]
BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 915 and 944

[Docket No. FV99–915–2 FR]

Avocados Grown in South Florida and Imported Avocados; Revision of the Maturity Requirements for Fresh Avocados

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the maturity requirements currently prescribed under the marketing order for avocados grown in south Florida, and those specified in the avocado import maturity regulation. The marketing order regulates the handling of avocados grown in south Florida, and is administered locally by the Avocado Administrative Committee (Committee). This rule changes maturity requirements by adding additional shipping dates, weights and/or diameters to the shipping schedule for several avocado varieties, and adds three new varieties of avocados to the shipping schedule. This rule facilitates the shipment of avocados as they mature, and ensures that only mature fruit is shipped to the fresh market. This helps improve grower returns and promotes orderly marketing. Application of the maturity requirements to imported avocados is required under section 8e of the Agricultural Marketing Agreement Act of 1937.

EFFECTIVE DATE: This final rule becomes effective October 4, 1999.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Southeast Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (941) 299–4770, Fax: (941) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720-2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 121 and Marketing Order No. 915, both as amended (7 CFR part 915), regulating the handling of avocados grown in South Florida, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

This final rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including avocados, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

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

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

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

There are no administrative procedures which must be exhausted

prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Under the terms of the marketing order, fresh market shipments of Florida avocados are required to be inspected and are subject to grade, size, maturity, pack, and container requirements. The maturity requirements for Florida avocados are intended to prevent the shipment of immature avocados. This helps to improve buyer confidence in the marketplace, and foster increased consumption. Current maturity requirements for the varieties of avocados grown in Florida are expressed in terms of minimum weights and diameters for specific dates during the shipping period (hereinafter referred to as the avocado maturity shipping schedule, maturity schedule, or shipping schedule), and color specifications for those varieties of avocados that turn red or purple when mature. The maturity requirements for the various varieties of avocados are different, because each variety has different growing and maturation characteristics. The maturity requirements for each variety are based on test results. A minimum grade requirement of U.S. No. 2 is also in effect for Florida avocados.

This rule changes the avocado maturity shipping schedule for various varieties currently prescribed in paragraph (a)(2) of § 915.332 under the order. The shipping schedule for each variety is divided into A, B, C, and D dates which reflect different ripening times associated with the individual variety. The dates for a particular variety are established to regulate the shipment of smaller-sized avocados, which tend to take longer to mature. Consequently, A dates are associated with larger diameter, heavier fruit, and are established for early season shipments. D dates are established for the end of a variety's marketing season and allow the remaining smaller-sized mature fruit to be shipped. For a majority of the avocado varieties, the maturity schedule includes B and C dates that fall somewhere between the A and D dates for the particular variety. This rule adds B or C shipping dates, with specific minimum weight, and/or minimum diameter measurements to the shipping schedule for the Arue, Beta, Donnie, Leona, Loretta, and Tower II varieties. It also adds three new varieties of avocados, the Semil 34, Semil 43, and the Melendez, to the maturity schedule, including specific shipping requirements for each. This rule facilitates the shipment of these varieties of avocados as they mature, and ensures that only mature fruit is shipped to the fresh market, which is expected to help improve grower returns and promote orderly marketing. The Committee met and unanimously recommended these changes late last year.

Section 915.51 of the order provides the authority to issue regulations establishing specific maturity requirements for avocados. The maturity requirements for avocados grown in Florida, based on minimum weights, diameters, and skin color in § 915.332 (7 CFR 915.332) of the order, are in effect on a continuous basis. The maturity requirements specify minimum weights and diameters for specific shipping periods for approximately 60 varieties of avocados, and color specifications for those varieties which turn red or purple when mature. The maturity requirements and dates for the various varieties of avocados are different because each variety has different characteristics and maturity times.

This rule makes several changes to the maturity provisions under the order. The first change adds B or C shipping dates, with specific minimum weight, and/or minimum diameter measurements to the shipping schedule for the Arue, Beta, Donnie, Leona, Loretta, and Tower II varieties. Section 915.332 of the order rules and regulations outlines the maturity requirements for avocados using a maturity schedule. Over the years, the maturity schedule has been determined to be the best indicator of maturity for the different varieties of avocados grown in Florida, and growers and handlers rely on the schedule in making harvesting, packing, and shipping decisions. The maturity requirements are designed to make sure that all shipments of Florida avocados are mature, so as to provide consumer satisfaction essential for the successful marketing of the crop, and to provide the trade and consumers with an adequate supply of mature avocados in the interest of producers and consumers.

The maturity requirements for specified periods are based on the growing, harvesting, and maturity periods for the various varieties of Florida avocados. Such requirements prescribe minimum weights and/or diameters for specified periods as the maturity requirements for different varieties of avocados. These requirements are used as indicators during harvest to determine which avocados are sufficiently mature to complete the ripening process.

The maturity requirements pertain to certain dates. These dates are established based on years of testing. Each covered variety has its own set of dates on the maturity schedule. The maturity requirements and dates for the various varieties of avocados are different because individual varieties have different characteristics and growing seasons. As previously mentioned, the schedule is broken up into A, B, C, and D dates, though not all varieties have dates and requirements for each.

The different dates are used to reflect the ripening time associated with the individual varieties. Larger fruit within a variety matures earlier, while smaller-sized fruit takes longer to mature. Consequently, A dates are associated with larger sizes and weights, and are established for shipments early in a variety's season. D dates are established for the end of a variety's season when all fruit should be mature, and releases all remaining sizes and weights.

For a majority of varieties, the schedule also includes B and C shipping dates that fall somewhere in between the A and D dates for the particular variety. These dates provide for a gradual shift in the maturity standards from the beginning of the season to its end, allowing for the shipment of smaller sizes and weights as a variety matures. However, not all varieties have established dates and requirements for B and C dates. Because of the nature and volume of the varieties when they were added to the schedule, the Committee, in the past, did not believe that establishing B and C dates for some varieties was necessary.

This rule permits varieties of avocados of certain minimum weights and diameters to be shipped by handlers earlier than currently required. This rule adds a C date for Arue variety avocados so those with a minimum weight of 12 ounces can be shipped by June 20, or the nearest Monday to that date each year. Currently, Arue variety avocados of this weight cannot be shipped until July 4. This rule adds a C date for Beta variety avocados so those with a minimum weight of 14 ounces or a minimum diameter of 3$\frac{3}{16}$ inches can be shipped by August 29, or the nearest Monday to that date each year. Currently, Betas of this weight or size cannot be shipped until September 5. This rule also adds a C date for Donnie avocados so that those with a minimum weight of 12 ounces can be shipped by June 20, or the nearest Monday to that date each year. Currently, Donnies of this weight cannot be shipped until July 4. This rule also adds a B date for Leona avocados so that those with a minimum weight of 16 ounces can be shipped by October 3, or the nearest Monday to that date each year. Currently, Leonas of this

weight cannot be shipped until October 10. This rule adds a C date for Loretta avocados so that those with a minimum weight of 22 ounces or a minimum diameter of 3 1⁵⁄₁₆ inches can be shipped by September 19, or the nearest Monday to that date each year. Currently, Lorettas of this weight or size cannot be shipped until September 26. This rule also adds a C date for Tower II avocados so that those with a minimum weight of 10 ounces or a minimum diameter of 3⅜ inches can be shipped by August 29, or the nearest Monday to that date each year. Currently, Tower II variety avocados of this weight or size cannot be shipped until September 5. This action was recommended by the Committee because it believes that for the varieties listed above, the absence of B or C dates left too much of a gap between the A and D dates.

Because smaller sizes were maturing before the next available shipping date, quantities of small mature fruit could be lost to fruit drop during the time gap before it could be harvested and shipped. With tree crops, incidents of fruit dropping from the limbs occurs due to weather, disease, or other reasons depending on the particular crop. Fruit drop can increase as the fruit begins to mature. It is usually best to harvest the crop as close to maturity as possible to minimize fruit drop. In the case of avocados, when fruit drops from the tree it can experience bruising, insect damage, or reach a stage of ripeness where it cannot successfully be packed without being bruised. This results in an economic loss for growers and handlers. The Committee agreed that this has become more of a problem during the past few years as the production of avocados has increased following the devastation caused by Hurricane Andrew in 1992.

As an example of the problem, consider the Arue variety. This variety currently has scheduled A, B, and D dates. However, the absence of a C date leaves a five-week gap between the B and D dates. This means that the minimum weight for the Arue variety remains at 14 ounces for this five-week period until the D date is reached releasing all weights. By filling the gap with a C date falling between the B and D dates, and a minimum weight of 12 ounces based on the Committee's maturity testing procedures, smaller sizes of this variety can be shipped as they mature. Similar situations exist for the Beta, Donnie, Leona, Loretta, and Tower II varieties, and the relaxed maturity requirements permit handlers to ship the fruit as it reaches satisfactory maturity, and avoid losses caused by fruit drop.

The above avocado varieties were tested by the Committee to better identify the maturity of avocados grown in South Florida. The Committee based its recommendations on the testing data.

This rule also adds three new varieties of avocados to the avocado maturity shipping schedule. A few years ago, budwood for the Semil 34, Semil 43, and Melendez varieties was obtained and evenly distributed among those growers interested in the new varieties. Growers who planted these varieties have been pleased with the production and quality of the fruit. The new varieties have also been well received in the market place. These varieties currently make up less than 1 percent of domestic shipments.

Committee members believe that the production of the Semil 43, Semil 34, and Melendez varieties will continue to increase. Therefore, maturity dates and requirements are needed to ensure that only mature fruit is shipped to the fresh market. Growers have indicated they would be replacing other varieties with these varieties or planting more acres of these new varieties. In the past, the Committee has used the 100 bushel mark in its considerations of whether to add or delete varieties from the shipping schedule. In the case of these three varieties, production has exceeded the 100 bushel mark and the Committee projects that production will continue to increase because they show so much promise.

As with all varieties currently listed on the maturity schedule, the fruit was tested using the Committee's established procedures for testing maturity of avocados grown in south Florida to determine dates when different sizes and/or weights become mature. This information is then used to recommend the dates and requirements for addition to the schedule. The Committee has tested the new varieties for the past few seasons. Adding them as regulated varieties would place them under the maturity requirements as are other covered avocado varieties. This prevents shipments of immature avocados to the fresh market, especially during the early part of the harvest season for each of these varieties. Providing fresh markets with mature fruit is an important aspect of creating consumer satisfaction and is in the interest of both producers and consumers.

Florida avocado handlers may ship, exempt from the minimum grade and maturity requirements effective under the order, up to 55 pounds of avocados during any one day under a minimum quantity provision, and up to 20 pounds of avocados as gift packs in individually addressed containers. Also, avocados grown in Florida utilized in commercial processing are not subject to the grade and maturity requirements under the order.

Section 8e of the Act provides that when certain domestically produced commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule revises the maturity requirements under the domestic handling regulations, a corresponding change to the avocado import maturity regulations must also be made.

Maturity requirements for avocados imported into the United States are currently in effect under § 944.31 (7 CFR 944.31). The Hass, Fuerte, Zutano, and Edranol varieties of avocados currently are exempt from the maturity schedule, and continue to be exempt under this final rule. However, these varieties are not exempt from the grade import regulation, which is not being changed.

This rule adds B or C shipping dates, with specific minimum weight, and/or minimum diameter measurements to the avocado maturity shipping schedule for the Arue, Beta, Donnie, Leona, Loretta, and Tower II varieties offered for importation into the United States. It also adds three new varieties of avocados, the Semil 34, Semil 43, and the Melendez, to the maturity schedule, including specific shipping requirements for each. The domestic maturity requirements for specified periods are based on the growing, maturation, and harvesting characteristics of the various varieties of South Florida avocados.

Import data for calendar years 1995 through April 1999 reveals that the major exporters of avocados to the United States are Chile, Mexico, Dominican Republic, and the Bahamas. Imports from these countries totaled 18,577 metric tons in 1995, 25,405 in 1996, 26,562 in 1997, 60,611 metric tons in 1998, and 9,261 through April of 1999. Other exporting countries include New Zealand, Belize, Israel, and Ecuador. Imports from the latter group of countries are small and sporadic.

Chile is the predominant exporting country. Imports from Chile are growing and reached 44,757 metric tons in calendar year 1998. Chile exports avocados into the United States predominately during the months of August through December. However, exports have occurred during the period from January through May, and in 1999, Chile exported some avocados during the period January through April. The major varieties imported from Chile are Hass, Fuerte, Zutano, and Edranol, all of

which are exempt from the avocado maturity shipping schedule, and continue to be exempt under this final rule for domestic and imported avocados. These varieties, however, are subject to grade requirements.

During calendar year 1998, Mexico was the second largest exporter of avocados into the United States. In 1998, exports from Mexico totaled 9,295 metric tons. Mexican shipments of fresh avocados to the United States are limited to November through February. The only variety of avocado imported from Mexico is the Hass, and the Hass variety is exempt from the maturity regulation as mentioned earlier.

The third major importing country is the Dominican Republic. During 1998, a total of 6,029 metric tons were imported during all 12 months of the year. Imports from the Bahamas during this period were small and appear to be declining.

Non-exempt varieties of avocados from the foreign countries in close proximity to Florida (Mexico, the Dominican Republic, and Bahamas) have similar growing, harvesting, and maturity periods, and have met the minimum weight and diameter maturity requirements without any apparent problems, and this is expected to continue. The import maturity requirements based on skin color apply to avocados which turn red or purple when mature.

A survey of Fresh Products Branch inspection offices checking imported avocados in 1998 revealed that most of the imported avocados were of the Hass variety.

This rule facilitates shipments of avocados as they mature, and ensures that only mature fruit is shipped to the fresh market. Thus, importers benefit from the changes in maturity requirements, just like Florida growers and handlers.

In the maturity schedule tables in §§ 915.332 and 944.31, the entries for ''Tower'' are removed and entries for ''Tower II'' are inserted in their place. This is being done to correct the name of the avocado variety listed in each of the tables.

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

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

There are approximately 141 avocado producers in the production area and approximately 49 handlers subject to regulation under the marketing order. There are approximately 35 importers of avocados. Small agricultural producers have been defined by the Small Business Administration (SBA) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000 (13 CFR 121.601).

The average price for fresh avocados during the 1997–98 season was $14.60 per 55 pound bushel box equivalent for all domestic shipments and the total shipments were 937,568 bushels. Approximately 10 percent of all handlers handled 90 percent of Florida avocado shipments. Many avocado handlers ship other tropical fruit and vegetable products which are not included in the Committees' data but would contribute further to handler receipts.

Using these prices, about 90 percent of avocado handlers could be considered small businesses under the SBA definition and about 10 percent of the handlers could be considered large businesses. Although specific data is unavailable, the Department believes that the majority of avocado producers and importers may be classified as small entities.

Section 915.51 of the order provides the authority to issue regulations establishing specific maturity requirements for avocados. Maturity requirements for avocados grown in Florida, based on minimum weights, diameters, and skin color, are specified in § 915.332 (7 CFR 915.332) of the order, and are in effect on a continuous basis. These maturity requirements specify minimum weights and diameters for specific shipping periods for approximately 60 varieties of avocados, and color specifications for those varieties which turn red or purple when mature. The maturity requirements and dates for the various varieties of avocados are different because each variety has different varietal characteristics and maturity times.

This rule makes several changes to the order's maturity rules and regulations. This rule revises maturity requirements by adding shipping dates, weights, and/or diameters to the shipping schedule for several avocado varieties where no dates currently exist. Specifically, this rule adds B or C shipping dates, with specific minimum weight, and/or minimum diameter measurements to the shipping schedule for the Arue, Beta, Donnie, Leona, Loretta, and Tower II varieties. It also adds three new varieties of avocados, the Semil 34, Semil 43, and the Melendez, to the shipping schedule, including specific shipping requirements for each. This rule facilitates the shipment of these varieties of avocados as they mature, and ensures that only mature fruit is shipped to the fresh market. This helps improve grower returns and promote orderly marketing.

This rule has a positive impact on affected entities. The changes are recommended to provide additional flexibility in packing avocados and to ensure that only mature fruit is shipped to the fresh market.

The impact of the change in these maturity regulations will not be adverse to growers, handlers, and importers. The application of maturity requirements to both Florida and imported avocados over the past several years has helped to assure that only mature avocados were shipped to fresh markets. The Committee continues to believe that the maturity requirements for Florida avocados are needed to improve grower returns. Preventing the shipment of immature avocados improves buyer confidence in the marketplace, and fosters increased consumption. Florida avocado producers and handlers have found such maturity requirements beneficial in the successful marketing of their avocado crop.

The change that adds B or C dates to six varieties under the order will not create any additional costs. This change relaxes requirements and facilitates the shipment of smaller-sized fruit as it matures. Growers have noticed that smaller-sized fruit of these varieties has been maturing prior to the currently specified shipping dates. This has caused an increased incidence of fruit drop, resulting in an economic loss to both growers and handlers. The additional minimum weights and/or diameters for the six varieties will allow growers to pick the fruit as it matures, and reduce fruit loss while still supplying the market with mature fruit.

The change that adds three additional varieties to the schedule will also be beneficial in that regard. During the 1997–98 season, the three additional varieties comprised less than 1 percent of total shipments from south Florida. While this rule may result in some

additional costs by requiring fruit to meet minimum weight and/or diameter maturity standards, the benefits are expected to outweigh costs. Inspection costs for Florida avocados are 14 cents for a 40 pound package, or equivalent thereof. Import inspection costs could range from 2.2 cents per package for a dockside inspection up to $86 for an individual trailer load. Adding these varieties to the domestic and import maturity schedules helps keep immature fruit from reaching the market. Preventing the shipment of immature avocados improves buyer confidence in the marketplace, and fosters increased consumption, thus, improving grower returns.

These changes are intended to provide some additional flexibility for all handlers covered under the order, while helping to ensure that only mature fruit reaches the market. The opportunities and benefits of this rule are expected to be equally available to all avocado handlers and growers regardless of their size of operation. In addition, importers are expected to benefit similarly.

The change in the avocado maturity shipping schedule is expected to benefit the marketers of both Florida and imported avocados by assuring that the avocados marketed are of satisfactory maturity. Experience has shown that when immature avocados are found in market channels they tend to weaken the market for the mature fruit. Fresh Products Branch inspection officials indicated that the fruit offered for importation has generally met maturity requirements. Thus, the Department believes that the changes will not limit the quantity of imported avocados or place an undue burden on exporters, or importers of avocados. The changes are expected to continue to foster customer satisfaction and benefit all affected entities regardless of size.

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

Further, the Committee's meeting was widely publicized throughout the avocado industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the December 8, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

A proposed rule concerning this action was published in the **Federal Register** on Friday, August 20, 1999 (64 FR 45461). Copies of the rule were mailed to all Committee members and avocado handlers. The rule was made available through the Internet by the Office of the Federal Register. Copies of the proposed rule also were sent to all known avocado importers and to the foreign embassies of the countries known to be exporting avocados to the United States. A 30-day comment period ending September 20, 1999, was provided to allow interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and speciality crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already shipping avocados from the 1999–2000 crop and both handlers and importers should be able to take advantage of the changes in the maturity schedule as soon as possible. Further, the industry is aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule, and no comments were received.

List of Subjects

7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

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

For the reasons set forth above, 7 CFR parts 915 and 944 are amended as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for 7 CFR parts 915 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 915.332 [Amended]

2. In § 915.332, Table I, the entry for ''Tower'' is removed and an entry for Tower II is added in its place, the entries for ''Beta, Donnie, Loretta, Arue, and Leona'' are revised, and a new term ''Melendez'' is added immediately following the term ''Leona'' and new terms ''Semil 34'' and ''Semil 43'' are added immediately following the term ''Booth 3'' to read as follows:

§ 915.332 Florida avocado maturity regulation.

(a) * * *

(2) * * *

TABLE I

Variety	A Date	Min Wt.	Min Diam.	B Date	Min Wt.	Min Diam.	C Date	Min Wt.	Min Diam.	D Date
*	*		*	*		*	*		*	
Tower II	8–01	14	3 6/16	8–15	12	3 4/16	8–29	10	3 2/16	9–05
Beta	8–08	18	3 8/16	8–15	16	3 5/16	8–29	14	3 3/16	9–05
*	*		*	*		*	*		*	
Loretta	8–22	30	4 3/16	9–05	26	3 15/16	9–19	22	3 12/16	9–26

TABLE I—Continued

Variety	A Date	Min Wt.	Min Diam.	B Date	Min Wt.	Min Diam.	C Date	Min Wt.	Min Diam.	D Date
*	*		*	*		*		*		*
Arue	5–16	16	.....	5–30	14	3 3/16	6–20	12	.....	7–04
Donnie	5–23	16	3 5/16	6–06	14	3 4/16	6–20	12	.....	7–04
*	*		*	*		*		*		*
Leona	9–26	18	3 10/16	10–03	16	.....	.....	.....	.....	10–10
Melendez	9–26	26	3 14/16	10–10	22	3 11/16	10–24	18	3 7/16	11–07
*	*		*	*		*		*		*
Semil 34	10–17	18	3 10/16	10–31	16	3 8/16	11–14	14	3 5/16	11–28
Semil 43	10–24	18	3 10/16	11–7	16	3 8/16	11–21	14	3 5/16	12–05
*	*		*	*		*		*		*

* * * * *

§ 944.31 [Amended]

3. In § 944.31, Table 1, the entry for ''Tower'' is removed and an entry for ''Tower II'' is added in its place, the entries for ''Beta, Loretta, Arue, Donnie, and Leona'' are revised, and a new term ''Melendez'' is added immediately following the term ''Leona'' and new terms ''Semil 34'' and ''Semil 43'' are added immediately following the term ''Booth 3'' to read as follows:

§ 944.31 Avocado import maturity regulation.

(a) * * *

(2) * * *

TABLE I

Variety	A Date	Min. Wt.	Min. Diam.	B Date	Min. Wt.	Min. Diam.	C Date	Min. Wt.	Min. Diam.	D Date
*	*		*	*		*		*		*
Tower II	8–01	14	3 6/16	8–15	12	3 4/16	8–29	10	3 2/16	9–05
Beta	8–08	18	3 8/16	8–15	16	3 5/16	8–29	14	3 3/16	9–05
*	*		*	*		*		*		*
Loretta	8–22	30	4 3/16	9–05	26	3 15/16	9–19	22	3 12/16	9–26
*	*		*	*		*		*		*
Arue	5–16	16	.....	5–30	14	3 3/16	6–20	12	.....	7–04
Donnie	5–23	16	3 5/16	6–06	14	3 4/16	6–20	12	.....	7–04
*	*		*	*		*		*		*
Leona	9–26	18	3 10/16	10–03	16	.....	.....	.....	.....	10–10
Melendez	9–26	26	3 14/16	10–10	22	3 11/16	10–24	18	3 7/16	11–07
*	*		*	*		*		*		*
Semil 34	10–17	18	3 10/16	10–31	16	3 8/16	11–14	14	3 5/16	11–28
Semil 43	10–24	18	3 10/16	11–7	16	3 8/16	11–21	14	3 5/16	12–05
*	*		*	*		*		*		*

* * * * *

Dated: September 27, 1999.

Eric M. Forman,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–25516 Filed 9–30–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 99–016F]

Scale Requirements for Accurate Weights, Repairs, Adjustments, and Replacement After Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to update references to the National Institute of Standards and Technology (NIST) Handbook 44, ''Specifications, Tolerances, and Other Technical Requirements for Measuring Devices.'' The 1999 edition of NIST Handbook 44 was published in November 1998 and is the most current edition of the handbook. FSIS is amending the provisions in its regulations that reference NIST Handbook 44 to reflect this most recent edition.

DATES: This rule will be effective on November 30, 1999, unless the Agency receives written adverse comments

within the scope of the rulemaking or written notice of intent to submit adverse comments within the scope of the rulemaking on or before November 1, 1999. If the agency receives relevant adverse comments, it will publish a timely withdrawal of the rule, and it will not take effect. The incorporation by reference of the publication listed in the rule is approved by the Director of the Federal Register as of November 30, 1999.

ADDRESSES: Adverse comments within the scope of the rulemaking or notice of intent to submit adverse comments within the scope of the rulemaking should be sent in triplicate to FSIS Docket Clerk, DOCKET 99–016F, Room 102 Cotton Annex Building, FSIS, U.S. Department of Agriculture, Washington, DC 20250–3700. All comments submitted in response to this direct final rule will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Background

Under Title 1 of the Code of Federal Regulations (1 CFR Part 51), an agency seeking approval of a change to a publication that is approved for incorporation by reference in the Code of Federal Regulations (CFR) must publish a notice of the change in the **Federal Register** and amend the CFR. The agency must also ensure that a copy of the amendment or revision is on file at the Office of the Federal Register and notify the Director of the Federal Register in writing that the change is being made.

Accordingly, FSIS has reviewed the most recent publication of NIST Handbook 44 as it pertains to meat products and poultry products and has reviewed the FSIS regulations that reference the handbook. In this direct final rule, FSIS is amending its regulations to change references to NIST Handbook 44 from the 1994 edition, published in November 1993, to the 1999 edition, published in November 1998.

The changes to the General Scales Codes of NIST Handbook 44 from 1993 through 1998 primarily recognize new features and capabilities of scales. These changes were adopted to give scale manufacturers more flexibility in scale design and to allow them to incorporate features that better meet the needs of the users. Although NIST Handbook 44 addresses a wide range of scales, the following summary describes the most significant changes adopted in the handbook from 1993 to 1998 that are applicable to scales used to weigh meat products and poultry products produced at meat and poultry establishments.

The new provisions allow scales used in retail stores to compute unit prices on the basis of price per 100 grams or price per kilogram and permit operator keys to be marked with standardized pictograms. Other changes permit scales to weigh to 105 percent of their capacity when tare is deducted. This change clarifies a requirement that limited device indications. Another general requirement exempts new weighing systems from specific technical requirements for load cells if the device is traceable to a Certificate of Conformance issued by the National Type Evaluation Program.

The most significant change was the adoption of Section 2.24 Automatic Weighing Systems in the 1998 edition of Handbook 44, published in November 1997, which established specifications, tolerances, and other technical requirements for weigh-labelers and automatic checkweighers. This section was developed by the National Conference on Weights and Measures (NCWM) and NIST at the request of FSIS, so that these types of devices, which are primarily used in weighing, labeling, or checkweighing packages, could be tested to ensure conformance with a nationally accepted standard.

Copies of the 1999 edition of NIST Handbook 44 are on file at the Office of the Federal Register. Copies of the publication may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

Effective Date

FSIS is publishing this rule without prior proposal because it views this action as non-controversial and anticipates no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the **Federal Register** unless FSIS receives written adverse comments within the scope of the rulemaking, or written notice of intent to submit adverse comments within the scope of the rulemaking, within 30 days of the date of publication of this rule in the **Federal Register**. If written adverse comments within the scope of the rulemaking are received, the final rulemaking notice will be withdrawn, and a proposed rulemaking notice will establish a comment period.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule (1) preempts all State and local law and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined not to be significant for purposes of Executive Order 12866 and therefore, has not been reviewed by the Office of Management and Budget.

The Administrator, FSIS, has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). This direct final rule merely updates the FSIS regulations to reflect the current standards used by weights and measures officials to evaluate the technical requirements for devices used to weigh meat and poultry products. The 1999 edition of NIST Handbook 44 is currently available and being used by scale manufacturers and weights and measures officials.

List of Subjects

9 CFR Part 317

Incorporation by reference, Meat inspection, Net weight.

9 CFR Part 381

Incorporation by reference, Net weight, Poultry and product products.

For the reasons set out in the preamble, 9 CFR parts 317 and 381 are amended as set forth below.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for Part 317 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

§ 317.20 [Amended]

2. Section 317.20 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 317.20 Scale requirements for accurate weights, repairs, adjustments, and replacement after inspection.

(a) * * * Such scales shall meet the applicable requirements contained in National Institute of Standards and

Technology Handbook 44, ''Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,'' 1999 Edition, November 1998, which is incorporated by reference. * * *

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

§ 381.121c [Amended]

4. Section 381.121c is amended by revising the second sentence of paragraph (a) to read as follows:

§ 381.121c Scale requirements for accurate weights, repairs, adjustments, and replacement after inspection.

(a) * * * Such scales shall meet the applicable requirements contained in National Institute of Standards and Technology (NIST) Handbook 44, ''Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,'' 1999 Edition, November 1998, which is incorporated by reference. * * *

* * * * *

Thomas J. Billy,

Administrator.

[FR Doc. 99–24571 Filed 9–30–99; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL RESERVE SYSTEM

12 CFR Part 262

[Docket No. R–1045]

Rules of Procedure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; technical amendment.

SUMMARY: The Board is amending its Rules of Procedure to conform the comment period for branch notice applications with the period specified in its Regulation H, Membership of State Banking Institutions in the Federal Reserve System. The Rules of Procedure were not amended when the Regulation was amended, effective September 30, 1998. The Board is also amending the Rules of Procedure to delete the requirements for notices of memberships in cases where membership would confer federal deposit insurance, because there are no longer cases where membership confers federal deposit insurance. In addition, the Board is amending the Rules of Procedure to clarify that the requirement to publish notice in the community where a proposed branch would be located does not apply to branch applications incidental to merger applications, which are subject to the separate notice requirements for merger applications.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Rick Heyke, Counsel, Legal Division, (202) 452–3688. For users of the Telecommunications Device for the Deaf (TDD), contact Diane Jenkins (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

Section 208.6(a)(3) of the Board's Regulation H, Public Notice of Branch Applications, provides that a state member bank wishing to establish a domestic branch must publish notice in a newspaper of general circulation at the locations specified in § 262.3 of the Rules of Procedure (12 CFR 262.3) and that the newspaper notice shall provide an opportunity for interested persons to comment on the application for a period of at least 15 days. (12 CFR 208.6(a)(3)(i) and (ii)). Until September 30, 1998, the comment period for branch applications was 30 days and was specified in § 262.3(b) of the Rules of Procedure rather than in Regulation H. The Rules of Procedure were not amended when the regulation was amended, effective September 30, 1998 (63 FR 37637, July 13, 1998), and § 262.3(b)(1)(ii) continues to provide for a 30-day comment period for these applications. (12 CFR 262.3(b)(1)(ii)). It is no longer necessary to specify the comment period for branch applications in the Rules of Procedure since it is specified in Regulation H. Accordingly, the Board is amending the Rules of Procedure to delete the comment period requirement as it relates to branch applications.

Section 262.3(b)(1)(ii)(A) of the Rules of Procedure specifies the location for publication of notice of an application for membership in the Federal Reserve System that would confer federal deposit insurance. Pursuant to Title I, section 115(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102–242), any bank not previously an insured bank admitted to membership may apply separately to the Federal Deposit Insurance Corporation for insurance. (12 U.S.C. 1814 and 1815(a).) Previously, membership conferred insured status (see 12 U.S.C.A. 1814(b) (West 1989)). It is therefore no longer necessary to specify the location for publication of notice of an application for membership that would confer insurance. Accordingly, the Board is amending the Rules of Procedure to delete the publication location requirement for such applications.

Section 262.3(b)(1)(ii)(B) specifies that in the case of an application to establish a new branch, notices shall be published in the communities in which the head office of the bank and the proposed branch are located. Section 262.3(b)(1)(ii)(D) specifies that in the case of an application by a bank for merger, consolidation, acquisition of assets, or assumption of liabilities (merger), notices shall be published in the communities in which the head offices of the banks involved are located. Such merger applications are also deemed to include applications to establish branches at the branch and/or head office locations being acquired, thereby avoiding a separate filing to establish branches at the acquired locations, and the Board has not required publication under paragraph (b)(1)(ii)(B) in addition to publication under paragraph (b)(1)(ii)(D). Accordingly, the Board is amending the Rules of Procedure to clarify that publication under paragraph (b)(1)(ii)(D) is sufficient in the case of branches acquired through merger, consolidation, acquisition of assets, or assumption of liabilities.

The amendments adopted by the Board are rules of procedure. Accordingly, 5 U.S.C. 553(b), requiring public comment, does not apply. In addition, the amendments are technical amendments that remove an obsolete provision, reflect changes in the Board's Regulation H, and clarify a possible uncertainty. Accordingly, the Board finds good cause not to delay the effective date of the amendments pursuant to 5 U.S.C. 553(d).

List of Subjects in 12 CFR Part 262

Administrative practice and procedure, Banks, banking, Federal Reserve System.

For the reasons set forth in the preamble, 12 CFR part 262 is amended as set forth below:

PART 262—RULES OF PROCEDURE

1.The authority citation for 12 CFR part 262 continues to read as follows:

Authority: 5 U.S.C. 552, 12 U.S.C. 321, 1828(c), and 1842.

§ 262.3 [Amended]

2. Amend § 262.3 by revising the first sentence in paragraph (b)(1)(ii),

removing and reserving paragraph (b)(1)(ii)(A), and revising paragraph (b)(1)(ii)(B) to read as follows:

§ 262.3 Applications.

* * * * *

(b) * * *

(1) * * *

(ii) The notice shall be placed in the classified advertising legal notices section of the newspaper, and must provide an opportunity for the public to give written comment on the application to the appropriate Federal Reserve Bank for the period specified in Regulation H (12 CFR part 208) in the case of applications specified in § 262.3(b)(1)(i)(A), and for at least thirty days after the date of publication in the case of applications specified in § 262.3(b)(1)(i)(B) and (C).* * *

* * * * *

(B) The community or communities in which the head office of the bank and the proposed branch or other facility (other than an electronic funds transfer facility) are located in the case of an application for the establishment of a domestic branch or other facility that would be authorized to receive deposits, other than an application incidental to an application by a bank for merger, consolidation, or acquisition of assets or assumption of liabilities,

* * * * *

By order of the Board of Governors of the Federal Reserve System, September 24, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–25504 Filed 9–30–99; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–119–AD; Amendment 39–11347; AD 99–21–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–301, and Model A340–211, –212, –311, and –312 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330–301, and Model A340–211, –212, –311, and –312 series airplanes, that requires repetitive detailed visual inspections of the fuselage belly fairing support structure to detect cracks; and corrective action, if necessary. This amendment also provides an optional terminating action for the repetitive inspections. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct fatigue cracking of the fuselage belly fairing support structure, which could result in reduced structural integrity of the fuselage belly fairing support structure.

DATES: Effective November 5, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 5, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A330–301, and Model A340–211, –212, –311, and –312 series airplanes was published in the **Federal Register** on August 4, 1999 (64 FR 42289). That action proposed to require repetitive detailed visual inspections of the fuselage belly fairing support structure to detect cracks; and corrective action, if necessary. That action also proposed to provide an optional terminating action for the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter indicates that it is not affected by the proposed rule.

Explanation of Change Made to Proposal

The FAA had added a note to the final rule to clarify the definition of a detailed visual inspection.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

Currently, there are no Airbus Model A330–301 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 5 work hours to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required AD on U.S. operators is estimated to be $300 per airplane, per inspection cycle.

Also, there are no Airbus Model A340–211, –212, –311, and –312 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it will take approximately 6 work hours to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required AD on U.S. operators is estimated to be $360 per airplane, per inspection cycle.

Should an affected airplane be imported and placed on the U.S. Register and an operator elects to accomplish the optional terminating action rather than continue the repetitive inspections, it will take approximately between 10 and 178 work hours per airplane (for Model A330 series airplanes), or between 10 and 188 work hours per airplane (for Model A340 series airplanes), at an average labor rate of $60 per work hour.

Required parts will cost approximately between $1,313 and $13,262 (for Model A330 series airplanes) or between $1,049 and $14,311 (for Model A340 series airplanes), per airplane. Based on these figures, the cost impact of this optional terminating action is estimated to be between $1,913 and $23,942 (for Model A330 series airplanes) or between $1,649 and $25,591 (for Model A340 series airplanes), per airplane.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–21–04 AIRBUS INDUSTRIE: Amendment 39–11347. Docket 99–NM–119–AD.

Applicability: Model A330–301 series airplanes, except those airplanes on which Airbus Modification 42332 (reference Airbus Service Bulletin A330–53–3012, dated June 26, 1995) has been accomplished; and Model A340–211, –212, –311, and –312 series airplanes, except those airplanes on which Airbus Modification 42331 or 42332 (reference Airbus Service Bulletin A340–53–4020, dated June 26, 1995), has been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the fuselage belly fairing support structure, which could result in reduced structural integrity of the fuselage belly fairing support structure, accomplish the following:

Repetitive Inspection

(a) Prior to the accumulation of 4,000 total flight cycles, or within 500 flight hours after the effective date of this AD, whichever occurs later, perform a detailed visual inspection of the fuselage belly fairing support structure for cracks, in accordance with Airbus Service Bulletin A330–53–3029, dated June 26, 1995 (for Model A330 series airplanes); or A340–53–4038, Revision 1, dated February 6, 1996 (for Model A340 series airplanes); as applicable. Thereafter, repeat the inspection at intervals not to exceed 2,800 flight cycles.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

Repair

(b) If any crack is found during any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with Airbus Service Bulletin A330–53–3012, dated June 26, 1995 (for Model A330 series airplanes); or A340–53–4020, dated June 26, 1995 (for Model A340 series airplanes); as applicable. Accomplishment of this action constitutes terminating action for the repetitive inspections required by this AD for only that repaired part.

Optional Terminating Action

(c) Modification of the belly fairing support structure in accordance with Airbus Service Bulletin A330–53–3012, dated June 26, 1995 (for Model A330 series airplanes); or A340–53–4020, dated June 26, 1995 (for Model A340 series airplanes); as applicable; constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(d) 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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(f) The actions shall be done in accordance with Airbus Service Bulletin A330–53–3029, dated June 26, 1995; Airbus Service Bulletin A340–53–4038, Revision 1, dated February 6, 1996; Airbus Service Bulletin A330–53–3012, dated June 26, 1995; or Airbus Service Bulletin A340–53–4020, dated June 26, 1995; as applicable. Airbus Service Bulletin A340–53–4038, Revision 1, dated February 6, 1996, has the following effective pages:

LIST OF EFFECTIVE PAGES

Page No.	Revision level shown on page	Date shown on page
1, 2	1	February 6, 1996.
3–31	Original	June 26, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directives 95–256–023(B) R1 and 95–258–037(B) R1, both dated December 17, 1997.

(g) This amendment becomes effective on November 5, 1999.

Issued in Renton, Washington, on September 27, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–25595 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–29–AD; Amendment 39–11345; AD 99–21–02]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes, that requires detailed visual and borescopic inspections to detect corrosion of the engine mounting tube assembly, and replacement of corroded parts with new or serviceable parts. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent failure of the engine mounting tube assembly, which could result in loss of the engine in flight.

DATES: Effective November 5, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 5, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Short Brothers Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes was published in the **Federal Register** on June 28, 1999 (64 FR 34582). That action proposed to require detailed visual and borescopic inspections to detect corrosion of the engine mounting tube assembly, and replacement of corroded parts with new or serviceable parts.

Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Extend Compliance Time

The manufacturer requests that the FAA extend the proposed compliance time from 6 months to 9 months. The manufacturer supports its request based on the results of an airframe structural analysis, ongoing inspections, and the Civil Aviation Authority of the United Kingdom's acceptance of the 3-month extension. The FAA has reviewed the data presented by the manufacturer and concurs with the request. The final rule has been revised accordingly.

Explanation of Additional Change to Proposal

The FAA has added a note to the final rule to clarify the definition of a detailed visual inspection.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 137 Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes of U.S. registry will be affected by this AD, that it will take approximately 25 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $205,500, or $1,500 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–21–02 Short Brothers PLC: Amendment 39–11345. Docket 99–NM–29–AD.

Applicability: All Model SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in

accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the engine mounting tube assembly, which could result in loss of the engine in flight, accomplish the following:

Inspections

(a) Within 9 months after the effective date of this AD, perform a detailed visual inspection of the taper pins of the engine mounting tube assembly for corrosion in accordance with Shorts Service Bulletins SD330–71–23, dated November 20, 1998, or Revision 1, dated April 26, 1999 (for Model SD3–30 series airplanes); SD3 SHERPA–71–1, Revision 1, dated February 3, 1999, or Revision 2, dated April 26, 1999 (for Model SD3–SHERPA series airplanes); SD3–60 SHERPA–71–1, Revision 1, dated February 3, 1999, or Revision 2, dated April 26, 1999 (for Model SD3–60 SHERPA series airplanes); or SD360–71–18, Revision 1, dated February 3, 1999, or Revision 2, dated April 26, 1999 (for Model SD3–60 series airplanes); as applicable. If corrosion is found on any taper pin, prior to further flight, replace the pin with a new or serviceable pin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''As an intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good light at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(b) Within 9 months after the effective date of this AD, perform a borescopic inspection of the internal surface of the engine mounting tubes and fittings for corrosion, in accordance with Shorts Service Bulletins SD330–71–23, dated November 20, 1998, or Revision 1, dated April 26, 1999 (for Model SD3–30 series airplanes); SD3 SHERPA–71–1, Revision 1, dated February 3, 1999, or Revision 2, dated April 26, 1999 (for Model SD3–SHERPA series airplanes); SD3–60 SHERPA–71–1, Revision 1, dated February 3, 1999, or Revision 2, dated April 26, 1999 (for Model SD3–60 SHERPA series airplanes); or SD360–71–18, Revision 1, dated February 3, 1999, or Revision 2, dated April 26, 1999 (for Model SD3–60 series airplanes); as applicable.

(1) If no corrosion is found on the internal surface of the engine mounting tubes and fittings, no further action is required by this paragraph.

(2) If corrosion is found that is within the limits as defined in the applicable service bulletin, repeat the borescopic inspection thereafter at intervals not to exceed 9 months. Replacement of all corroded parts with new or serviceable parts in accordance with the applicable service bulletin constitutes terminating action for the repetitive borescopic inspections required by this AD.

(3) If corrosion is found that is outside the limits as defined in the applicable service bulletin, prior to further flight, replace the corroded parts with new or serviceable parts, in accordance with the applicable service bulletin.

Alternative Methods of Compliance

(c) 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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with the following Shorts service bulletins, as applicable, which contain the specified effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
SD330–71–23, November 20, 1998	1–11	Original	November 20, 1998.
SD330–71–23, Revision 1, April 26, 1999	1, 2	1	April 26, 1999.
	3–11	Original	November 20, 1998.
SD3 SHERPA–71–1, Revision 1, February 3, 1999	1, 6–8	1	February 3, 1999.
	2–5, 9–11	Original	November 20, 1998.
SD3 SHERPA–71–1, Revision 2, April 26, 1999	1, 2	2	April 26, 1999.
	3–5, 9–11	Original	November 20, 1998.
	6–8	1	February 3, 1999.
SD3–60 SHERPA–71–1, Revision 1, February 3, 1999.	1, 6–8	1	February 3, 1999.
	2–5, 9–11	Original	November 20, 1998.
SD3–60 SHERPA–71–1, Revision 2, April 26, 1999	1, 2	2	April 26, 1999.
	3–5, 9–11	Original	November 20, 1998.
	6–8	1	February 3, 1999.
SD360–71–18, Revision 1, February 3, 1999	1, 6, 8	1	February 3, 1999.
	2–5, 7, 9–11	Original	November 24, 1998.
SD360–71–18, Revision 2, April 26, 1999	1, 2	2	April 26, 1999.
	3–5, 7, 9–11	Original	November 24, 1998.
	6, 8	1	February 3, 1999

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directives 014–11–98, 018–11–98, 011–11–98, and 012–11–98.

(f) This amendment becomes effective on November 5, 1999.

Issued in Renton, Washington, on September 27, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–25596 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–198–AD; Amendment 39–11346; AD 99–21–03]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–145 series airplanes. This action requires revising the Airplane Flight Manual (AFM) for operation in the rain, and modifying the anemometric static ports. This action also provides for optional terminating action for the requirements of this AD. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to limit or prohibit the use of the autopilot and flight director during the descent and approach to land in the rain, and to prevent fluctuations and erratic indications in the vertical speed, airspeed, and altitude readings in the cockpit during the descent and approach to land in the rain; such conditions could result in reduced controllability of the airplane during the descent and approach to land in the rain.

DATES: Effective October 18, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 18, 1999.

Comments for inclusion in the Rules Docket must be received on or before November 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–198–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Capezzuto, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6071; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–145 series airplanes. The DAC advises that there have been several occurrences of vertical speed, airspeed, and altitude fluctuations, and/or erratic indications [which in some cases have even caused autopilot and flight director disengagement and ground proximity warning system (GPWS) false warnings], during descent and approach to land in the rain. The cause of these fluctuations and erratic indications has been attributed to a flaw in the design of the anemometric static ports. These conditions, if not corrected, could result in reduced controllability of the airplane during the descent and approach to land in the rain.

Explanation of Relevant Service Information

Embraer has issued Service Bulletin No. 145–34–0026, Change No. 01, dated June 23, 1999, which describes procedures for modification of the central hole of the anemometric static ports and installation of nipples between the static ports and their hoses to prevent fluctuations and erratic indications in the vertical speed, airspeed, and altitude readings in the cockpit during the descent and approach to land in the rain. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DAC classified this service bulletin as mandatory and issued Brazilian airworthiness directive 1999–06–01R2, dated July 19, 1999, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

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

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to require certain AFM revisions and a modification of the central hole of the anemometric static ports. The modification, along with the optional replacement of the current connection adapter installed between the hose ends and the static ports with a new nipple adapter, would terminate the requirements of this AD. This AD requires accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between This AD and the Foreign AD

This AD differs from the parallel Brazilian airworthiness directive in that this AD imposes a limitation in the AFM to prohibit the use of the autopilot or flight director during the approach in the rain. The Brazilian airworthiness directive AD instead addresses a CAUTION note that specifies hand-flying the airplane or using the autopilot basic mode, and relying on the primary flight display (PFD) raw information when operating in the rain. In addition, the replacement of calibration charts in the AFM following the modification of the static ports, as required by this AD, is not addressed by the Brazilian airworthiness directive.

Further, the terminating action (replacement of the current connection adapter with a new nipple adapter), provided as optional in this AD, is mandated by the Brazilian AD.

Interim Action

This is considered to be interim action. The FAA is currently considering requiring the replacement of the current connection adapter with a new nipple adapter, which will

constitute terminating action for the modification of the central hole of the anemometric static ports required by this AD action. However, the planned compliance time for the replacement of the current connection adapter with a new nipple adapter is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–198–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–21–03 Empresa Brasileira De Aeronautica S.A. (Embraer): Amendment 39–11346. Docket 99–NM–198–AD.

Applicability: Model EMB–145 series airplanes; serial numbers 145004 through 145144 inclusive, 145146 through 145149 inclusive, and 145152; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 as indicated, unless accomplished previously.

To limit or prohibit the use of the autopilot and flight director during the descent and approach to land in the rain, and to prevent fluctuations and erratic indications in the vertical speed, airspeed, and altitude readings in the cockpit during the descent and approach to land in the rain, which could result in reduced controllability of the airplane during the descent and approach to land in the rain, accomplish the following:

AFM Revisions

(a) Within 24 hours after the effective date of this AD, revise the FAA-approved Airplane Flight Manual (AFM) to include the following. This may be accomplished by inserting a copy of this AD into the AFM.

(1) Add the following statement in Section 2, Limitations, under AUTOPILOT: ''The use of either the autopilot or flight director is prohibited during approach to land when operating in the rain.''

(2) Add the following CAUTION note in Section 4, Normal Procedures, under DESCENT: ''CAUTION: When operating in rain, monitor the vertical speed indicator (VSI) and indicated airspeed (IAS), and, if oscillations are observed, disengage the autopilot and hand-fly the airplane, or use the autopilot basic mode. Rely on the standby airspeed and altimeter indications.''

(3) Add the following NOTE in Section 4, Normal Procedures, under APPROACH: ''NOTE: The use of either the autopilot or flight director is prohibited during approach to land when operating in the rain.''

Modification

(b) Within 400 flight hours after the effective date of this AD, modify the center hole of the anemometric static ports 1, 2, 3, and 4, located in the left- and right-hand sides of the forward fuselage, in accordance with ''PART I'' of Embraer Service Bulletin 145–34–0026, Change No. 01, dated June 23, 1999. Prior to or upon completion of this modification, replace the calibration charts for vertical speed, airspeed, and altitude with new charts in the AFM reflecting the modifications required by this paragraph, in accordance with Embraer AFM 145/1153, Revision 28, dated July 2, 1999. Accomplishment of this modification constitutes terminating action for the requirements of paragraph (a) of this AD.

Optional Terminating Action

(c) Accomplishment of the requirements of paragraph (b) of this AD, together with the replacement of the current connection adapter installed between the hose ends and the static ports with a new nipple adapter, in accordance with ''PART II'' of Embraer

Service Bulletin 145–34–0026, Change No. 01, dated June 23, 1999, constitutes terminating action for the requirements of this AD.

(d) As of the effective date of this AD, no person shall install on any airplane anemometric static ports 1, 2, 3, and 4, unless they have been modified in accordance with paragraph (b) of this AD.

Alternative Methods of Compliance

(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, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

Special Flight Permits

(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 airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) Except as provided by paragraph (a) of this AD, the actions shall be done in accordance with Embraer SB 145–34–0026, Change No. 01, dated June 23, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 1999–06–01R2, dated July 19, 1999.

(h) This amendment becomes effective on October 18, 1999.

Issued in Renton, Washington, on September 27, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–25593 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 900

[Docket No. 99N–1502]

Medical Devices: Quality Mammography Standards; Delay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; delay of effective date.

SUMMARY: The Food and Drug Administration (FDA) published a direct final rule in the **Federal Register** of June 17, 1999 (64 FR 32404). The document notified the public of FDA's intention to amend the regulations that govern mammography quality standards to incorporate changes required by the Mammography Quality Standards Reauthorization Act. This document delays the effective date of the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule published at 64 FR 32404 is delayed until January 28, 2000.

FOR FURTHER INFORMATION CONTACT: Roger L. Burkhart, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20857, 301–594–3332.

SUPPLEMENTARY INFORMATION: FDA solicited comments concerning the direct final rule for a 75-day period ending August 31, 1999. FDA stated that the effective date of the direct final rule would be on November 1, 1999, 60 days after the end of the comment period, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comment.

However, FDA has not yet received approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) of the information collection requirements in this rule. Therefore, FDA is revising the effective date of this rule to January 28, 2000. By that date, FDA expects to have received clearance from the Office of Management and Budget for the information collection requirements in the rule. This document delays the effective date of the direct final rule.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, notice is given that no significant adverse comments were filed on the June 17, 1999, direct final rule. Accordingly, the amendments issued thereby are effective January 28, 2000.

Dated: September 27, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–25556 Filed 9–30–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC42

Coastal Zone Consistency Review of Exploration Plans and Development and Production Plans

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This final rule amends regulations that specify how States review Exploration Plans (EP) and Development and Production Plans (DPP) for coastal zone consistency. The amended regulation clarifies that a State coastal zone consistency review occurs under the authority of the National Oceanic and Atmospheric Administration (NOAA) regulations and that when MMS prepares a DPP environmental impact statement (EIS), we will give the draft EIS to those States requiring the draft EIS as necessary information to conduct a DPP consistency review.

EFFECTIVE DATE: The rule is effective on November 1, 1999.

FOR FURTHER INFORMATION CONTACT: Maureen Bornholdt, Environmental Assessment Branch, (703) 787–1656.

SUPPLEMENTARY INFORMATION: This rulemaking seeks to correct discrepancies between MMS and NOAA regulations. We last revised our current rules in 1988 for Outer Continental Shelf (OCS) plan submission and approval. At that time, several statements concerning State coastal zone consistency reviews were placed in our regulations alerting lessees to the requirements that had to be met before we could approve activities associated with an EP or a DPP. Since 1988, some of these provisions conflict with the NOAA rules governing State coastal zone consistency review of OCS plans. Thus, we are revising our regulations to conform with the NOAA requirements.

Additionally, we believe it is in the interest of all parties for States to have the best available information in evaluating the consistency certification

by applicants for a DPP under the State's coastal management program and in making important coastal zone management (CZM) decisions. Accordingly, when we prepare a DPP EIS, we will give the draft EIS to those States requiring a DPP National Environmental Policy Act (NEPA) document as necessary information that the State must receive before consistency review can begin.

Background

Section 307(c)(3)(B) of the Coastal Zone Management Act (CZMA) requires that lessees conduct activities described in OCS plans in a manner consistent with enforceable policies of federally approved State Coastal Management Programs (CMP). Consequently, any person submitting an OCS plan to us must include a certificate of ''coastal zone consistency,'' i.e., a certification that lessee activities are consistent with the enforceable policies of CMP. Under section 307(c)(3)(B), Federal agencies cannot grant any Federal licenses or permits for any activity in the OCS plan until the State concurs with, or is conclusively presumed to concur with, the consistency certification, or the Secretary of Commerce overrides the State's consistency objection.

The CZMA requires three items for State consistency review: the OCS plan, the consistency certification, and any necessary data and information. Because many State CMPs describe information requirements for assessing consistency, States must make copies of their CMP available to help applicants identify necessary data and information. NOAA also encourages applicants to discuss consistency information needs with the State.

In addition to using CMP information requirements for OCS plan review, NOAA has instructed States to use ''information received pursuant to the Department of the Interior's operating regulations governing (OCS) exploration, development and production'' to determine consistency (15 CFR 930.77(a)). The State may ask for information in addition to that required by § 930.77, but such requests do not extend the start of its consistency review (15 CFR 930.78). Consistency review begins when the State receives a copy of the OCS plan, consistency certification, and required necessary data and information (15 CFR 930.78).

Changes to Our Regulations

We are revising our rules to start consistency review upon receipt of the EP or DPP. This will comply with the NOAA requirement (15 CFR 930.77) to begin consistency review when the State receives the OCS plan (the version that MMS deems submitted), the lessee's consistency certification, and required necessary data and information. We are adding this NOAA reference on starting consistency review to the regulations found at 30 CFR 250.203(f) and 250.204(i).

Additionally, we are replacing the statement about the relationship between the NEPA process and the State consistency review with one describing when we will forward a draft EIS to the State CZM agency.

In 1979, the Department of the Interior (DOI) expressed the view that delaying the CZMA consistency process until after preparation of a NEPA compliance document would not be consistent with congressional intent. Specifically, in response to a comment suggesting a delay in the CZMA process when an EIS is needed for a DPP, the 1979 preamble to the current rule stated:

> It is clear from the provisions of Section 25 of the Act that a State's coastal zone consistency review is independent of the National Environmental Policy Act review procedures, and the coastal zone consistency review should be completed within the timeframe specified in the Act and the implementing regulations. The Environmental Report is designed to provide all the information needed for the consistency review. To adopt the suggested procedure would result in a delay that is contrary to the intent of Congress. 44 Fed. Reg. 53686 (Sept. 14, 1979).

DOI has reconsidered this position for two reasons. First, 19 years of OCS program experience under the old rule have led us to conclude that the lack of an EIS in a State's review of a CZMA consistency certification has contributed to many State objections and a more contentious process than necessary in developing our Nation's offshore natural gas and oil. Accordingly, we have determined to support, to the extent permitted by law, the States' efforts to obtain the best reasonably available environmental information before making consistency decisions under the CZMA.

Second, as a matter of law, the NEPA, CZMA, and OCS Lands Act (OCSLA) do not expressly state their relationship to each other, and the relationship (or lack of relationship) among these statutes is not as clear as the preamble to the 1979 rulemaking asserts. The 1979 preamble statement relied upon certain statements in the legislative history, not the statutory text. (See, e.g., H.R. REP. No. 590, 95th Cong., 2d Sess. 167, reprinted in the 1978 U.S. CODE CONG. & ADMIN. NEWS 1572, 1573.) While the CZMA, OCSLA, and NEPA processes have somewhat different timeframes, we do not find in them any requirement to achieve compliance with the separate mandates of those statutes in any rigid order. The Secretary's general rulemaking authority in Section 5 of the OCSLA, 43 U.S.C. 1334, provides considerable discretion to administer the OCS program. The Solicitor's Office advises that this authority gives the Secretary discretion to provide a more flexible approach to achieving that compliance. Thus, the Secretary may allow MMS to give a draft EIS to those States that require a draft EIS before starting the DPP consistency review.

Therefore, we will give the draft EIS to those States that require the DPP NEPA document as necessary information that must be received before consistency review can begin. Any delay in beginning the DPP consistency review until the draft EIS is available will not affect the mandated 60-day timeframe for our decision on the DPP. When a DPP EIS is prepared, OCSLA requires that we approve, disapprove, or require modification of the DPP 60 days after the release of the final EIS. Typically, there are about 8 to 9 months between the availability of the draft and final EISs. We use this time period to solicit public comment (written and oral) on the draft EIS, respond to comments, make changes, and conduct internal reviews and other administrative matters associated with the EIS production. This time interval would allow the State sufficient time to complete its DPP consistency review (see the chart following this paragraph). We want to make good science and analysis available for states to use in making CZMA decisions. We can further that effort by providing the State with the best available information in order to concur with an applicant's DPP consistency certification. It also helps us to base the OCS program on consensus, not conflict, and to be good neighbors to the coastal States.

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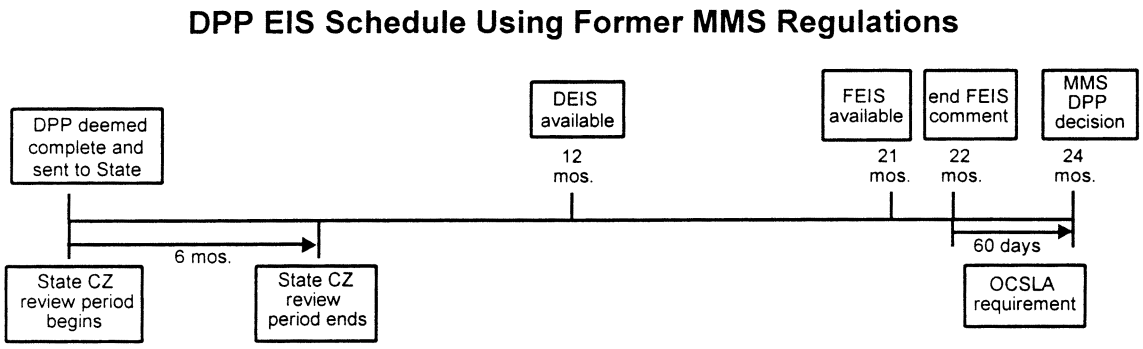

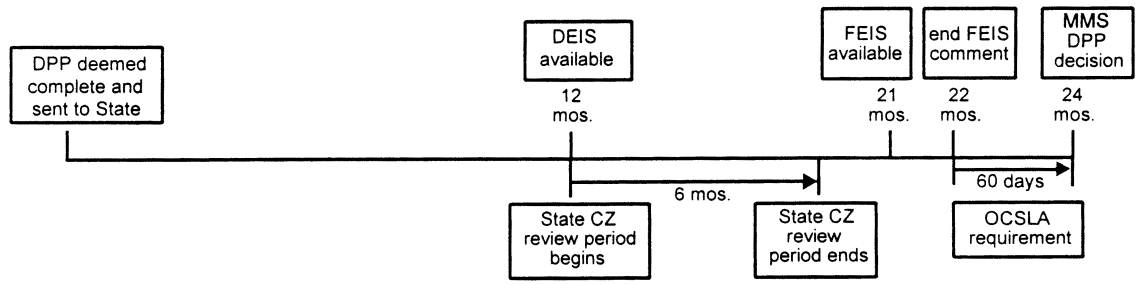

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Comments on the Rule

We received comments from nine groups including State Governments and the offshore petroleum industry:

- American Petroleum Institute
- State of California
  - California Coastal Commission
  - Resources Agency of California
- State of Florida
  - Department of Community Affairs
  - Office of the Governor
- Chevron U.S.A. Production Company
- State of North Carolina
  - Department of Environmental and Natural Resources
- Phillips Petroleum Company
- Texaco Exploration and Production Inc.

We considered the comments and have modified the final language as appropriate.

Comments and Responses

In addition to the proposed changes in the regulations, we sought comment on whether to apply the proposed language to pending DPP applications. We decided not to apply the new rule retroactively. When we published the proposal, the only MMS-pending DPP application (Destin Dome 56 Unit Offshore Florida) had received a State consistency objection (February 1998). The applicant had filed its consistency appeal with the Secretary of Commerce in March 1998. The Department of Commerce (DOC) has begun to compile and review the record in this appeal. They have asked Federal agencies to submit comments for the record and have scheduled a public hearing in September 1999. The appeal's public record remains open until 30 days after the DOC public hearing. MMS will publish the DPP draft EIS while the appeal record is open, and we will forward a copy to DOC.

Comment: Several commenters expressed concern that the proposed changes give the States up to 18 months, and perhaps longer, to complete their consistency review.

Response: The CZMA controls and sets the deadlines and criteria for consistency review through NOAA's implementing regulations, not the MMS regulations. The NOAA consistency regulations set a 6-month deadline for the State's consistency decision:

> Concurrence by the State agency shall be conclusively presumed in the absence of a State agency objection to the consistency certification within six months following commencement of State agency review. (15 CFR 930.79(b))

The NOAA consistency regulations determine when the CZMA clock starts:

> State agency review of the person's consistency certification begins at the time the State agency receives a copy of the OCS plan, consistency certification, and required necessary data and information. (15 CFR 930.78)

The MMS regulations have incorporated the NOAA process in 30 CFR 250.204(i)

> The [DPP] plan will be processed in accordance with the regulations in this section and the regulations governing Federal CZM consistency procedures (15 CFR part 930).

The new rule does not alter the CZMA/NOAA time requirements for State consistency review.

Comment: Several commenters were concerned that the proposal will cause delays in the OCS permitting and the consistency appeals process.

Response: When MMS prepares a DPP EIS, OCSLA requires that we approve, disapprove, or require modification of the DPP 60 days after the release of the final EIS. The new rule will not affect the mandated 60-day timeframe to issue our DPP decision. Regarding the comment about delaying the consistency appeals process, one of our objectives of the new rule is to decrease the number of State consistency objections based on insufficient information. NOAA regulations found at 15 CFR 930 govern the consistency appeal process. The new rule does not alter and cannot change the NOAA appeal process. Providing the draft EIS to States amending their coastal program will ensure that those States

have a comprehensive analysis of the OCS plan's environmental impacts to use in making their consistency decisions. Indeed, allowing States to use the draft EIS' analysis may result in fewer consistency objections, associated consistency appeals, and attendant delays.

Comment: Several commenters stated that the current process to collect information for State consistency review purposes is adequate.

Response: The discretion for deciding what information is required to determine consistency lies with the affected State. The new rule will not change the current information collection process outlined in the NOAA consistency regulations. Instead, the rule informs States and OCS operators that MMS reconsidered the relationship between the NEPA process and State consistency reviews, and we will give the draft EIS to those States that require the DPP NEPA document as necessary information that the State must receive before consistency review can begin.

Comment: A commenter suggested that we provide the States with all the comments on the draft EIS in addition to the draft EIS.

Response: We did not incorporate this suggestion into the final rule. We will provide the State, upon request, a copy of the comments on the draft EIS. The purpose of supplying information is to help the State determine consistency through understanding how the proposed project could affect coastal resources and uses. The draft EIS is our primary source of environmental analytical information focusing on impacts of the OCS project on the human, marine, and coastal environments. The comments we receive on the draft EIS, while very useful, are a critique of the proposal and the draft EIS and not an environmental impact analysis. To obtain public comment on the OCS proposal, the NOAA regulations require the States to comply with certain public notice and comment requirements. Through those NOAA processes, the States can acquire public opinions/concerns about the OCS consistency review.

Comment: A commenter suggested that we apply the same requirement to exploration plans.

Response: Given that exploration activities are temporary and less complicated than those associated with a normally 30-year development and production project, the information and analysis requirements under NOAA consistency and MMS operating regulations provide the State with a sufficient basis on which to render a consistency decision. Therefore, the final rule does not apply the requirement to EPs.

Comment: Several commenters stated that MMS should amend the proposal to apply to all States instead of letting the States decide what information is necessary for consistency review.

Response: As part of our NEPA process, we provide the DPP draft EIS to all affected States and will continue to do so. However, our new rule does not create CZMA consistency-related obligations. The CZMA sets the criteria for consistency review through NOAA's implementing regulations. If a State wants to obtain more information (the draft EIS) before the consistency review starts, the State must comply with NOAA's consistency regulations—in this case that means listing the draft EIS as ''necessary data and information.'' The NOAA regulations do not require listing the draft EIS if the State simply wanted the draft EIS as ''supplemental'' information. Finally, some States may be satisfied with the information they receive and may not choose to require the draft EIS.

Comment: A commenter stated that current MMS regulations prevent States from reviewing for consistency certain permits issued after a plan's approval and suggested that MMS include these permitted activities in either the OCS Plan or associated NEPA document making those activities available for consistency review.

Response: NOAA's regulations preclude the States from reviewing permits associated with a plan that already received State consistency concurrence. The NOAA regulations state:

> If the State agency issues a concurrence or is conclusively presumed to concur with the person's consistency certification, the person will not be required to submit additional consistency certifications and supporting information for the State agency review at the time Federal applications are actually filed for the Federal licenses and permits to which such concurrence applies. (15 CFR 930.80)

The MMS regulations incorporate the NOAA exemption:

> * * *APD's must conform to the activities described in detail in the approved Exploration Plan and shall not be subject to a separate State coastal zone consistency review. (30 CFR 250.203(p))
>
> * * *All APD's and applications to install platforms and structures, pipelines, and production equipment must conform to the activities described in detail in the approved Development and Production Plan and shall not be subject to a separate State coastal zone consistency review. (30 CFR 250.204(t))

Briefly, OCS plans include:

- the schedule for offshore activities (e.g., commencement and completion schedules, sequences for drilling wells and installing facilities, and date of first production).
- descriptions of any drilling vessels, platforms, pipelines, or other facilities/operations (including location, size, design, and safety and pollution-prevention features).
- supporting information, including descriptions of geological and geophysical data, air emissions, physical oceanography, onsite flora and fauna, and quality, and other uses of the area.

States review OCS plans to determine whether proposed activities described in them will be conducted in a manner consistent with the enforceable policies of approved coastal management programs. We are prohibited from permitting OCS plan activities until the State concurs with or is presumed to concur with the plan's consistency certification. Because the OCS plan reviewed by the State for consistency includes a description of proposed permitted activities, the subsequently filed permits are already covered by the State's consistency review.

Comment: A commenter suggested that Federal consistency determinations should be included at each stage of the NEPA process. States should be allowed to review for consistency each individual stage of the NEPA process, especially when significant changes are made to the project or analyses.

Response: NEPA documents do not trigger a consistency review. NEPA documents analyze environmental impacts. They do not approve activities by either the Government or the lessees. Nor do they approve licenses or permits. However, MMS regulations provide that if the OCS plan changes substantially (e.g., significantly changes the impacts that were previously identified and evaluated; requires additional permits; or proposes activities not previously identified and evaluated) after the State's concurrence, the proposed revised OCS plan will be subject to State consistency review.

Comment: A commenter expressed concern that delaying the State's consistency decision until later in the DPP process would not give MMS consistency-related information in a timely fashion and could result in considerable NEPA-related delays.

Response: The new rule will not delay our NEPA process. Before we prepare an EIS, we conduct ''scoping.'' Scoping identifies the extent and significance of important environmental issues associated with a proposed Federal action. During scoping, we ask the public; local, State, and Federal agencies; and interested organizations or individuals to identify issues, resources,

impacts, and any alternatives to the proposed action that the EIS should address. Issues identified and ultimately analyzed in the impact statement typically include those covered by the State's coastal management program. We also include State CZM agencies in our scoping process.

Comment: A commenter suggested that we clarify proposed language to be sure that the OCS plan the State receives to begin its consistency review is the version that MMS deems complete.

Response: The new rule makes that change.

Comment: A commenter suggested to change the language to require MMS to send the final EIS.

Response: When MMS prepares a DPP EIS, OCSLA requires that we approve, disapprove, or require modification of the DPP 60 days after the release of the final EIS. State consistency review takes from 3 to 6 months. Therefore, starting consistency review upon the release of the final EIS would violate the required deadline in OCSLA.

Procedural Matters

Federalism (Executive Order (E.O.) 12612)

According to E.O. 12612, the rule does not have significant Federalism implications. A Federalism assessment is not required.

Takings Implications Assessment (E.O. 12630)

According to E.O. 12630, the rule does not have significant takings implications. A Takings Implication Assessment is not required.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under E.O. 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The rule simply clarifies the authority of NOAA regulations for State coastal zone consistency review. It also makes available to those States requiring it, a copy of the draft DPP EIS when MMS prepares one.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. There are no new requirements in this rule. The rule simply clarifies existing regulations.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The clarifications contained in the rule do not change existing regulations and therefore do not alter the budgetary effects, grants, user fees etc.

(4) This rule does not raise novel legal or policy issues. The clarifications in the rule are based on the longstanding legal authority of the OCSLA, CZMA, NEPA and other laws. As previously stated it clarifies the authority of NOAA regulations.

Civil Justice Reform (E.O. 12988)

According to E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Paperwork Reduction Act (PRA) of 1995

The information collection requirements in subpart B remain unchanged. The current information collection requirements of Subpart B, Exploration and Development and Production Plans, have been approved by OMB under 44 U.S.C. 3507 and assigned OMB control number 1010–0049.

Regulatory Flexibility Act

DOI certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The revision to the rule will clarify, but not change, the requirements currently in place for OCS plan review and approval. The changes make clear that NOAA regulations govern State coastal zone consistency review of OCS plans submitted to us. There will be no change to current procedures resulting from the amendment to the rule. DOI has determined that these changes to the rule will not have a significant effect on a substantial number of small entities. In general, most entities that engage in offshore activities are not considered small due to the technical and financial resources and experience necessary to conduct such activities safely. However, those lessees that are classified as small businesses will not be affected. DOI also determined that there are no indirect effects of this rulemaking on small entities that provide support for offshore activities. Small government entities, such as small local governments in an affected State's coastal zone, can participate in State coastal zone review and can request that the Regional Supervisor provide copies of plans. None of the proposed changes will affect this process.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under (5 U.S.C. 804(2)) SBREFA. 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.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandate Reform Act (UMRA) of 1995

This rule 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 UMRA (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: September 3, 1999.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service amends 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

2. In § 250.203, paragraph (f) is revised to read as follows:

§ 250.203 Exploration Plan.

* * * * *

(f) Within 2 working days after we deem the Exploration Plan submitted, the Regional Supervisor will send by receipted mail a copy of the plan (except those portions exempt from disclosure under the Freedom of Information Act and 43 CFR part 2) to the Governor or the Governor's designated representative and the CZM agency of each affected State. Consistency review begins when the State's CZM agency receives a copy of the deemed submitted plan, consistency certification, and required necessary data and information as directed by 15 CFR 930.78.

* * * * *

3. In § 250.204, paragraphs (i) and (j) are revised to read as follows:

§ 250.204 Development and Production Plan.

* * * * *

(i) We will process the plan according to this section and 15 CFR part 930. Accordingly, consistency review begins when the State's CZM agency receives a copy of the deemed submitted plan, consistency certification, and required necessary data and information as directed by 15 CFR 930.78.

(j) The Regional Supervisor will evaluate the environmental impact of the activities described in the Development and Production Plan (DPP) and prepare the appropriate environmental documentation required by the National Environmental Policy Act of 1969. At least once in each planning area (other than the western and central Gulf of Mexico planning areas), we will prepare an environmental impact statement (EIS) and send copies of the draft EIS to the Governor of each affected State and the executive of each affected local government that requests a copy. Additionally, when we prepare a DPP EIS and when the State's federally approved coastal management program requires a DPP NEPA document for use in determining consistency, we will forward a copy of the draft EIS to the State's CZM Agency. We will also make copies of the draft EIS available to any appropriate Federal Agency, interstate entity, and the public.

* * * * *

[FR Doc. 99–25499 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–082–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing its approval of amendments and its decision concerning the State's request that we reconsider certain decisions on a previous program amendment to the West Virginia permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment revises the West Virginia surface mining regulations concerning definitions of ''area mining operations'' and ''mountaintop mining operations;'' variances from approximate original contour in steep slope areas; subsidence control plans; permit issuance; construction tolerance; surface owner protection; and primary and emergency spillway designs. The previous amendment being reconsidered concerns subsidence regulations. The amendment is intended to improve the operational efficiency of the State program, and to make the regulations consistent with the counterpart Federal regulations.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the January 21, 1981, **Federal Register** (46 FR 5915–5956). You can find later actions concerning the West Virginia program and previous amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

By letter dated May 5, 1999 (Administrative Record Number WV–1127), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to the West Virginia permanent regulatory program pursuant to 30 CFR 732.17. The amendment concerns changes to the West Virginia regulations made by the State Legislature in House Bill 2533 which was enacted on April 2, 1999. In addition, the WVDEP requested that OSM reconsider its disapproval of parts of CSR 38–2–3.12 (concerning subsidence control plan) and 38–2–16.2 (concerning surface owner protection) and remove the corresponding required regulatory program amendments specified in the February 9, 1999, **Federal Register** (64 FR 6201–6218) in light of the April 27, 1999, United States Court of Appeals decision on Case No. 98–5320.

We announced receipt of the proposed amendment in the May 27, 1999, **Federal Register** (64 FR 28771), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on June 28, 1999. No one requested an opportunity to speak at a public hearing, so none was held.

III. Director's Findings

Following, according to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the proposed amendment. Any revisions that we do not specifically discuss below concern nonsubstantive wording changes or revised paragraph notations to reflect organizational changes that result from this amendment.

1. *CSR 38–2–2.11 Definition of ''Area Mining Operation*.'' In this new definition, ''Area Mining Operation'' is defined to mean a mining operation where all disturbed areas are restored to approximate original contour (AOC) unless the operation is located in steep

slope areas and a steep slope AOC variance in accordance with subsection 14.12 of this rule has been approved. An area mining operation may remove all or part of coal seam(s) in the upper fraction of a mountain, ridge, or hill. However, it is not classified as a mountaintop operation for one or more of the following reasons:

2.11.a. The site may be restored to AOC; or

2.11.b. The entire coal seam may not be removed.

There is no Federal definition of the term ''area mining operation.'' However, we find that the term ''area mining operation'' does not include ''mountaintop-removal mining'' and is analogous with the Federal requirements relating to ''steep slope mining.'' Because the definition is not inconsistent with SMCRA or the Federal regulations it can be approved.

2. *CSR 38–2–2.78 Definition of ''Mountaintop Mining Operation*.'' In this new definition, ''Mountaintop Mining Operation'' is defined to mean a mining operation that removes an entire coal seam or seam(s) in an upper fraction of a mountain, ridge, or hill and creating a level plateau or a gently rolling contour with no highwalls. The approved postmining land use must be in accordance with § 22–3–13(c)(3) of the West Virginia Code. We find the definition of ''mountaintop mining operation'' to be substantively identical to the Federal regulations governing ''mountaintop removal mining'' at 30 CFR 824.11(a)(2) and it is, therefore, approved.

3. *CSR 38–2–3.12 Subsidence control plan.* Subdivision 3.12.a.2. is amended to change the words ''could contaminate, diminish or * * *'' to read ''could be contaminated, diminish or * * *'' We find that this change helps to clarify the meaning of this provision and can be approved. However, the proposed change has not satisfied the required amendment at 30 CFR 948.16(aaaa). The second paragraph of subdivision 3.12.a.2. is amended by adding the word ''building'' to read as follows: ''A survey of the condition of all non-commercial building or residential * * *'' We find that the addition of the word ''building'' at Subdivision 3.12.a.2 is no less effective than 30 CFR 784.20(a)(3) and can be approved.

Subdivision 3.12.a.2.B. is amended to change the words ''Non-commercial building as used in this section means, other than * * *'' to read ''Non-commercial building as used in this section means any building, other than * * *'' We find that this change clarifies the meaning of this provision and can be approved. However, the required amendment at 30 CFR 948.16(cccc) still remains unsatisfied because the definition of ''non-commercial building'' does not include such buildings used on a temporary basis as provided by 30 CFR 701.5.

4. *CSR 38–2–3.32.b. Findings—permit issuance.* In the third paragraph, the name of the database ''Surface Mining Information System'' is deleted and replaced by ''Environmental Resources Information Network.'' We find that this name change more accurately describes the WVDEP's surface mine database management system. The proposed revision does not render the West Virginia program less effective than the Federal requirements and, therefore, can be approved.

5. *CSR 38–2–3.35 Construction tolerance.* This subsection is amended by adding the title ''Construction Tolerance.'' We find that this change clarifies the purpose of the provisions at subdivision 3.35 and can be approved.

6. *CSR 38–2–14.12.a.1. Variance from approximate original contour requirements.* This provision is amended by adding the following language: ''and the land after reclamation is suitable for industrial, commercial, residential or public use (including recreational facilities).'' As amended the provision reads as follows. ''The permit area is located on steep slopes as defined in subdivision 14.8.a. of this rule and the land after reclamation is suitable for industrial, commercial, residential or public use (including recreational facilities).'' We find that the new language is substantively identical to the Federal regulations at 30 CFR 785.16(a)(1), pertaining to variance from the approximate original contour (AOC) requirement for steep slope mining operations, and can be approved. This revision satisfies the required amendment at 30 CFR 948.16(mmm) which can be removed.

7. *CSR 38–2–16.2. Surface owner protection.* Subdivision 38–2–16.2.c. is amended by adding the word ''damage'' after the word ''Material'' at the beginning of the first sentence. In addition, the words ''or facility'' are added after the word ''structure'' and before the word ''from'' near the end of the first sentence. We find that these changes, which are no less effective than 30 CFR 701.5, clarify the meaning of the term ''material damage'' and, therefore, can be approved.

Subdivision 38–2–16.2.c.3. is amended to delete the word ''occurs'' after the words ''subsidence damage'' and before the words ''to any.'' We find that this change eliminates a redundant word and clarifies the meaning of this provision and can be approved.

8. *CSR 38–2–22.4.g. Primary and emergency spillway design.* This subdivision is amended by changing the probable maximum precipitation (PMP) event for impoundments meeting the size or other criteria of 30 CFR 77.216(a) from a 24-hour storm event to a ''six (6)'' hour storm event. This change has been submitted in response to a required program amendment codified at 30 CFR 948.16(uuu). On February 21, 1996 (61 FR 6528) the Director determined that the State's PMP 24-hour storm event standard would be impossible to implement because the U.S. Weather Service's document ''Rainfall Frequency Atlas'' does not have data charts concerning PMP for a 24-hour storm event. The ''Rainfall Frequency Atlas'' does, however, contain data charts for PMP 6-hour storm events. We find that with this change, the provision is substantively identical to the Federal regulations at 30 CFR 816/817.84(b)(2) and which specify the PMP 6-hour storm event. We also find that this amendment satisfies the required program amendment codified at 30 CFR 948.16 (uuu) which can be removed.

9. *WVDEP request that OSM reconsider certain decisions and required amendments published in the February 9, 1999,* **Federal Register** *(64 FR 6201–6218).*

Along with its submittal of this amendment, the WVDEP also requested that we reconsider our disapproval of amendments and the related required amendments to the West Virginia program in the February 9, 1999, **Federal Register** (64 FR 6201–6218). In that notice, we disapproved parts of CSR 38–2–3.12 (concerning subsidence control plan) and 38–2–16.2 (concerning surface owner protection) and added related required regulatory program amendments. The WVDEP cited the United States Court of Appeals decision in *National Mining Ass'n.* v. *Babbitt,* 172 F.3d 906 (D.C. Cir. 1999), as the basis for its request.

In the above referenced decision, the Court struck down two OSM regulations on coal mine subsidence. First, the Court of Appeals vacated 30 CFR 817.121(c)(4)(i), which established a rebuttable presumption that damage to any noncommercial building or occupied residential dwelling or structure related thereto, resulting from earth movement occurring within the ''angle of draw'' of an underground mining operation, was caused by subsidence from that mining operation. 172 F.3d at 913. The Court also struck down a portion of 30 CFR 784.20(a)(3) that required coal operators to conduct

presubsidence structural condition surveys. The Court vacated this provision because the area in which the survey was required was defined by reference to the angle of draw, which the Court found to be an arbitrary and capricious basis for the establishment of a rebuttable presumption. *Id.* at 915. The two regulations that were struck down were among those issued on March 31, 1995, at 60 FR 16722–51, pursuant to SMCRA and section 2504 of the Energy Policy Act of 1992. The Energy Policy Act of 1992 added a new section 720 to SMCRA. Section 720 requires underground mine operators to repair or to compensate for material damage to residential structures and noncommercial buildings, and to replace residential water supplies adversely affected by underground mining.

As the WVDEP requested, we reviewed the findings that we made in the February 9, 1999, **Federal Register** notice in the light of the Court of Appeals decision cited above. Based on our review, we have determined that some of our decisions and required amendments are affected by the Court's decisions. Therefore, in a future **Federal Register** notice, we will identify the specific findings, decisions and required amendments that are affected by the Court's decision. We will open a public comment period and will ask for public comment on the decisions that we propose to amend and the required amendments that we propose to delete.

IV. Summary and Disposition of Comments

Federal Agency Comments

As required by 30 CFR 732.17(h)(11)(i), we solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the West Virginia program on May 21, 1999. The U.S. Department of Labor, Mine Safety and Health Administration responded and stated that it had no comments.

Public Comments

We solicited public comments on the amendment. No comments were received.

U.S. Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). We determined that none of the amendments required EPA concurrence.

Pursuant to 30 CFR 732.17(h)(11)(i), we solicited comments on the proposed amendment from EPA. The EPA responded and stated that it had no objections to the proposed revisions. The EPA recommended, however, that the definition of ''mountaintop mining operation'' at CSR 38–2–2.78 be clarified. The EPA stated that the definition gives the impression that approval of an AOC variance is not necessary to create the level area as long as an approved postmining land use plan is approved. The EPA recommended that the definition be amended to clarify that W.Va Code 22–3–13(c)(3) includes a requirement of an AOC variance. In response, we agree that amending the definition as recommended by EPA would add to its clarity. However, since the proposed definition already requires compliance with W.Va Code 22–3–13(c)(3), which requires that an operator be granted a variance in order to be exempt from the AOC requirement for a mountaintop-removal operation, we conclude that the additional clarification to the definition is not necessary.

V. Director's Decision

Based on the findings above, we are approving the proposed amendments. In a future **Federal Register** notice, we will identify the specific findings decisions and required amendments published in our February 9, 1999, **Federal Register** notice that are affected by the United States Court of Appeals decision in *National Mining Ass'n.* v. *Babbitt,* 172 F.3d 906 (D.C. Cir. 1999). We will open a public comment period and will ask for public comment on the decisions that we propose to amend and the required amendments that we propose to delete.

The Federal regulations at 30 CFR 948 codifying decisions concerning the West Virginia program are being amended to implement this decision. The required regulatory program amendments codified at 30 CFR 948.16(mmm) and CFR 948.16(uuu) are being removed. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule 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.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that

existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 7, 1999.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 948—WEST VIRGINIA

1. The authority citation for part 948 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 948.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* *	* * *
May 5, 1999	10–1–99	CSR 38–2–2.11; 2.78; 3.12.a.2, and .2.B; 3.32.b; 3.35; 14.12.a.1; 16.2.c, and .c.3; and 22.4.g.

§ 948.16 [Amended]

3. Section 948.16 is amended by removing and reserving paragraphs (mmm) and (uuu).

[FR Doc. 99–25551 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[SPATS No. WY–028–FOR]

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Wyoming regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Wyoming proposed revisions to and additions of rules for fish and wildlife habitat and resource information, shrub density, certification of maps by a registered professional engineer, geologic descriptions, topsoil substitutes, special bituminous coal mines, archaeological and historic resources, permit transfers, civil penalties, and miscellaneous changes to Appendix A of Wyoming's rules, which concern vegetations sampling methods and reclamation success standards for surface coal mining operations.

Wyoming intends to revise its program to be consistent with the corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: 307–261–6550; Internet address: GPadgett@OSMRE.GOV.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. You can find background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the November 26,1980, **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.12, 950.15, 950.16 and 950.20.

II. Submission of the Proposed Amendment

By letter dated July 13, 1998, (Administrative Record No. WY–33–1), Wyoming sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming's amendment was in response to a December 23, 1985 letter that we sent to Wyoming in accordance with 30 CFR 723.17(c) and in response to the required program amendments at 30 CFR 950.16(b), (c), (g), (v), (x), (ii)(1), and (kk), and on its own initiative. The provisions of its ''Coal Rules and Regulations'' that Wyoming proposed to revise and add are: (1) Chapter 1, Section 2(ac), revises the definition of ''eligible land''; (2) Chapter 1, Section 2(v) revising the definition of critical habitat, (3) Chapter 2, Section 1(e), revises the section delineating the contents of permit applications; (4) Chapter 2, Section 2(a)(vi)(G)(II), for notification of the U.S. Fish and Wildlife Service; (5) Chapter 2, Section 1(a)(vi)(H), geology description; (6) Chapter 2, Section 2(a)(vi)(J), corrects incorrect references to the Wyoming Statutes; (7) Chapter 2, Section 2(a)(vi)(J)(II), for maps submitted in a permit application; (8) Chapter 2, Section 2(b)(iv)(C), the subsection on revegetation; (9) Chapter 2, Section 2(b)(vi)(C), for the submission of resource information; (10) Chapter 4, Section 2(c)(ix), for the use of selected spoil material; (11) Chapter 4, Section 2(d)(x)(E)(I), the rule on shrub density; (12) Chapter 4, Section 2(d)(x)(E)(III), the rule for revegetation standards on crucial habitat; (13) Chapter 8, Sections 3–4–5, the rules for special bituminous coal mines; (14) Chapter 12, Section 1(a)(iv)(B), rules for properties on the National Register of Historic Places; (15) Chapter 12, Section 1(a)(v)(C), the rule on permitting procedures for properties listed or eligible for listing on the National Register of Historic Places; (16) Chapter 12, Section 1(b)(ii), the rule on procedures for permit transfers; (17) Chapter 16, Section 3(c) and (f), rules concerning civil penalties; (18) Appendix A, Appendix IV, rules for Threatened and Endangered Species in Wyoming; (19) Appendix A, Options I–IV, for minor changes to the shrub density option tables; (20) Appendix A, Section II.C.2.c, corrects the cross-reference to the rule on cropland, hayland or pastureland; (21) Appendix A, Section II.C.3, removes the language referring to the approval of the shrub density rule and replaces it with the August 6, 1996 date of the rule's

approval; and (22) Appendix A, Section VIII.E, also removes the language referring to the approval of the shrub density rule and replaces it with the August 6, 1996 date of that rule's approval.

We announced receipt of the amendment in the July 29, 1998, **Federal Register** (63 FR 40384). In the same document we opened the public comment period and provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on the adequacy of the amendment. Because no one requested a public meeting or hearing, we did not hold one. The public comment period closed on August 28, 1998.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the amendment. As discussed below we find that the proposed program amendment submitted by Wyoming on July 13, 1998, is no less effective than the corresponding Federal regulations. Accordingly, we approved the amendment.

1. Nonsubstantive Revisions to Wyoming's Rules and Statute

Wyoming proposes revisions to the following previously-approved rules and statutes that are nonsubstantive in nature and consist of minor, non-substantive changes (corresponding Federal regulation provisions are listed in parentheses):

A. *Chapter 1, Section 2 (ac); Chapter 4, Section 2(d)(x)(E)(I); Appendix A, Section II.C.3; Section VIII.E; (no Federal counterparts)—[adds date of approval of shrub density rule].*

This revision replaces the reference to the approval of the shrub density rule with the August 6, 1996 date of approval of that rule.

B. *Chapter 2, Section 1(e) and Section 2(b)(iv)(c), deletes reference to the defunct State Conservation Commission (no Federal counterpart).*

The State Conservation Commission has been disbanded and replaced by the State Board of Agriculture. However, this Board does not make recommendations for standards and specifications for mine reclamation as did the former State Conservation Commission. Therefore reference to the Commission has been proposed for deletion by the State.

C. *Chapter 16, Section 3(c) and (f), corrects reference to the Wyoming Statute concerning Civil Penalties (no Federal counterpart).*

The reference to the Wyoming Environmental Quality Act in both of the rules noted above is proposed for revision because it no longer references the appropriate statute. Article 9 of the Act was modified by Wyoming's 1995 Legislature. Many of the provisions within W.S. 35–11–901 were repealed from that subsection and moved into a new subsection numbered 35–11–902, entitled ''Surface Coal Mining operations; violations of provisions, penalties.'' The changes proposed above now correctly reference Article 9.

D. *Appendix A, Section II.C.2.c; corrects cross reference from shrub density to cropland standard (no Federal counterpart).*

This revision changes the incorrect cross-reference from the shrub density standard on eligible coal mined lands, 2(d)(x)(E), to the reclamation requirements for cropland, 2(d)(x)(I).

E. *Appendix A, Options I–IV, fifteen minor changes to shrub density option tables (no Federal counterpart);* Wyoming's Land Quality Division (LQD) held a workshop for industry representatives and consultants on September 30 and October 1, 1996 to discuss and describe the newly adopted shrub density standard for coal operators. As part of this discussion, several errors, inconsistencies and improvements were identified. These figures have therefore been proposed for revision to correct the errors and improve the readability of the information.

Because the proposed revisions to these previously-approved rules are nonsubstantive in nature, we find that they are no less effective than the Federal regulations and we therefore approve them.

2. Chapter 1, Section 2(v), Definition of Critical Habitat

In the August 6, 1996 **Federal Register**, we approved Wyoming's rule definition of ''critical habitat'' at Chapter I, section 2(v) but recommended that Wyoming delete references to the Secretary of Commerce and to the Department of Commerce regulations at 50 CFR part 226 (finding No. 3 61 FR 40735, 40736). OSM recommended this change because the Secretary of Commerce has jurisdiction over marine mammals which has no relevance to the State of Wyoming since Wyoming has no marine mammals.

In this proposed rule definition, Wyoming deleted these references.

We find that Wyoming's revised rule definition of ''critical habitat'' at chapter I, section 2(v) is no less effective than the Federal regulations at 30 CFR 780.16(a) and (b), 816.997(b), and 817.97(b). We approve the revised definition.

3. Chapter 2, Section 2(a)(vi)(G)(II), Notification of FWS if Critical/Crucial Habitat Destruction Is Likely

In the August 6, 1996 **Federal Register** notice, we required Wyoming to clarify that the U.S. Fish and Wildlife Service (USFWS) will be contacted by the Administrator of the LQD in the event that habitat declared to be ''critical'' is threatened by any mining related activity. (Finding No. 10, 61 FR 40741)

In the proposed rule Wyoming clarifies that the U.S. Fish and Wildlife Service shall be contacted if critical habitat destruction is likely.

We find that Wyoming's proposed rule clarification at Chapter 2, Section 2(a)(vi)(G)(II) is no less effective than the Federal regulations at 30 CFR 780.16(a) and (a)(2)(i). We approve the revision.

4. Chapter 2, Section 2(a)(vi)(H), Description of Areal and Structural Geology in the Permit Application

In a final rule **Federal Register** notice dated July 25, 1990 (finding No. 2, 55 FR 30221, 30223), we approved Wyoming's revisions to counterparts to 30 CFR 780.22(b)(1) and 784.22(b)(1) relating to geologic permitting information. However, we required that Wyoming amend its rules to mandate that the geologic description include areal and structural geology of the permit and adjacent areas, and other parameters which influence the required reclamation and the occurrence, availability, movement, quantity, and quality of potentially impacted surface and ground water. This requirement was codified at 30 CFR § 950.16(b).

In the proposed rule Wyoming added the required language.

In addition to the above, Wyoming is proposing to add the words ''by extrapolation'' before the words ''adjacent areas.'' This change, which has no counterpart in the Federal rule, is being proposed to make it clear that a mining operator may use drilling information from within the permit area to extrapolate out to adjacent areas in order to describe the geology of the adjacent areas in the event that legal access to these areas for drilling purposes is not available. This provision does not relieve companies from using existing information to characterize adjacent areas or conduct field investigations of surface water characteristics outside the permit area if needed. This provision only alleviates the need to drill outside the permit area

in situations where permission for access cannot be obtained. Because the Federal regulations at 30 CFR 780.22(b)(2) and 784.22(b)(2) only require the results of drilling from within the permit area, the State's use of the phrase, ''by extrapolation'' is no less effective than the Federal requirement.

In addition to the above, the phrase ''prepared or certified by a licensed professional geologist'' has also been added to this rule. This was recommended by the Wyoming State Geologist because the recently-adopted Wyoming Geologists Practice Act requires that the geologic reports in these descriptions must be prepared or certified by a licensed professional geologist. Subsection 33–41–102 of the Wyoming Geologists Practice Act provides a definition for the ''practice of geology before the Public''. This definition includes ''preparation of geologic reports and maps, the inspection of geological work and the responsible supervision of geological services or work, the performance of which is relevant to public welfare or the safeguard of life, health, property and the environment.''

Wyoming proposed several other provisions to this rule. The first is the addition of the phrase ''*or other qualified professional (as required by W.S. §§ 33–41–101 through 121).*''

Wyoming also proposed adding several additional words to this rule. The term ''*adversely*'' is proposed to be added to modify ''affected'' and ''*by mining*'' has been added after ''affected.'' Both changes are intended to make it clear that the detailed geologic description only needs to include the aquifer below the lowest coal seam to be mined if that aquifer is clearly going to be adversely affected by mining. Wyoming's rule at Chapter 2, Section 2(a)(vi)(H) is no less effective than the Federal regulations at 30 CFR 780.22(b)(1) and 784.22(b)(1). We approve the proposed rule.

5. Chapter 2, Section 2(a)(vi)(J), Corrects References to Wyoming Statutes; Adds ''Licensed Professional Geologist''

Wyoming's proposal corrects two references to the Wyoming Statutes cited in the above rule. Subsection 33–29–111 was renumbered to 33–29–139 during the 1987 Wyoming Legislative session and Subsection 9–3–1402 was renumbered to 9–2–802 during 1982 Legislative session. However, Statute 9–2–802 was repealed by the 1997 Legislature and replaced by the Wyoming Geologists Practice Act. This Act consists of subsections 33–41–101 through 33–41–121.

The phrase ''licensed professional geologist'' is also proposed to be inserted into this rule to make it clear that these types of maps and cross-sections of the area affected within the permit can now also be certified by a registered professional geologist as allowed by the new Act. The authority for including this additional choice for certification is also provided in subsections 33–41–102(a)(viii) and 33–41–104(a)(iii) of the Wyoming Geologists Practice Act.

The Federal counterpart for this rule is 30 CFR 779.25, which provides that such maps and plans can also be prepared by professional geologists. We find that Wyoming's proposed rule is no less effective than the Federal rule and approve the revision.

6. Chapter 2, Section 2(a)(vi)(J)(II), Strike and Dips of Coal Seams in Permit Application Maps

As part of the July 25, 1990 **Federal Register** (finding 3, 55 FR 30221), we required that Wyoming amend its rules at Chapter II, Section 3(a)(vi)(C)(II) to require that maps and cross sections show the strike and dip of the coal seam to be mined. This proposed rule has previously been reorganized and recodified as Chapter 2, Section 2(a)(vi)(J)(II), and Wyoming added the required language.

We find that Wyoming's revised Chapter 2, Section 2(a)(vi)(J)(II) is no less effective than the Federal regulations at 30 CFR §§ 779.25(a)(4) and 783.25(a)(4). We approve the revised rule.

7. Chapter 2, Section 2(b)(vi)(c), Submission of Resource Information When Requested by the U.S. Fish and Wildlife Service

In a 30 CFR Section 732 letter dated November 7, 1988, we required Wyoming to modify its program at Chapter II, Section 3(b)(iv). Wyoming consequently reorganized and recodified this rule as Chapter 2, Section 2(b)(vi)(C) to state that, if the appropriate U.S. Fish and Wildlife Service (USFWS) office wishes to review specific fish and wildlife resource information and the proposed protection and enhancement plan contained in a permit application, the Division will provide this information to the USFWS within ten days of receipt of such a request. Wyoming's proposal includes revision to Chapter 2, Section 2(b)(vi)(C) adding the required provision.

We find that Wyoming's revision is no less effective than the Federal regulation at 30 CFR 780.16(c) and 784.21(c) and therefore approve it.

8. Chapter 4, Section 2(c)(ix), Use of Selected Spoil as a Topsoil or Subsoil Substitute

The Federal regulations at 30 CFR 816.22(b) state that selected overburden materials may be substituted for, or used as a supplement to topsoil if the operator demonstrates to the regulatory authority that the resulting soil medium is equal to, or more suitable for sustaining vegetation than, the existing topsoil, and the resulting soil medium is the best available in the permit area to support vegetation. 30 CFR 780.18(b)(4) requires that a demonstration of the suitability of topsoil substitutes or supplements be based upon analysis of the thickness of soil horizons, total depth, texture, percent coarse fragments, pH, and areal extent of the different kinds of soils. The regulatory authority may require other chemical and physical analyses, field-site trials, or greenhouse tests if determined to be necessary or desirable to demonstrate the suitability of the topsoil substitutes or supplements.

The proposed State rule limits the use of topsoil substitutes or supplements to those situations where there is insufficient volume of suitable topsoil or subsoil for salvage and redistribution. While Wyoming's proposed rule does not include counterparts to the Federal requirements to identify the thickness or areal extent of different kinds of soil substitutes, this does not adversely affect its ability of the State to determine that the proposed topsoil substitute or supplement is equal to, or more suitable for sustaining vegetation and is the best available in the permit area to support vegetation. As proposed, the Wyoming rule at chapter 4, Section 2(c)(ix) is consistent with and no less effective than the Federal regulations at 30 CFR 780.18(b)(4) and 816.22(b). We approve the proposed rule.

9. Chapter 4, Section 2(d)(x)(e)(III), Approval Authority of Wyoming's Game and Fish Department for Revegetation Standards on Crucial Habitat Declared as Such Prior to Submittal of a Permit Application

In the August 6, 1996 **Federal Register** (FR 40738), we required Wyoming to revise its rules at Chapter 4, section 2(d)(x)(E)(III) to require Wyoming Game and Fish Department approval of revegetation standards for grazing land that was designated by the Wyoming Game and Fish Department as crucial habitat prior to submittal of the initial permit application or any subsequent amendments to the permit application.

Wyoming has added a requirement to Chapter 4, section 2(d)(x)(e)(III) to require Wyoming Game and Fish Department approval of revegetation standards for grazing land that was designated by the Wyoming Game and Fish Department as crucial habitat prior to submittal of the initial permit application or any subsequent amendments to the permit application. This addition meets the requirements of 30 CFR 950.16(ii)(1) and is no less effective than its counterpart at 30 CFR 816.116. We approve the proposed rule.

10. Chapter 8, Section 3–4–5, Special Alternative Standards for Existing and New Special Bituminous Coal Mines; General Performance Standards

Section 527 of SMCRA addresses the performance standards for special bituminous coal surface mines. Wyoming meets the criteria specified in Section 527; therefore it is authorized to issue separate regulations for its special bituminous coal surface mines located west of the 100th meridian west longitude. 30 CFR 825 of the Federal regulations further specifies that ''special bituminous coal mines in Wyoming, as specified in section 527 of SMCRA, shall comply with the approved State program, including Wyoming statutes and regulations, and revisions thereto.''

The Wyoming standards for backfilling and grading the mine pit area and spoil piles associated with a new special bituminous coal mine are currently provided in Chapter 8 through cross-referencing to Section 2(b) in Chapter 4. However, during the December, 1992 reorganization of the LQD rules into specific Coal and Noncoal sets, the rule additions being proposed here at Section 4(a)(i) through (iv) were inadvertently excluded from applying to new special bituminous coal mines.

In order to rectify this omission, this rule is proposed for amendment into Chapter 8. These rules are the same as currently found in Chapter III, Section 2(b) of the LQD Noncoal rules, with one exception. The phrase ''or that greater slopes would enhance the postmining land use'' has not been incorporated into the amended language for Chapter 8. This phrase, which does exist in the Noncoal rules at Section 2(b)(ii), was originally incorporated into the LQD rules on December 5, 1988. The inclusion of this phrase was then submitted to us for approval on December 13, 1988. We subsequently disapproved the addition of this phrase in the December 26, 1989 **Federal Register** (54 FR 52958) because it was not part of the rules originally intended to apply to new special bituminous mines and therefore could not be applied to new special bituminous mines.

This proposed Wyoming rule also adds a reference to Section 4 within the renumbered Section 5. General Performance Standards. Section 4, Special Alternative Standards for New Special Bituminous Coal Mines, must be included in Section 5 to make it clear that a new special bituminous mine shall also comply with the performance standards contained in SMCRA and Chapter 4 to the extent that such performance standards do not preclude the benefit intended under the special alternative regulations contained in either Section 3 or 4 of Chapter 8. The proposed Wyoming rule is no less effective than the Federal rule and we approve it.

11. Chapter 12, Section 1(a)(iv)(B), Effective on Properties on the National Register of Historic Places Must Be Taken Into Account Prior to Permit Approval

In a final rule **Federal Register** notice dated October 29, 1992 (57 FR 48984, 48988), we found Wyoming's proposed rule at Chapter XIII, Section 1(a)(v) to be less effective than the Federal regulations to the extent that it did not include a finding for properties listed on the National Register of Historic Places. (This rule has been previously recodified as Chapter 12, Section 1(a)(iv)(B)). Consequently, we asked Wyoming to revise its rules at Chapter 12, Section 1(a)(iv)(B) by including findings for properties listed on the National Register of Historic Places as required in 30 CFR 773.15(c)(11). In response to this required amendment, Wyoming proposes to revise its rule by adding the additional language set forth above.

In addition, partly in response to comments from the Wyoming State Historic Preservation Office, the State has added the word ''*properties*'' to modify ''eligible'' and to make it clear that these properties must also be taken into consideration.

The symbol for subsection (§) is also proposed for insertion into the rule at Chapter 12, Section 1(a)(iv)(B) to maintain consistent style.

We find the Wyoming revision to be no less effective than 30 CFR 773.15(c)(11) and therefore approve it.

12. Chapter 12, Section 1(a)(v)(C), Permitting Procedures

In the July 25, 1990 **Federal Register** (55 FR 30221, 30227–28), we required Wyoming to revise its rules at Chapter XIII, Section 1(a)(v)(C) to reinstate the word ''any'' in front of the phrase ''places included in the National Register of Historic Places'' because its deletion did not assure that privately and publicly-owned properties listed on the National Register of Historic Places would be protected from disturbance by mining. Wyoming reinstated the word ''any''. This rule has been previously reorganized and recodified as Chapter 12, Section 1(a)(v)(C).

In addition, Wyoming proposed adding the word ''*where*'' to replace ''which'' to make the rule more understandable, along with the addition of the word ''*mining.*'' These proposed changes also make the introductory portion of this rule identical to the introductory portion of the counterpart Federal rule at 30 CFR § 761.11(c).

In response to a suggestion by the Wyoming State Historic Preservation Office, Wyoming included properties eligible for listing on the National Register along with properties listed to be taken into consideration when determining whether surface coal mining would be prohibited or limited if mining were to adversely affect any of these properties.

We find Wyoming's proposed revision to be no less effective than the Federal regulations at 30 CFR 761.H(C) and therefore approve it.

13. Chapter 12, Section 1(b)(ii), Delete Reference to some Public Participation Requirements for Permit Transfers

Wyoming proposes to add a provision to Chapter 12, Section 1(b)(ii) that permit transfers shall not be subject to the requirements of WS–35–11–406(g). This provision had required a determination of completeness for permit transfers and other procedural steps not required by the Federal provisions. We find that the proposed revision is no less effective than 30 CFR 774.17 and therefore approve it.

14. Appendix A, Appendix IV, Revises Rules by Adding and Deleting Plants to the List of Threatened and Endangered Species in Wyoming

Wyoming is proposing revision to Appendix IV within Appendix A for plant species of special concern. The existing list in Appendix IV is out-of-date and will continually be out-of-date because new plants and new populations of existing plants will be discovered in the future. We brought this to Wyoming's attention in our March 8, 1996 comment letter and by comments from the Bureau of Land Management in the August 6, 1996 **Federal Register** notice. Rather than attempt to keep this list up-to-date, the State is proposing to provide in this

Appendix only those species listed as threatened, endangered, or eligible for such listing by the U.S. Fish and Wildlife Service. This listing is necessary because operators are required by Chapter 2, Section 2(a)(vi)(C)(III), to describe the location of any State or Federally listed endangered or threatened plant species occurring within or adjacent to the permit area. Consequently, it is important that the plant species currently listed by the U.S. Fish and Wildlife Service be available to coal operators.

Wyoming will consult with the U.S. Fish and Wildlife Service on an annual basis to determine whether the list included in this Appendix needs to be updated. If there are new threatened or endangered species listed by the U.S. Fish and Wildlife Service that need to be added to this list, this will be accomplished through formal rulemaking. Formal rulemaking will also be initiated if a plant species needs to be removed from this Appendix because it has been delisted by the U.S. Fish and Wildlife Service.

The other plants currently appearing on this list and now proposed for removal include those plants considered to be of special concern in Wyoming, but not formally classified as threatened or endangered by the State. Rather than attempt to keep this list up-to-date through rulemaking, Wyoming is proposing to consult with all state entities that have current data on plant species that are of special concern in Wyoming. This information will be compiled and updated annually if necessary by the Land Quality Division and be made available to the public upon completion. When possible, this compiled summary will be updated and made available to the public prior to the summer field sampling season. There is no Federal counterpart to this appendix and the revision is not inconsistent with Federal regulations. We therefore approve it.

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that we received, and our responses to them.

1. Public Comments

We invited public comments on the proposed rule but didn't receive any (Administrative Record No. WY–33–01).

2. Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), we solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Wyoming program (administrative record No. WY–33–05).

The U.S. Department of Agriculture responded on July 23, 1998 that ''we want to commend the Wyoming Department of Environmental Quality staff on the amount of effort that has gone into the changes dealing with geologic descriptions, certification of maps and cross sections, National Register of Historic Places, topsoil substitutes, revegetation and wildlife. The language appears acceptable'' (administrative record No. WY–33–07).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), we are required to solicit the written concurrence of EPA with respect to those provisions of the proposed amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). In reply to our July 20, 1998 request for comments, James Dunn of the EPA, in a September 1, 1998 letter (Administrative Record No. WY–33–13) concurred with the modifications proposed in the amendment.

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), we solicited comments on the proposed amendment from the ACHP and SHPO. (administrative record No. WY–33–03, WY–33–04). Neither the SHPO nor the ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, we approve Wyoming's proposed amendment as submitted on July 13, 1998.

We approve, as discussed in: Finding No. 1, miscellaneous citations, concerning nonsubstantive revisions to Wyoming's rules; finding No. 2, Chapter 1, Section 2(v), concerning the definition of critical habitat; finding No. 3, Chapter 2, Section 2(a)(vi)(G)(II), concerning the notification of the Fish and Wildlife Service if critical or crucial habitat destruction is likely; finding No. 4, Chapter 2, Section 2(a)(vi)(H), concerning the description of areal and structural geology in the permit application; finding No. 5, correcting the references to Wyoming Statutes and adding ''licensed professional geologist;'' finding No. 6, concerning strikes and dips of coal seams in permit application maps; finding No. 7, Chapter 2, Section 2(b)(vi)(c), concerning the submission of resource information when requested by the U.S. Fish and Wildlife Service; finding No. 8, Chapter 4, Section 2(c)(ix), concerning use of selected spoil as a topsoil or subsoil substitute; finding No. 9, Chapter 4, Section 2(d)(x)(E)(III), concerning approval authority of Wyoming's Game and Fish Department for revegetation standards on crucial habitat declared as such prior to submittal of a permit application; finding No. 10, Chapter 8, Section 3–4–5, concerning special alternative standards for existing and new special bituminous coal mines and the general performance standards; finding No. 11, Chapter 12, Section 1(a)(iv)(B), concerning taking into account prior to permit approval the effect on properties listed on the National Register of Historic Places; finding No. 12, Chapter 12, Section 1(a)(v)(C), concerning permitting procedures; finding No. 13, Chapter 12, Section 1(b)(ii), concerning the deletion of the reference to public participation requirements for permit transfers; finding No. 14, Appendix A, Appendix IV, concerning the revision of rules by adding and deleting plants to the list of Threatened and Endangered Species in Wyoming.

The Federal regulations at 30 CFR Part 950, codifying decisions concerning the Wyoming program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by us. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR

730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule 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.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements we previously promulgated will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 20, 1999.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 950—WYOMING

1. The authority citation for part 950 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 950.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 950.15 Approval of Wyoming regulatory program amendments

* * * * *

Original amendment submission date	Date of final publication	Citation/descripton
* *	* *	* * *
July 13, 1998	10–1–99	Chapter 1, Section 2(ac); Chapter 1, Section 2(v); Chapter 2, Section 1(e); Chapter 2, Section 2(a)(vi)(G)(II); Chapter 2, Section 2(a)(vi)(H); Chapter 2, Section 2(a)(vi)(J); Chapter 2, Section 2(a)(vi)(J)(II); Chapter 2, Section 2(b)(iv)(C); Chapter 2, Section 2(b)(vi)(C); Chapter 4, Section 2(c)(ix); Chapter 4, Section 2(d)(x)(E)(I); Chapter 4, Section e(d)(x)(E)(III); Chapter 8, Sections 3–4–5; Chapter 12, Section 1(a)(iv)(B); Chapter 12, Section 1(a)(v)(C); Chapter 12, Section 1(b)(ii); Chapter 16, Sections 3 (c) and (f); Appendix A, Appendix IV; Appendix A, Options I–IV; Appendix A, Section II.C.2.c; Appendix A, Section II.C.3; Appendix A, Section VIII.E.

§ 950.16 [Amended]

3. Section 950.16 is amended by removing and reserving paragraphs (b), (c), (g), (v), (x), (ii)(1), and (kk).

[FR Doc. 99–25553 Filed 9–30–99 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07 99–056]

RIN 2115–AE46

Special Local Regulations: Winston Offshore Cup, San Juan, Puerto Rico

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary special local regulations are being adopted for the Winston Offshore Cup, San Juan, Puerto Rico. The event will be held from 1 p.m. to 2:30 p.m. Atlantic Standard Time (AST) on October 10, 1999, in and north of San Juan Harbor, Puerto Rico. These regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: This section becomes effective at 12 p.m. and terminates at 3:30 p.m. on October 10, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. John Reyes at (787) 729–5381.

SUPPLEMENTARY INFORMATION:

Regulatory History

On August 2, 1999, the Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** (64 FR 41853) proposing to establish a regulated area for the Winston Cup race in San Juan, Puerto Rico on October 10, 1999. No comments were received during the comment period.

Background and Purpose

These regulations create a regulated area in and north of San Juan Harbor that would prohibit entry to non-participating vessels. The participating race boats will be competing at high speeds with numerous spectator craft in the area, creating an extra or unusual hazard on the navigable waterways. These regulations are required to provide for the safety of life on navigable waters during the Winston Offshore Cup, San Juan, Puerto Rico.

In accordance with 5 U.S.C. 553, good cause exists for making this regulation

effective in less than 30 days after **Federal Register** publication. A NPRM was published for this regulation. However, delaying the final rule's effective date until 30 days after **Federal Register** publication would be contrary to national safety interests, as there was not sufficient time remaining after receipt of the permit request to allow for the full comment period that ended on September 16, and a 30 day delayed effective date, as the event occurs on October 10.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(f) of that order. The Office of Management and Budget has excepted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full regulatory evaluation under paragraph 10e of the regulated policies and procedures of DOT is unnecessary. The regulated area will only be in effect for three and one half hours in the vicinity of San Juan Harbor, Puerto Rico.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Coast Guard must consider whether this rulemaking will have a significant economic impact on a substantial number of small entities. Small entities include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant under their fields, and governmental jusridictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities, as the regulations will only be in effect for approximately three and one half hours on one day in a limited area of San Juan Harbor and its vicinity.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this rule consistent with Figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1C, and has determined that this action has been categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, the Coast Guard amends part 100 of Title 33, Code of Federal Regulations as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46, and 33 CFR 100.35.

2. Add temporary § 100.35T–07–056 to read as follows:

§ 100.35T–07–056 Winston Offshore Cup, San Juan, Puerto Rico.

(a) *Regulated Area.* The regulated area starts in San Juan Bay, out the bay entrance around Punta El Morro, then east 2 nautical miles to Penon San Jorge, then back around into the bay. The regulated area is established beginning at 18°28′4″N, 066°08′0″W, then north to 18°28′9″N, 066°08′0″W, then east to 18°28′7″N, 066°05′5″W, then south to 18°28′2″N 066°05′5″W, then directly south to the shore. This area includes San Juan Bay, except San Antonio Approach Channel, San Antonio channel, Army Terminal Channel, Army Terminal Turning Basin, and Puerto Nuevo Channel, and Graving Dock Channel. All coordinates referenced use Datum: NAD 1983.

(b) *Special Local Regulations.* Entry into the regulated area by other than event participants is prohibited, unless otherwise authorized by the Patrol Commander. Spectator craft are required to remain in a spectator area designated by the event sponsor Puerto Rico Offshore Tour, San Juan, Puerto Rico.

(c) *Dates.* This section is effective at 12 p.m. and terminates at 3:30 p.m. AST on October 10, 1999.

Dated: September 2, 1999.

Thad W. Allen,

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

[FR Doc. 99–25545 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–99–058]

Drawbridge Operating Regulation; Inner Harbor Navigation Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Norfolk Southern Railroad bascule span drawbridge across the Inner Harbor Navigation Canal, mile 4.5, at New Orleans, Orleans Parish, Louisiana. This deviation allows the Norfolk Southern Railroad to close the bridge to navigation from 8 a.m. until noon and from 1 p.m. until 4 p.m., Monday through Friday from October 12, 1999 through November 5, 1999. This temporary deviation was issued to allow for the replacement of the railroad ties on the bascule span deck. The draw will open at any time for a vessel in distress. Presently, the draw opens on signal at all times.

DATES: This deviation is effective from 8 a.m. on October 12, 1999 through 4 p.m. on November 5, 1999.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The Norfolk Southern Railroad bascule span drawbridge across the Inner Harbor Navigation Canal in New Orleans, Louisiana, has a vertical clearance of one foot above mean high water in the closed-to-navigation position and unlimited clearance in the open-to-

navigation position. Navigation on the waterway consists of tugs and tows, fishing vessels, sailing vessels, and other recreational craft. The Norfolk Southern Railroad requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the maintenance work, involving removal and replacement of the railroad ties on the bascule span deck.

This deviation allows the draw of the Norfolk Southern Railroad bascule span drawbridge across the Inner Harbor Navigation Canal, mile 4.5, at New Orleans, Orleans Parish, Louisiana to remain closed to navigation from 8 a.m. until noon and from 1 p.m. until 4 p.m., Monday through Friday from October 12, 1999 through November 5, 1999. The draw shall open on signal at any time for a vessel in distress.

Dated: September 24, 1999.

Paul J. Pluta,

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

[FR Doc. 99–25547 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 033–0171; FRL–6446–2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, El Dorado County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP) proposed in the **Federal Register** on April 4, 1994. This final action will incorporate these rules into the federally approved SIP. The intended effect of finalizing this action is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from the loading, unloading, and storage of petroleum products. EPA is finalizing a simultaneous limited approval and limited disapproval under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas. As a result of this limited disapproval EPA will be required to impose highway funding or emission offset sanctions under the CAA unless the State submits and EPA approves corrections to the identified deficiencies within 18 months of the effective date of this disapproval. Moreover, EPA will be required to promulgate a Federal implementation plan (FIP) unless the deficiencies are corrected within 24 months of the effective date of this disapproval.

EFFECTIVE DATE: This action is effective on November 1, 1999.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Rulemaking Office, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814

El Dorado Air Pollution Control District, 7553 Green Valley Road, Placerville, CA 95667–4197.

FOR FURTHER INFORMATION CONTACT: Max Fantillo, Rulemaking Office, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1183.

SUPPLEMENTARY INFORMATION:

I. Applicability

EPA is finalizing a limited approval and limited disapproval of a revision to the California SIP submitted by El Dorado County Air Pollution Control District (EDCAPCD) entitled Regulation IX, Air Toxic Control Measures, Section A, Benzene, Rules 900 through 914. This regulation was submitted by the California Air Resources Board (CARB) to EPA on April 5, 1991.

II. Background

On April 4, 1994 in 64 FR 15686, EPA proposed granting a limited approval and limited disapproval of EDCAPCD Regulation IX, Air Toxic Control Measure, Section A, Benzene, (Rules 900 through 914) into the California SIP. These 900 series rules were adopted by EDCAPCD on September 18, 1990 and submitted by the CARB to EPA on April 5, 1991. The rules were submitted in response to EPA's 1988 SIP Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the proposed rule (PR) cited above.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA and EPA regulations and EPA's interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the PR. EPA is finalizing the limited approval of these rules in order to strengthen the SIP and finalizing the limited disapproval requiring the correction of the remaining deficiencies. In summary, the deficiencies relate to the lack of a specific definition of the facilities to which the rules apply, improper definition of test methods, Control Officer discretion to require unspecified control equipment, and a higher throughput exemption than allowed by section 182(b)(3). These deficiencies must be corrected pursuant to the requirements of sections 182(a)(2)(A) and part D of the CAA. A detailed discussion of the rule provisions and evaluations has been provided in the PR and in technical support document (TSD) available at EPA's Region IX office (TSD dated April 30, 1993, Regulation IX, Rules 900 through 914).

III. Response to Public Comments

A 30-day public comment period was provided in 59 FR 15686; EPA did not receive any comments.

IV. EPA Action

EPA is finalizing a limited approval and limited disapproval of the above-referenced rules. The limited approval of these rules is being finalized under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited in the sense that the rules strengthen the SIP. However, the rules do not meet the section 182(a)(2)(A) CAA requirement because of the rule deficiencies which were discussed in the PR. Thus, in order to strengthen the SIP, EPA is granting limited approval of these rules under sections 110(k)(3) and 301(a) of the CAA. This action approves the rules into the SIP as federally enforceable rules.

At the same time, EPA is finalizing the limited disapproval of these rules because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of Part D of the Act. As stated in the proposed rule, upon the effective date of this final rule, the 18 month clock for sanctions and the 24 month FIP clock will begin. Sections 179(a) and 110(c). If the State does not submit the required corrections and EPA does not approve the submittal within 18 months of the effective date of the final rule, either the highway sanction or the offset sanction will be imposed at the 18 month mark. It should be noted that the rules covered by this FR have been adopted by the EDCAPCD and are currently in effect in the EDCAPCD. EPA's limited disapproval action will not prevent a EDCAPCD or EPA from enforcing these rules.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal

governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Nora L. McGee,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(183)(H)(*1*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(183) * * *

(i) * * *

(H) El Dorado County Air Pollution Control District.

(*1*) Regulation IX, Rules 900 through 914, adopted September 18, 1990.

* * * * *

[FR Doc. 99–25568 Filed 9–30–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL–6443–7]

RIN 2060–AF04

National Emission Standard for Hazardous Air Pollutants; National Emission Standards for Radon Emissions From Phosphogypsum Stacks

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document contains a correcting amendment to the final regulations for the National Emission Standard for Radon Emissions from Phosphogypsum Stacks, 40 CFR Part 61, Subpart R, which were originally published Wednesday, February 3, 1999 (64 FR 5574). This final rule promulgated revisions to the National Emission Standard for Hazardous Air Pollutants (NESHAP) that set limits on radon emissions from phosphogypsum stacks; and raised the limit on the quantity of phosphogypsum that may be used in indoor laboratory research and development from 700 to 7,000 pounds per experiment, eliminating current sampling requirements for phosphogypsum used in indoor research and development, and clarifying sampling procedures for phosphogypsum removed from stacks for other purposes.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Eleanor Thornton-Jones, Office of Radiation and Indoor Air (6602J), at 202–564–9773.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that is the subject of this correction affects persons or facilities required to comply with all the limitations set forth in § 61.205(b). In the rule published on February 3, 1999, § 61.205 was amended by revising the section title and paragraphs (a) and (b).

Review Under Executive Order 12866

Under Executive Order 12866, (58 FR 51736, October 4, 1993), this action is not a ''significant regulatory action'' and is not therefore subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule is also not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the February 3, 1999 **Federal Register** notice.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective October 1, 1999.

Need for Correction

As published, the final regulations contained an error which needs to be corrected.

List of Subjects in 40 CFR Part 61

Environmental protection, Air pollution control, Radon.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

Accordingly, 40 CFR Part 61 is corrected by making the following correcting amendment:

PART 61—[AMENDED]

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7413, 7416, 7601 and 7602.

§ 61.205 [Amended]

2. In § 61.205, paragraph (a), in the second sentence ''§ 61.206(b)'' is revised to read ''paragraph (b) of this section''.

[FR Doc. 99–25562 Filed 9–30–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6448–7]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the 62nd Street Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces the deletion of the 62nd Street Superfund Site from the National Priorities List (NPL). 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 of 1980 (CERCLA), as amended. EPA and the Florida Department of Environmental Protection (FDEP) have determined that the Site poses no significant threat to public health or the environment and therefore, further response measures pursuant to CERCLA are not appropriate.

EFFECTIVE DATE: October 1, 1999.

ADDRESSES: Comprehensive information on this site is available through the EPA Region 4 public docket, which is available for viewing at the information repositories at two locations. Locations, contacts, phone numbers and viewing hours are: Record Center, U.S. EPA Region 4, 61 Forsyth Street, Atlanta, Georgia 30303–8909, (404) 562–9530, hours: 8:00 a.m. to 4:00 p.m., Monday through Friday by appointment only;

Tampa/Hillsborough County Public Library/Special Collections, 900 North Ashley, Tampa, Florida 33602, (813) 273–3652, hours: 9:00 a.m. to 9:00 p.m., Monday through Thursday, 9:00 a.m. to 5:00 p.m., Friday through Saturday.

FOR FURTHER INFORMATION CONTACT: Joseph Alfano, U.S. EPA Region 4, Waste Management Division, 61 Forsyth Street, Atlanta, Georgia 30303–8909, (404) 562–8907 or by electronic mail at *alfano.joe@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA announces the deletion of the 62nd Street Superfund Site in Tampa, Hillsborough County, Florida from the NPL, which constitutes Appendix B of 40 CFR Part 300. EPA published a Notice of Intent to Delete the 62nd Street Superfund Site from the NPL on August 4, 1999 in the **Federal Register** (64 FR 42328). EPA received no comments on the proposed deletion; therefore, no responsiveness summary is necessary for this Notice of Deletion. EPA identifies sites on the NPL that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to 40 CFR 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions if conditions at the site warrant such action. Deletion of a site from the NPL does not affect the responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 23, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351: E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site for Sixty-Second Street Dump, Tampa, Florida.

[FR Doc. 99–25563 Filed 9–30–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1820

[WO–350–1430–00–24 1A]

RIN 1004–AC83

Application Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is issuing final regulations that revise general application procedures by streamlining, modernizing, and clarifying existing provisions and removing obsolete and unnecessary requirements. The final rule describes how to file applications or other documents with BLM; provides guidance on how BLM determines priority for applications filed simultaneously; and spells out procedures for payments and refunds and requirements for publication and posting of notices.

EFFECTIVE DATE: November 1, 1999.

ADDRESSES: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mary Linda Ponticelli, Telephone: (202) 452–0364 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background

The existing regulations at 43 CFR part 1820 address general procedures applicable to all BLM land use authorizations. These general procedural regulations serve important

functions such as informing members of the public of proposed BLM actions or decisions through publication and posting of notices. The 1820 regulations are an important complement to BLM's detailed application procedures for specific programs. When there is a conflict between the general and specific program regulations, the latter governs.

The final rule published today is a stage of the rulemaking process that will result in the revision of the regulations at 43 CFR part 1820. This rule was preceded by a proposed rule that was published in the October 1, 1997, **Federal Register** (62 FR 51402). The proposal was intended to reduce the regulatory burden imposed on the public; streamline, modernize and clarify existing provisions; and remove obsolete and unnecessary requirements. We took this action to ensure consistency in processing documents and uniformity in the treatment of BLM's customers.

BLM invited public comments for 60 days and received comments from two sources: one from a law firm, who supported the proposal with suggested changes, and one from a private citizen, who opposed the proposal. We also received technical, internal agency comments.

II. Final Rule as Adopted

The final rule is adopted with changes to the proposed rule as discussed in the Responses to Comments section. In summary, the final rule contains general information on how to file documents with BLM, such as applications for various BLM resource programs. It also provides guidance on how BLM determines ''first in line'' priority for applications filed simultaneously; allows applications that do not require an original signature to be filed electronically; authorizes BLM to accept payments by Visa and Master Card in addition to more traditionally accepted forms of payment; permits an application relating to lands in more than one land district to be filed with any BLM State Office having jurisdiction over the lands rather than the existing procedure which requires an application to be filed in each office having jurisdiction over the lands; and describes requirements for posting and publication of notices.

The final rule removes regulatory provisions on specific BLM resource programs, such as § 1821.5–3 (mining claims), since these provisions are addressed in program-specific regulations found in other parts and subparts of title 43. In addition, the rule removes subpart 1823 (Proofs and Testimony) and subpart 1826 (Reinstatement of Cancelled Entries), because their applicability is now limited to desert land entries, and pertinent provisions are addressed in part 2520 of this title (Desert Land Entries). Further, we have removed many procedural requirements that are no longer applicable in §§ 1821.6, concerning time constraints for applications filed in BLM offices in Alaska, and 1822.3, concerning homestead requirements.

III. Responses to Comments

In preparing the final rule, BLM carefully considered all comments received during the 60-day public comment period on the proposed rule to revise 43 CFR part 1820. A discussion of those comments follows:

Comments Incorporated into the Final Rule—

1. *Comment:* Existing § 1821.2–2(g)(1) allows the authorized officer to consider a late filing except where, among other criteria, the law does not permit him to do so. Proposed § 1822.15(a), which restates existing § 1821.2–2(g)(1) in plain language, allows BLM to consider a document timely filed if the law permits BLM to do so. The commenter suggests retaining the language in the existing section because the proposed section could be interpreted as requiring specific authorization in the law for BLM to consider a late filing.

Response: To avoid any misinterpretation and confusion that could result from this slight variation in language, we have adopted the commenter's suggestion and reworded § 1822.15(a) to state that BLM can consider a document timely filed if the law does not prohibit it.

2. *Comment:* Existing § 1821.2–2(c) allows BLM to consider a late filing if doing so would not unduly interfere with the orderly conduct of business. Proposed § 1822.15(c) has the same provision except that the word ''unduly'' was dropped. The commenter recommends that the word ''unduly'' be inserted in the proposed section so that there will be no substantive change in policy.

Response: We have adopted the commenter's recommendation and added the word ''unduly'' to § 1822.15(c).

3. We have made several technical changes to the proposed regulation in response to internal comments:

(a) Deleted the word ''national'' in § 1821.10(a).

(b) Changed the words ''five specialty centers'' in § 1821.10(a) to read ''seven national level support and service centers''.

(c) Changed the words ''District Offices and Resource Area Offices'' in § 1821.10(a) to read ''Field Offices''.

(d) Changed the words ''District and Resource Area Offices'' in § 1821.10(b) to read ''Field Offices''.

(e) Added a new sentence to § 1821.12 ''You should consult the regulations applying to the specific program.''

(f) Added a new question ''§ 1821.13 What if the specific program regulations conflict with these regulations?''

(g) Added a requirement to § 1822.10 for an applicant to provide his/her current address. Deleted the word ''full'' and replaced with ''legal'' in § 1822.10.

(h) Deleted the words ''(such as a State Office or District Office)'' in § 1822.12. Deleted the words ''you should'' and added ''and we will tell you which BLM office to file your application.'' to the last sentence.

(i) Deleted the word ''personal'' in the second sentence. Added a new sentence ''When you file an application electronically, it will not be considered filed until BLM receives it.'' in § 1822.13.

(j) Changed the words ''same time'' in § 1822.17(a) to read ''same day and time''.

(k) Changed (b) to read ''No other BLM regulation prohibits doing so; and'' in § 1822.15. Revised (c) to read ''No intervening third party interests or rights have been created or established during the intervening period.'' in § 1822.15.

(l) Deleted the last sentence in § 1823.10.

(m) Added the word ''a'' in the question in § 1823.11.

(n) Added the words ''sufficient'' and ''your'' in the first sentence in § 1823.13.

(o) Changed the word ''occurrence'' to read ''event'' in § 1824.10. Changed the word ''causing'' to ''requiring'' in § 1824.10. Rearranged and renumbered §§ 1824.11–1824.13 as §§ 1824.15–1824.17 and §§ 1824.14–1824.17 as 1824.11–1824.14 so that all posting and publication questions will be aligned.

(p) Changed the words ''public lands involved'' in § 1824.14 to read ''public and private lands involved''.

(q) Changed the word ''valid'' to read ''relevant'' in § 1824.16.

(r) Added the words ''any'' and ''that apply,'' to the first sentence in § 1825.10.

(s) Changed the word ''does'' to ''may'' in the first sentence in § 1825.12 since relinquishments of rights-of-way or permits would not affect availability of the land for another application.

Comments Not Incorporated into the Final Rule—

4. *Comment:* BLM was incorrect in requiring public comments to be ''received by December 1, 1997'' rather than ''postmarked by December 1, 1997.'' This deadline, in effect, shortens the time frame for submission of various documents, such as the requirements in §§ 1822.14, 1822.17, and 1825.11.

Response: We disagree. The deadline for receipt of comments stands; there is no linkage of that deadline to other deadlines in the regulation. Moreover, BLM is authorized to establish the due date for comments on its regulations, and publication of that date gives everyone the same opportunity to respond timely. It has been our experience that the various deadlines in the regulation are reasonable and fair to potential applicants.

5. *Comment:* Section 1825.10 implies that the last claimant is completely responsible for all reclamation and unpaid rental fees in relinquishments of public lands.

Response: It appears that the commenter has misinterpreted § 1825.10. We do not believe any change to the proposed rule is warranted as the section is clear in stating that a claimant who relinquishes his/her interest in public lands is only responsible for fulfilling obligations that accrued before the time of relinquishment.

IV. Procedural Matters

National Environmental Policy Act of 1969

BLM has prepared an environmental assessment (EA) and has found that the final rule would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record, 1621 L Street, NW, Room 401, Washington, DC, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday.

Paperwork Reduction Act

This final rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Regulatory Flexibility Act

BLM has determined that the final rule, which makes non-substantive changes to the regulations, will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Unfunded Mandates Reform Act

This final rule does not include any Federal mandate that may result in increased expenditures of $100 million in any one year by State, local, or tribal governments, or by the private sector. Therefore, a section 202 statement under the Unfunded Mandates Reform Act is not required.

Executive Order 12612

BLM has analyzed this final rule under the principles and criteria in Executive Order 12612 and has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12630

This final rule does not represent a government action that interferes with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared under Executive Order 12630, ''Government Action and Interference with Constitutionally Protected Property Rights.''

Executive Order 12866

This final rule does not meet the criteria for a significant rule requiring review by the Office of Management and Budget under Executive Order 12866, Regulatory Planning and Review.

Executive Order 12988

The Department has determined that this final rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Report to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, BLM submitted a report containing this rule and other required information to the U.S. Senate, U.S. House of Representatives, and the Comptroller General of the General Accounting Office before publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Author

The principal author of this final rule is Mary Linda Ponticelli, assisted by Shirlean Beshir, Regulatory Affairs Group.

List of Subjects in 43 CFR Part 1820

Administrative practice and procedure; Archives and records; Public lands.

Dated: September 27, 1999.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, and under the authority of 43 U.S.C. 1740, part 1820 of Title 43 of the Code of Federal Regulations is revised to read as follows:

PART 1820—APPLICATION PROCEDURES

Subpart 1821—General Information

Sec.

Subpart 1822—Filing a Document with BLM

Subpart 1823—Payments and Refunds

Subpart 1824—Publication and Posting Notices

Authority: 5 U.S.C. 552, 43 U.S.C. 2, 1201, 1733, and 1740.

Subpart 1821—General Information

§ 1821.10 Where are BLM offices located?

(a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices, each having several subsidiary offices called Field Offices. The addresses of the State Offices and their respective geographical areas of jurisdiction are as follows:

State Offices and Areas of Jurisdiction:

Alaska State Office, 222 West 7th Avenue, #13, Anchorage, AK 99513–7599—Alaska
Arizona State Office, 222 North Central Avenue, Suite 101, Phoenix, AZ 85004–2203—Arizona
California State Office, 2135 Butano Drive, Sacramento, CA 95825–0451—California
Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215–7076—Colorado
Eastern States Office, 7450 Boston Boulevard, Springfield, VA 22153—Arkansas, Iowa, Louisiana, Minnesota, Missouri, and all States east of the Mississippi River
Idaho State Office, 1387 South Vinnell Way, Boise, ID 83709—Idaho
Montana State Office, Granite Tower, 222 North 32nd Street, Billings, MT 59107–6800; Mail: P.O. Box 36800, Billings, MT 59107–6800—Montana, North Dakota and South Dakota
Nevada State Office, 1340 Financial Boulevard, Reno, NV 89520–0006—Nevada
New Mexico State Office, 1474 Rodeo Drive, Santa Fe, NM 87502–0115; Mail: P.O. Box 27115, Santa Fe, NM 87502–0115—Kansas, New Mexico, Oklahoma and Texas
Oregon State Office, 1515 S.W. 5th Avenue, P.O. Box 2965, Portland, OR 97208—Oregon and Washington
Utah State Office, CFS Financial Center, 324 South State Street, Salt Lake City, UT 84145–0155 Mail: P.O. Box 45155, Salt Lake City, UT 84145–0155—Utah
Wyoming State Office, 5353 Yellowstone Road, Cheyenne, WY 82003; Mail: P.O. Box 1828, Cheyenne, WY 82003—Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

§ 1821.11 During what hours may I file an application?

You may file applications or other documents or inspect official records during BLM office hours. Each BLM office will prominently display a notice of the hours during which that particular office will be open. Except for offices which are open periodically, for example, every Wednesday or the 3rd Wednesday of the month, all offices will be open Monday through Friday, excluding Federal holidays, at least from 9 a.m. to 3 p.m., local time.

§ 1821.12 Are these the only regulations that will apply to my application or other required document?

No. These general regulations are supplemented by specific program regulations. You should consult the regulations applying to the specific program.

§ 1821.13 What if the specific program regulations conflict with these regulations?

If there is a conflict, the specific program regulations will govern and the conflicting portion of these regulations will not apply.

Subpart 1822—Filing a Document with BLM

§ 1822.10 How should my name appear on applications and other required documents that I submit to BLM?

Your legal name and current address should appear on your application and other required documents.

§ 1822.11 What must I do to make an official filing with BLM?

You must file your application and any other required documents during regular office hours at the appropriate BLM office having jurisdiction over the lands or records involved. You must file any document with BLM through personal delivery or by mailing via the United States Postal Service or other delivery service, except for those applications that may be filed electronically under § 1822.13, unless a more specific regulation or law specifies the mode of delivery. The date of mailing is not the date of filing.

§ 1822.12 Where do I file my application or other required documents?

You should file your application or other required documents at the BLM office having jurisdiction over the lands or records involved. The specific BLM office where you are to file your application is usually referenced in the BLM regulations which pertain to the filing you are making. If the regulations do not name the specific office, or if you have questions as to where you should file your application or other required documents, contact your local BLM office for information and we will tell you which BLM office to file your application.

§ 1822.13 May I file electronically?

For certain types of applications, BLM will accept your electronic filing if an original signature is not required. If BLM requires your signature, you must file your application or document by delivery or by mailing. If you have any questions regarding which types of applications can be electronically filed, you should check with the BLM office where you intend to file your application. When you file an application electronically, it will not be considered filed until BLM receives it.

§ 1822.14 What if I try to file a required document on the last day of the stated period for filing, but the BLM office where it is to be filed is officially closed all day?

BLM considers the document timely filed if we receive it in the office on the next day it is officially open.

§ 1822.15 If I miss filing a required document or payment within the specified period, can BLM consider it timely filed anyway?

BLM may consider it timely filed if:

(a) The law does not prohibit BLM from doing so;

(b) No other BLM regulation prohibits doing so; and

(c) No intervening third party interests or rights have been created or established during the intervening period.

§ 1822.16 Where do I file an application that involves lands under the jurisdiction of more than one BLM State Office?

You may file your application with any BLM State Office having jurisdiction over the subject lands. You should consult the regulations of the particular BLM resource program involved for more specific information.

§ 1822.17 When are documents considered filed simultaneously?

(a) BLM considers two or more documents simultaneously filed when:

(1) They are received at the appropriate BLM office on the same day and time; or

(2) They are filed in conjunction with an order that specifies that documents received by the appropriate office during a specified period of time will be considered as simultaneously filed.

(b) An application or document that arrives at the BLM office where it is to be filed when the office is closed for the entire day will be considered as filed on the day and hour the office next officially opens.

(c) Nothing in this provision will deny any preference right granted by applicable law or regulation or validate a document which is invalid under applicable law or regulation.

§ 1822.18 How does BLM decide in which order to accept documents that are simultaneously filed?

BLM makes this decision by a drawing open to the public.

Subpart 1823—Payments and Refunds

§ 1823.10 How may I make my payments to BLM?

Unless specific regulations provide otherwise, you may pay by:

(a) United States currency; or

(b) Checks, money orders, or bank drafts made payable to the Bureau of Land Management; or

(c) Visa or Master Card credit charge, except as specified by pertinent regulation(s).

§ 1823.11 What is the authority for BLM issuing a refund of a payment?

BLM can issue you a refund under the authority of section 304(c) of the Federal Land Policy and Management Act, 43 U.S.C. 1734.

§ 1823.12 When and how may I obtain a refund?

(a) In making a payment to BLM, if the funds or fees you submitted to BLM exceed the amount required or if the regulations provide that fees submitted to BLM must be returned in certain situations, you may be entitled to a full or partial refund.

(b) If you believe you are due a refund, you may request it from the BLM office where you previously submitted your payment. You should state the reasons you believe you are entitled to a refund and include a copy of the appropriate receipt, canceled check, or other relevant documents.

§ 1823.13 Is additional documentation needed when a third party requests a refund?

Yes. When refund requests are made by heirs, executors, administrators, assignees, or mortgagees, BLM may require additional documentation sufficient to establish your entitlement to a refund. If you are an heir, executor, administrator, assignee or mortgagee, you should contact the BLM office where you will file your refund application for information regarding appropriate documentation.

Subpart 1824—Publication and posting of notices

§ 1824.10 What is publication?

Publication means publishing a notice announcing an event or a proposed action in the **Federal Register**, a local newspaper of established character and general circulation in the vicinity of the land affected or other appropriate periodical. BLM's purpose in publishing or requiring the publication of such information is to advise you and other interested parties that some action will occur and that the public is invited either to participate or to comment.

§ 1824.11 How does BLM choose a newspaper in which to publish a notice?

BLM bases its choice of newspapers on their reputation and frequency and level of circulation in the vicinity of the public or private lands involved.

§ 1824.12 How many times must BLM publish a notice?

The number of times that BLM will publish or cause to be published a notice depends on the publication requirements for the particular action involved. You should see the applicable law and the regulations governing specific BLM resource programs for information on the requirements for publication for a particular action.

§ 1824.13 Who pays for publication?

The cost of publication is the responsibility of the claimant or applicant.

§ 1824.14 Does the claimant or applicant pay for an error by the printer of the paper in which the notice appears?

No. The claimant or applicant is not responsible for costs involved in correcting an error by the printer.

§ 1824.15 What does it mean to post a notice?

Posting a notice is similar to publishing a notice except that the notice is displayed at the appropriate BLM office, local courthouse or similar prominent local government building or on a prominent fixture such as a building, tree or post located on the particular public lands involved.

§ 1824.16 Why must I post a notice?

The posting of a notice informs those persons who may be interested in the lands or resources described, who have relevant information to provide, or who may wish to oppose the proposal.

§ 1824.17 If I must post a notice on the land, what are the requirements?

The posted notice must be visible throughout the time period for posting specified in the regulations governing the relevant program. BLM or its regulations may require additional posting, such as in a post office or city hall. For any additional posting requirements, you should see applicable Federal and State law, the regulations of the particular BLM resource program and any additional BLM requirements associated with your application.

Subpart 1825—Relinquishments

§ 1825.10 If I relinquish my interest (such as a claim or lease) in public lands, am I relieved of all further responsibility associated with that interest?

No. You are still responsible for fulfilling any regulatory, statutory, lease, permit and other contractual obligations that apply, such as performance of reclamation and payment of rentals accruing before the time of relinquishment. You should see the regulations relating to the specific BLM resource program involved for more detailed information.

§ 1825.11 When are relinquishments effective?

Generally, BLM considers a relinquishment to be effective when it is received, along with any required fee, in the BLM office having jurisdiction of the lands being relinquished. However, the specific program regulations govern effectiveness of relinquishments.

§ 1825.12 When does relinquished land become available again for other application or appropriation?

Relinquished land may not again become available until BLM notes the filed relinquishment of an interest on the land records maintained by the BLM office having jurisdiction over the lands involved. If you have any questions regarding the availability of a particular tract of land, you should contact the BLM office having jurisdiction over the lands or records.

[FR Doc. 99–25505 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3800

[WO–660–4120–02–24 1A]

RIN: 1004–AD36

Mining Claims Under the General Mining Laws; Surface Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is publishing this final regulation on bonding requirements for mining claims to comply with a Federal District Court order. This final rule is needed to remove regulatory provisions that were invalidated by the court and to restore the previously existing provisions that are currently in effect as a result of the court order. This rule does not affect a pending proposed rule regarding changes to Subpart 3809.

EFFECTIVE DATE: October 1, 1999.

ADDRESSES: Inquiries or suggestions should be sent to the Solid Minerals Group at Director (320), Bureau of Land Management, Room 501 LS, 1849 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Richard Deery, (202) 452–0350, or Ted Hudson, (202) 452–5042.

SUPPLEMENTARY INFORMATION:

I. Background

On February 28, 1997 (62 FR 9093), BLM published a final rule amending 43 CFR subpart 3809. This final rule amended the bonding requirements for unpatented mining claims under the Mining Law of 1872, as amended (30 U.S.C. 22 *et seq.*), and codified the penalties imposed by the Sentencing Reform Act of 1989 (18 U.S.C. 3571 *et seq.*).

The Northwest Mining Association (NMA) sued the BLM alleging violations of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, and the Regulatory Flexibility Act, as amended, 5 U.S.C. 601 *et seq.* (*Northwest Mining Association* v. *Babbitt*, 5 F.Supp.2d 9 (D.D.C. 1998)) On May 13, 1998, the court ruled in favor of the NMA, granted its motion for summary judgment, and remanded the final rule to the Department of the Interior for appropriate action consistent with the court's opinion.

The Department of the Interior did not appeal the decision of the District Court. On August 21, 1998, BLM issued an instruction memorandum to its field offices instructing them to act under the regulations that had been in place until March 31, 1997, the effective date of the remanded rule.

While the litigation was pending, the challenged rule was published in Title 43 of the Code of Federal Regulations (CFR), and the old rules were removed from the published volumes. The purpose of this final rule is to remove from the CFR the judicially invalidated regulatory provisions that were promulgated on February 28, 1997, and to restore verbatim to the CFR the previous regulatory provisions that were removed and/or replaced by that rule, and that now are back in effect as a result of the court invalidating the new rulemaking. Absent this action, the CFR would contain regulations that are no longer valid, potentially confusing those subject to these regulations as to the requirements for bonding of hardrock mining operations.

Under 5 U.S.C. 553(b), the Department of the Interior finds good cause to issue this final rule without notice and opportunity for public comment. Removing the invalid rule and restoring the previously existing rule is required by a final judicial determination. Therefore, notice and public comment is unnecessary. Under 5 U.S.C. 553(d), the Department also finds good cause, to waive the 30-day period between publication of a final rule and its effective date for the same reason.

This rule has no effect on the proposed rule published on February 9, 1999 (64 FR 6422), which would comprehensively amend the hardrock mining regulations in 43 CFR Subpart 3809. However, that proposed rule could make changes to the reinstated bonding regulations, if a final rule is issued.

II. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This final rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866. The rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor does it raise novel legal or policy issues.

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. However, because this final rule merely restores to the CFR regulations that were in effect before March 31, 1997, and proposed regulations are pending that, if adopted, will affect this whole subpart, which will be rewritten in plain language, we have not rewritten this regulation into plain language.

National Environmental Policy Act

BLM has determined that this final rule is an administrative action. It merely restores regulatory language that was changed or removed by a previous final rule that was invalidated by the District Court. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix 1. In addition, the proposed rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM, Chapter 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term ''categorical exclusions'' means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact on a substantial number of small entities. Although small entities are bound by the regulations being restored by this final rule, BLM has determined under the RFA that this rule would not have a significant economic impact on a substantial number of small entities. The rule is an administrative action restoring to the CFR regulations that BLM and industry are currently following. The rule makes no changes in

the procedures that any small entity must follow.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This final rule is not a ''major rule'' as defined at 5 U.S.C. 804(2) for the reasons stated in the previous two sections.

Unfunded Mandates Reform Act

This final rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year; nor does this rule have a significant or unique effect on State, local, or tribal governments or the private sector. The rule is an administrative action restoring to the CFR regulatory text that was removed or changed by a previous final rule invalidated by the District Court. This rule makes no changes in the restored text. Therefore, BLM does not need to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*)

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. It is an administrative action restoring text removed or changed by a previous final rule that was invalidated by a Federal court. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 12612, Federalism

In accordance with Executive Order 12612, BLM finds that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule does not change the role or responsibilities between Federal, State, and local governmental entities, nor does it relate to the structure and role of States or have direct, substantive, or significant effects on States.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Department has determined that this rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements in Subpart 3809 under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq., and has assigned clearance number 1004–0176. This rule does not impose any additional information collection requirements.

Author: The principal author of this rule is Ted Hudson of the Regulatory Affairs Group, Washington Office, Bureau of Land Management.

List of Subjects in 43 CFR Part 3800

Administrative practice and procedure, Environmental protection, Intergovernmental affairs, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas

For the reasons stated in the preamble, and under the authorities cited below, Part 3800, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 3800—MINING CLAIMS UNDER THE GENERAL MINING LAW

1. The authority citation for part 3800 continues to read as follows:

Authority: 16 U.S.C. 351; 16 U.S.C. 460y-4; 30 U.S.C. 22; 31 U.S.C. 9701; 43 U.S.C. 154; 43 U.S.C. 299; 43 U.S.C. 1201; 43 U.S.C. 1740; 30 U.S.C. 28k.

Subpart 3809—Surface Management

2. Section 3809.1–8 is added to read as follows:

§ 3809.1–8 Existing operations.

(a) Persons conducting operations on January 1, 1981, who would be required to submit a notice under § 3809.1–3 or a plan of operations under § 3809.1–4 of this title may continue operations but shall, within:

(1) 30 days submit a notice with required information outlined in § 3809.1–3 of this title for operations where 5 acres or less will be disturbed during a calendar year; or

(2) 120 days submit a plan in those areas identified in § 3809.1–4 of this title. Upon a showing of good cause, the authorized officer may grant an extension of time, not to exceed an additional 180 days, to submit a plan.

(b) Operations may continue according to the submitted plan during its review. If the authorized officer determines that operations are causing unnecessary or undue degradation of the Federal lands involved, the authorized officer shall advise the operator of those reasonable measures needed to avoid such degradation, and the operator shall take all necessary steps to implement those measures within a reasonable time recommended by the authorized officer. During the period of an appeal, if any, operations may continue without change, subject to other applicable Federal and State laws.

(c) Upon approval of a plan by the authorized officer, operations shall be conducted in accordance with the approval plan.

3. Section 3809.1–9 is revised to read as follows:

§ 3809.1–9 Bonding requirements.

(a) No bond shall be required for operations that constitute casual use (§ 3809.1–2) or that are conducted under a notice (§ 3809.1–3 of this title).

(b) Any operator who conducts operations under an approved plan of operations as described in § 3809.1–5 of this title may, at the discretion of the authorized officer, be required to furnish a bond in an amount specified by the authorized officer. The authorized officer may determine not to require a bond in circumstances where operations would cause only minimal disturbance to the land. In determining the amount of the bond, the authorized officer shall consider the estimated cost of reasonable stabilization and reclamation of areas disturbed. In lieu of the submission of a separate bond, the authorized officer may accept evidence of an existing bond pursuant to State law or regulations for the same area covered by the plan of operations, upon a determination that the coverage would be equivalent to that provided in this section.

(c) In lieu of a bond, the operator may deposit and maintain in a Federal depository account of the United States Treasury, as directed by the authorized officer, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having a market value at the time of deposit of not less than the required dollar amount of the bond.

(d) In place of the individual bond on each separate operation, a blanket bond covering statewide or nationwide operations may be furnished at the option of the operator, if the terms and conditions, as determined by the authorized officer, are sufficient to comply with these regulations.

(e) In the event that an approved plan is modified in accordance with § 3809.1–7 of this title, the authorized officer shall review the initial bond for adequacy and, if necessary, adjust the amount of the bond to conform to the plan as modified.

(f) When all or any portion of the reclamation has been completed in

accordance with the approved plan, the operator may notify the authorized officer that such reclamation has occurred and that she/he seeks a reduction in bond or Bureau approval of the adequacy of the reclamation, or both. Upon any such notification, the authorized officer shall promptly inspect the reclaimed area with the operator. The authorized officer shall then notify the operator, in writing, whether the reclamation is acceptable. When the authorized officer has accepted as completed any portion of the reclamation, the authorized officer shall authorize that the bond be reduced proportionally to cover the remaining reclamation to be accomplished.

(g) When a mining claim is patented, the authorized officer shall release the operator from that portion of the performance bond which applies to operations within the boundaries of the patented land. The authorized officer shall release the operator from the remainder of the performance bond, including the portion covering approved means of access outside the boundaries of the mining claim, when the operator has completed acceptable reclamation. However, existing access to patented mining claims, if across Federal lands shall continue to be regulated under the approved plan. The provisions of this subsection do not apply to patents issued on mining claims within the boundaries of the California Desert Conservation Area (see § 3809.6 of this title).

4. Section 3809.3–1 is amended by revising paragraph (b) to read as follows:

§ 3809.3–1 Applicability of State law.

* * * * *

(b) After November 26, 1980, the Director, Bureau of Land Management, shall conduct a review of State laws and regulations in effect or due to come into effect, relating to unnecessary or undue degradation of lands disturbed by exploration for, or mining of, minerals locatable under the mining laws.

5. Section 3809.3–2 is amended by removing paragraph (f) and revising paragraph (e) to read as follows:

§ 3809.3–2 Noncompliance.

* * * * *

(e) Failure of an operator to take necessary actions on a notice of non-compliance, may constitute justification for requiring the submission of a plan of operations under § 3809.1–5 of this title, and mandatory bonding for subsequent operations which would otherwise be conducted pursuant to a notice under § 3809.1–3 of this title.

Dated: September 24, 1999.

* * * * *

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

[FR Doc. 99–25430 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 1, 2, 4, 10, 12, 15, 31, 34, 38, 52, 53, 54, 56, 57, 58, 59, 61, 63, 64, 67, 68, 69, 76, 91, 95, 98, 105, 107, 108, 109, 118, 125, 133, 147, 151, 153, 160, 161, 162, 167, 169, 177, 181, 189, 193, 197, and 199

[USCG–1999–6216]

Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule makes editorial and technical changes throughout Title 46 of the Code of Federal Regulations (CFR) to update the title before it is recodified on October 1. It corrects addresses, updates cross-references, makes conforming amendments, and makes other technical corrections. This rule will have no substantive effect on the regulated public.

EFFECTIVE DATE: This rule is effective on September 30, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Docket Management Facility, (USCG–1999–6216), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact Janet Walton, Standards Evaluation and Development Division (G–MSR–2), Coast Guard, telephone 202–267–0257. For questions on viewing, or submitting material to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Discussion of the Rule

Each year Title 46 of the Code of Federal Regulations is recodified on October 1. This rule makes editorial changes throughout the title, corrects addresses, updates cross-references, and makes other technical and editorial corrections. Some editorial changes are discussed individually in the following paragraphs. This rule does not change any substantive requirements of existing regulations.

Section and Part Discussion

Section 2.01–25 and Subparts 31.40, 91.60, and 189.60

In these sections, we replaced both ''Cargo Ship Safety Radiotelegraphy Certificates'' and ''Cargo Ship Safety Radiotelephony Certificates'' with ''Cargo Ship Radio Certificates'' to conform to Resolution 1 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 on the Global Maritime Distress and Safety System adopted on November 9, 1988. Since there were identical paragraphs on application and issuance for both Cargo Ship Safety Radiotelegraphy Certificates and Cargo Ship Safety Radiotelephony Certificates, we removed duplicate sections 31.40–20, 91.60–20, and 189.60–20.

Section 15.805

In this section, we added the phrase ''other than a vessel with only a recreational endorsement'' to paragraph (b) to conform to 46 U.S.C. 12110, Limitations on operations authorized by certificates.

Sections 118.400, 177.410, and 181.400

We corrected these sections by removing the word ''grills'' in section 118.400, the words ''type grilles'' in section 177.410, and the word ''grills'' in section 181.400 and added, in their place, in each case, the word ''griddle'' to correctly reflect cooking appliances with a solid flat metal cooking plate surface. The restaurant industry defines grills as appliances with an open grid cooking rack suspended above an open flame heat source such as wood or charcoal briquettes. Open flame systems for cooking and heating are not allowed aboard small passenger vessels by 46 CFR 177.410(c)(1).

Sections 162.050–5 and 162.050–7

In both sections, we removed ''100 p.p.m.'' (parts per million) to conform with IMO Resolution MEPC.60(30), Guidelines and specifications for pollution prevention equipment for machinery space bilges of ships, adopted on October 30, 1992. The resolution states that effluent from oil filtering equipment should not exceed 15 ppm.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not

require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures or makes nonsubstantive corrections, it will not impose any costs on the public.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act and Enhancing the Intergovernmental Partnership

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093, October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraphs (34)(a) and (b), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs (34)(a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 4

Administrative practice and procedure, Alcohol abuse, Drug abuse, Drug testing, Investigations, Marine safety, National Transportation Safety Board, Reporting and recordkeeping requirements, Safety, Transportation.

46 CFR Part 10

Incorporation by reference, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Incorporation by reference, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 34

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety.

46 CFR Part 38

Cargo vessels, Fire prevention, Gases, Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 52

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 53

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 54

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 56

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 57

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 58

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 59

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 61

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 63

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 64

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 67

Vessels.

46 CFR Part 68

Vessels.

46 CFR Part 69

Measurement standards, Penalties, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 76

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 95

Cargo vessels, Fire prevention, Marine safety.

46 CFR Part 98

Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 105

Cargo vessels, Fishing vessels, Hazardous materials transportation, Marine safety, Petroleum, Seamen.

46 CFR Part 107

Incorporation by reference, Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 108

Fire prevention, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 109

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 118

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 125

Administrative practice and procedure, Authority delegation, Hazardous materials transportation, Incorporation by reference, Marine safety, Offshore supply vessels, Oil and gas exploration, Vessels.

46 CFR Part 133

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 147

Hazardous materials transportation, Incorporation by reference, Labeling, Marine safety, Packaging and containers, Reporting and recordkeeping requirements.

46 CFR Part 151

Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 160

Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 161

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 162

Fire prevention, Incorporation by reference, Marine safety, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 167

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 169

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 177

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 181

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 189

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

CFR Part 193

Fire prevention, Incorporation by reference, Marine safety, Oceanographic research vessels.

46 CFR Part 197

Benzene, Diving, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 199

Cargo vessels, Incorporation by reference, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements, Vessels.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR parts 1, 2, 4, 10, 12, 15, 31, 34, 38, 52, 53, 54, 56, 57, 58, 59, 61, 63, 64, 67, 68, 69, 76, 91, 95, 98, 105, 107, 108, 109, 118, 125, 133, 147, 151, 153, 160, 161, 162, 167, 169, 177, 181, 189, 193, 197, and 199 as follows:

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

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

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 49 CFR 1.45, 1.46; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

2. Revise § 1.03–15(h)(1), (h)(2) and (h)(3) to read as follows:

§ 1.03–15 General.

* * * * *

(h) * * *

(1) Commandant (G–MOC) for appeals involving vessel inspection issues, load line issues, and vessel manning issues;

(2) Commandant (G–MS) for appeals involving vessel plan review or tonnage measurement issues;

(3) Commanding Officer, National Maritime Center, for appeals involving vessel documentation issues, tonnage issues, marine personnel issues, including medical waivers, and suspension or withdrawal of course approvals; or

* * * * *

PART 2—VESSEL INSPECTIONS

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

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 3103, 3205, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Subpart 2.45 also issued under the authority of Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. note prec. 1).

§ 2.01–25 [Amended]

4. In § 2.01–25—

a. In paragraphs (a)(1)(iv), (a)(4)(i), (b)(2), and (e)(2) remove the word ''Radiotelephony'' and add, in its place, the word ''Radio'';

b. Remove paragraph (a)(1)(v) and redesignate paragraphs (a)(1)(vi), (vii), (viii) and (ix) as paragraphs (a)(1)(v), (vi), (vii), and (viii) respectively;

c. Remove paragraph (a)(4)(ii) and redesignate paragraph (a)(4)(iii) as paragraph (a)(4)(ii);

d. In paragraph (b)(2), remove the words ''or a Cargo Ship Safety Radiotelegraphy Certificate''; and

e. In paragraph (e)(2), remove the words ''or the Cargo Ship Safety Radiotelegraphy Certificate''.

§ 2.10–105 [Amended]

5. In § 2.10–105(c), add the symbol ''π'' immediately preceding the words ''is the rate of inflation (based on projected military personnel costs at the time of prepayment calculation)''.

PART 4—MARINE CASUALTIES AND INVESTIGATIONS

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

Authority: 33 U.S.C. 1231; 43 U.S.C. 1333; 46 U.S.C. 2103, 2306, 6101, 6301, 6305; 50 U.S.C. 198; 49 CFR 1.46. Authority for subpart 4.40: 49 U.S.C. 1903(a)(1)(E); 49 CFR 1.46.

7. Add § 4.05–40 to read as follows:

§ 4.05–40 Alternate electronic means of reporting.

The Commandant may approve alternate electronic means of submitting notices and reports required under this subpart.

8. Add paragraph (e) to § 4.06–60 to read as follows:

§ 4.06–60 Submission of reports and test results.

* * * * *

(e) The Commandant may approve alternate electronic means of submitting reports and test results as required under paragraphs (a) through (d) of this section.

PART 10—LICENSING OF MARITIME PERSONNEL

9. The authority citation for part 10 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. Chapter 71; 46 U.S.C. 7502, 7505, 7701; 49 CFR 1.45, 1.46; Sec. 10.107 also issued under the authority of 44 U.S.C. 3507.

§ 10.102 [Amended]

10. In § 10.102(a), remove the words ''Operating and Environmental Standards Division, 2100 Second Street SW., Washington, DC'' and add, in their place, the words ''Office of Operating and Environmental Standards, 2100 Second Street SW., Washington, DC 20593–0001''.

§ 10.603 [Amended]

11. In § 10.603, remove paragraph (c) and redesignate paragraphs (d) and (e) as paragraphs (c) and (d) respectively; and in redesignated paragraph (d) introductory text, remove the words ''paragraph (d)'' and add, in their place, the words ''paragraph (c)''.

PART 12—CERTIFICATION OF SEAMEN

12. The authority citation for part 12 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701; 49 CFR 1.46.

§ 12.01–3 [Amended]

13. In § 12.01–3(a), remove the words ''Operating and Environmental Standards Division, 2100 Second Street SW., Washington, DC'' and add, in their place, the words ''Office of Operating and Environmental Standards, 2100 Second Street SW., Washington, DC 20593–0001''.

PART 15—MANNING REQUIREMENTS

14. The authority citation for part 15 continues to read as follows:

Authority: 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 9102; 49 CFR 1.45 and 1.46.

§ 15.105 [Amended]

15. In § 15.105(a), remove the words ''Operating and Environmental Standards Division, 2100 Second Street SW., Washington, DC'' and add, in their place, the words ''Office of Operating and Environmental Standards, 2100 Second Street SW., Washington, DC 20593–0001''.

16. In § 15.805, revise paragraph (b) to read as follows:

§ 15.805 Master.

* * * * *

(b) Every vessel documented under the laws of the United States, other than a vessel with only a recreational endorsement, must be under the command of a U.S. citizen.

PART 31—INSPECTION AND CERTIFICATION

17. The authority citation for part 31 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3703; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46. Section 31.10–21 also issued under the authority of Sect. 4109, Pub. L. 101–380, 104 Stat. 515.

18. In § 31.40–15(a) and (b), remove the word ''Radiotelegraphy'' and add, in its place, the word ''Radio''; and revise the section heading to read as follows:

§ 31.40–15 Cargo Ship Safety Radio Certificate—T/ALL.

* * * * *

§ 31.40–20 [Removed]

19. Remove § 31.40–20.

§ 31.40–40 [Amended]

20. In § 31.40–40(c), remove the word ''Radiotelegraphy'' and add, in its place, the word ''Radio''; and remove the words ''and a Cargo Ship Safety Radiotelephony Certificate''.

PART 34—FIREFIGHTING EQUIPMENT

21. The authority citation for part 34 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

22. In § 34.01–15(b), revise the entry for ''National Fire Protection Association (NFPA)'' to read as follows:

§ 34.01–15 Incorporation by reference.

* * * * *

(b) * * *

National Fire Protection Association (NFPA)

1 Batterymarch Park, Quincy, MA 02269–9101

* * * * *

§ 34.15–5 [Amended]

23. In § 34.15–5—

a. In paragraph (a), remove the words ''(b) through (e)'' and add, in their place, the words ''(b) through (d)'';

b. Revise the heading of Table 34.15–5(e)(1) as ''Table 34.15–5(d)(1)'' and in paragraph (d)(1), remove the numbers ''(e)(4)'' and ''34.15–5(e)(1)'' and add, in their place, the numbers ''(d)(4)'' and ''34.15–5(d)(1)'' respectively;

c. In paragraph (d)(4), remove the numbers ''(e)(1) and (2)'' and add, in their place, the numbers ''(d)(1) and (2)'' and;

d. In paragraph (d)(5), revise the heading of Table 34.15–5(e)(5) as ''Table 34.15–5(d)(5)''; and remove the number ''34.15–5(e)(5)'' and add, in its place, the number ''34.15–5(d)(5)''.

§ 34.15–10 [Amended]

24. In § 34.15–10(b), (d), and (f), remove the number ''34.15–5(e)'' and add, in its place, the number ''34.15–5(d)''.

§ 34.15–20 [Amended]

25. In § 34.15–20(b), remove the number ''34.15–5(e)'' and add, in its place, the number ''34.15–5(d)''.

§ 34.15–90 [Amended]

26. In § 34.15–90(a)(2), remove the numbers ''34.15–5(e)(1) through (3)'' and add, in their place, the numbers ''34.15–5(d)(1) through (3)''.

PART 38—LIQUEFIED FLAMMABLE GASES

27. The authority citation for part 38 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; 49 U.S.C. 5101, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

28. In § 38.01–3(b), revise the heading and address for ''American Society of

Mechanical Engineers'' to read as follows:

§ 38.01–3 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

PART 52—POWER BOILERS

29. The authority citation for part 52 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

30. In § 52.01–1(b), revise the heading and address for ''American Society of Mechanical Engineers (ASME)'' to read as follows:

§ 52.01–1 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

PART 53—HEATING BOILERS

31. The authority citation for part 53 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

32. In § 53.01–1(b), revise the heading and address for ''American Society of Mechanical Engineers (ASME)'' to read as follows:

§ 53.01–1 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

PART 54—PRESSURE VESSELS

33. The authority citation for part 54 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

34. In § 54.01–1(b), revise the heading and address for ''American Society of Mechanical Engineers (ASME)'' to read as follows:

§ 54.01–1 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

PART 56—PIPING SYSTEMS AND APPURTENANCES

35. The authority citation for part 56 continues to read as follows:

Authority: 33 U.S.C. 1321(j), 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O.12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

Subpart 56.01—[Amended]

36. In the NOTE to subpart 56.01, remove the words '', United Engineering Center, 345 East 47th Street, New York, N.Y. 10017'' and add, in their place, the words ''(ASME) International, Three Park Avenue, New York, NY 10016–5990''.

37. In § 56.01–2(b), revise the heading and address for ''American Society of Mechanical Engineers (ASME)'' to read as follows:

§ 56.01–2 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

38. In § 56.60–1, in Table 56.60–1(B), revise the headings for ANSI Standards (American National Standards Institute) and ASTM Standards (American Society for Testing and Materials) to read as follows:

§ 56.60–1 Acceptable materials and specifications (replaces 123 and Table 126.1 in ANSI–B31.1).

* * * * *

TABLE 56.60–1(B).—ADOPTED STANDARDS APPLICABLE TO PIPING SYSTEMS (REPLACES TABLE 126.1)

*	*	*	*	*	*	*
ANSI Standards (American National Standards Institute), 11 West 42nd Street, New York, NY 10036.						
*	*	*	*	*	*	*
ASTM Standards (American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.						
*	*	*	*	*	*	*

PART 57—WELDING AND BRAZING

39. The authority citation for part 57 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

40. In § 57.02–1(b), revise the heading and address for ''American Society of Mechanical Engineers (ASME)'' to read as follows:

§ 57.02–1 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

41. The authority citation for part 58 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

42. In § 58.03–1(b), revise the headings and addresses for ''American Petroleum Institute (API)'' and ''American Society of Mechanical Engineers (ASME)'' to read as follows:

§ 58.03–1 Incorporation by reference.

* * * * *

(b) * * *

American Petroleum Institute (API)

1220 L Street NW, Washington, DC 20005–4070

* * * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

PART 59—REPAIRS TO BOILERS, PRESSURE VESSELS AND APPURTENANCES

43. The authority citation for part 59 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

44. In § 59.01–2(b), revise the heading and address for ''American Society of Mechanical Engineers (ASME)'' to read as follows:

§ 59.01–2 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

PART 61—PERIODIC TESTS AND INSPECTIONS

45. The authority citation for part 61 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 61.03–1 [Amended]

46. In § 61.03–1(a), immediately preceding the words ''and is available from the sources indicated'', add the number ''20593–0001''.

§ 61.10–5 [Amended]

47. In § 61.10–5—

a. In paragraph (h), remove the paragraph designator ''(1)'';

b. Remove the word ''accept'' and add, in its place, the word ''except''; and

c. Remove the word ''intenal'' and add, in its place, the word ''internal''.

PART 63—AUTOMATIC AUXILIARY BOILERS

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

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

49. In § 63.05–1(b), revise the heading and address for ''American Society of Mechanical Engineers'' to read as follows:

§ 63.05–1 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

PART 64—MARINE PORTABLE TANKS AND CARGO HANDLING SYSTEMS

50. The authority citation for part 64 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.46.

51. In § 64.2(a), add, immediately preceding the words '', and is available from the source'', the number ''20593–0001''; and in paragraph (b), revise the heading and address for ''American Society of Mechanical Engineers'' to read as follows:

§ 64.2 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

PART 67—DOCUMENTATION OF VESSELS

52. The authority citation for part 67 continues to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110; 46 U.S.C. app. 841a, 876; 49 CFR 1.45, 1.46.

§ 67.15 [Amended]

53. In § 67.15(b), remove the word ''Manager'' and add, in its place, the word ''Director''.

PART 68—DOCUMENTATION OF VESSELS PURSUANT TO EXTRAORDINARY LEGISLATIVE GRANTS

54. The authority citation for part 68 continues to read as follows:

Authority: 46 U.S.C. 2103; 49 CFR 1.46. Subpart 68.01 also issued under 46 U.S.C. App. 876; subpart 68.05 also issued under 46 U.S.C. 12106(d).

§ 68.01–5 [Amended]

55. In § 68.01–5(a) and (b), remove the word ''Manager'' and add, in its place, the word ''Director''.

§ 68.01–7 [Amended]

56. In § 68.01–7(a), (b), and (c), remove the word ''Manager'' and add, in its place, the word ''Director''.

§ 68.01–9 [Amended]

57. In § 68.01–9(a) and (b), remove the word ''Manager'' and add, in its place, the word ''Director''.

§ 68.05–11 [Amended]

58. In § 68.05–11(a) and (b), remove the word ''Manager'' and add, in its place, the word ''Director''.

§ 68.05–13 [Amended]

59. In § 68.05–13(a) and (b), remove the word ''Manager'' and add, in its place, the word ''Director''.

PART 69—MEASUREMENT OF VESSELS

60. The authority citation for part 69 continues to read as follows:

Authority: 46 U.S.C. 2301, 14103; 49 CFR 1.46.

§ 69.71 [Amended]

61. In § 69.71 in paragraph (b)—

a. Remove the words ''(parts 42, 44, 45, or 47 of this chapter)'' and ''(part 46 of this chapter)'';

b. Remove the words ''or SOLAS'' and add, in their place, the word '', SOLAS''; and

c. Add the words ''or other international agreement'' immediately preceding the words ''for the trade'', in the last sentence of the paragraph.

§ 69.73 [Amended]

62. In § 69.73(b), remove the word ''explain'' and add, in its place, the word ''explaining''; and remove the word ''include'' and add, in its place, the word ''including''.

§ 69.203 [Amended]

63. In § 69.203, in paragraph (b), in the definition of *Registered length*, remove the word ''stem'', immediately preceding the words ''of the aftermost hull'', and add, in its place, the word ''stern''.

PART 76—FIRE PROTECTION EQUIPMENT

64. The authority citation for part 76 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 76.15–5 [Amended]

65. In § 76.15–5—

a. Remove paragraph (d), redesignate paragraphs (e) and (f) as paragraphs (d) and (e) respectively, in newly redesignated paragraph (d) revise the heading of Table 76.15–5(e)(1) to read ''Table 76.15–5(d)(1)'', and in paragraph (e) revise the heading of Table 76.15–5(e)(4) to read ''Table 76.15–5(d)(4)'';

b. In redesignated paragraph (d)(1) remove the numbers ''(e)(3)'' and add, in their place, the numbers ''(d)(3)'', and remove the words ''table 76.15–5(e)(1)'' and add, in their place, the words ''table 76.15–5(d)(1)'';

c. In redesignated paragraph (d)(3), remove the numbers ''(e)(1) and (2)'' and add, in their place, the numbers ''(d)(1) and (2)'';

d. In redesignated paragraph (d)(4), remove the number ''76.15–5(e)(4)'' and add, in its place, the number ''76.15–5(d)(4)''; and

e. In redesignated paragraph (e)(3), remove the numbers ''(f)(1) and (2)'' and add, in their place, the numbers ''(e)(1) and (2)''.

§ 76.15–10 [Amended]

66. In § 76.15–10(b), (d), and (f), remove the number ''76.15–5(e)'' and add, in its place, the number ''76.15–5(d)''.

§ 76.15–20 [Amended]

67. In § 76.15–20(b), remove the number ''76.15–5(e)'' and add, in its place, the number ''76.15–5(d)''.

§ 76.15–90 [Amended]

68. In § 76.15–90(a)(2), remove the number ''76.15–5(e)(1) through (3)'' and add, in its place, the number ''76.15–5(d)(1) through (3)''.

PART 91—INSPECTION AND CERTIFICATION

69. The authority citation for part 91 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306; E.O. 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

70. In § 91.60–15(a) and (b), remove the word ''Radiotelegraphy'' and add, in its place, the word ''Radio''; and revise the section heading to read as follows:

§ 91.60–15 Cargo Ship Safety Radio Certificate.

* * * * *

§ 91.60–20 [Removed]

71. Remove § 91.60–20.

§ 91.60–40 [Amended]

72. In § 91.60–40(c), remove the word ''Radiotelegraphy'' and add, in its place, the word ''Radio''; and remove the words ''and a Cargo Ship Safety Radiotelephony Certificate''.

PART 95—FIRE PROTECTION EQUIPMENT

73. The authority citation for part 95 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 95.15–5 [Amended]

74. In § 95.15–5—

a. In paragraph (a) remove the words ''(b) through (e)'' and add, in their place, the words ''(b) through (d)'';

b. In paragraph (d)(1), revise the heading of Table 95.15–5(e)(1) to read ''Table 95.15–5(d)(1)'', and remove the numbers ''(e)(3)'' and ''95.15–5(e)(1)'' and add, in their place, the numbers ''(d)(3)'' and ''95.15–5(d)(1)'' respectively;

c. In paragraph (d)(3), remove the number ''(e)(1) and (2)'' and add, in its place, the number ''(d)(1) and (2)'';

d. In paragraph (d)(4), revise the heading of Table 95.15–5(e)(4) to read ''Table 95.15–5(d)(4)'', and remove the number ''95.15–5(e)(4)'' and add, in its place, the number ''95.15–5(d)(4)''; and

e. In paragraph (e)(3), remove the words ''(f)(1) and (2)'' and ''(e)'', and add, in their place, the words ''(e)(1) and (2)'' and ''(d)'' respectively.

§ 95.15–10 [Amended]

75. In § 95.15–10(b), (d), and (f), remove the number ''95.15–5(e)'' and add, in its place, the number ''95.15–5(d)''.

§ 95.15–20 [Amended]

76. In § 95.15–20(b), remove the number ''95.15–5(e)'' and add, in its place, the number ''95.15–5(d)''.

§ 95.15–90 [Amended]

77. In § 95.15–90(a)(2), remove the numbers ''95.15–5(e)(1), (2) and (4)'' and add, in their place, the numbers ''95.15–5(d)(1), (2) and (4)''.

PART 98—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR CERTAIN DANGEROUS CARGOES IN BULK

78. The authority citation for part 98 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

79. In § 98.01–3(b), revise the heading and address for ''American Society of Mechanical Engineers'' to read as follows:

§ 98.01–3 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

PART 105—COMMERCIAL FISHING VESSELS DISPENSING PETROLEUM PRODUCTS

80. The authority citation for part 105 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 4502; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 105.05–10 [Amended]

81. In § 105.05–10—

a. In paragraph (a), remove the words ''title 46 U.S.C. section 391a'' and add, in their place, the words ''46 U.S.C. 3702'';

b. In paragraph (c)(1), remove the words ''section 391a(6)(a) of title 46, U.S.C.'' and add, in their place, the words ''46 U.S.C. 3702''; and

c. In paragraph (c)(2), remove the words ''section 224a of title 46, U.S.C.'' and add, in their place, the words ''46 U.S.C. 8304''.

PART 107—INSPECTION AND CERTIFICATION

82. The authority citation for part 107 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306; 46 U.S.C. 3316; 49 CFR 1.45, 1.46; § 107.05 also issued under the authority of 44 U.S.C. 3507.

§ 107.115 [Amended]

83. In § 107.115(b)(2), remove the words ''American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017'' and add, in their place, the words ''American Society of Mechanical Engineers (ASME) International, Three Park Avenue, New York, NY 10016–5990''; and in (b)(3), remove the words ''2101 L Street, N.W., Washington, D.C. 20037'' and add, in their place, the words ''1220 L Street NW., Washington, DC 20005–4070''.

§ 107.260 [Amended]

84. In § 107.260(a), remove the number ''§ 107.231(n)'', and add, in its place, the number ''§ 107.231(l)''.

§§ 107.269 and 107.279 [Amended]

85. In addition to the amendments set forth above, in 46 CFR part 107, remove the number ''§ 107.231(y), (z), (aa), and (bb)'', and add, in its place, the number ''§ 107.231(x) and (y)'' in the following places:

a. Section 107.269; and

b. Section 107.279(b) and (c).

PART 108—DESIGN AND EQUIPMENT

86. The authority citation for part 108 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3102, 3306; 49 CFR 1.46.

§ 108.237 [Amended]

87. In § 108.237(b), remove the word ''Integral'', and add, in its place, the word ''Independent''.

88. In § 108.705(a), remove the word ''hausers'' and add, in its place, the

word ''hawsers''; and revise the heading to read as follows:

§ 108.705 Anchors, chains, wire rope, and hawsers.

* * * * *

PART 109—OPERATIONS

89. The authority citation for part 109 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 6101, 10104; 49 CFR 1.46.

§ 109.431 [Amended]

90. In § 109.431(b), remove the words ''46 U.S.C. 201'' and add, in their place, the words ''46 U.S.C. 11301''.

PART 118—FIRE PROTECTION EQUIPMENT

91. The authority citation for part 118 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 118.400 [Amended]

92. In § 118.400(d), remove the word ''grills'' and add, in its place the word ''griddles''.

PART 125—GENERAL

93. The authority citation for part 125 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307; 49 U.S.C. App. 1804; 49 CFR 1.46.

94. In § 125.180(b), revise the headings and addresses for ''American Society of Mechanical Engineers (ASME)'' and ''Institute of Electrical and Electronics Engineers (IEEE)'' to read as follows:

§ 125.180 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990.

* * * * *

Institute of Electrical and Electronics Engineers (IEEE)

IEEE Service Center, 445 Hoes Lane, Piscataway, NJ 08855.

* * * * *

PART 133—LIFESAVING EQUIPMENT

95. The authority citation for part 133 continues to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

96. In § 133.175, revise paragraph (b) introductory text to read as follows:

§ 133.175 Survival craft and rescue boat equipment.

* * * * *

(b) Each rigid liferaft and rescue boat, unless otherwise stated in this paragraph, must carry the equipment specified for it in table 133.175 of this section. Each item in the table has the same description as in § 199.175 of this chapter.

Note: Item numbers in the first column of Table 133.175 are not consecutive because not all of the items listed in section 199.175 are required on OSVs.

* * * * *

PART 147—HAZARDOUS SHIPS' STORES

97. The authority citation for part 147 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

98. In § 147.7(c), revise the entry for ''American Boat and Yacht Council, Inc. (ABYC)'' to read as follows:

§ 147.7 Incorporation by reference.

* * * * *

(c) * * *

American Boat and Yacht Council, Inc. (ABYC),

3069 Solomons Island Road, Edgewater, MD 21037

* * * * *

PART 151—BARGES CARRYING BULK LIQUID HAZARDOUS MATERIAL CARGOES

99. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3703; 49 CFR 1.46.

100. In § 151.01–2(b), revise the heading and address for ''American Society of Mechanical Engineers'' to read as follows:

§ 151.01–2 Incorporation by reference.

* * * * *

(b) * * *

American Society of Mechanical Engineers (ASME) International

Three Park Avenue, New York, NY 10016–5990

* * * * *

§ 151.50–73 [Amended]

101. In § 151.50–73, in the NOTE, immediately following paragraph (a)(4), remove the words ''6500 Glenway Ave., Cincinnati, OH 45211–4438'' and add, in their place, the words ''1330 Kemper Meadow Drive, Cincinnati, OH 45240–1634''.

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

102. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; 49 CFR 1.46. Section 153.40 issued under 49 U.S.C. 5103. Sections 153.470 through 153.491, 153.1100 through 153.1132, and 153.1600 through 153.1608 also issued under 33 U.S.C. 1903(b).

§ 153.933 [Amended]

103. In § 153.933, in the NOTE, immediately following paragraph (a)(4), remove the words ''6500 Glenway Ave., Cincinnati, OH 45211–4438'' and add, in their place, the words ''1330 Kemper Meadow Drive, Cincinnati, OH 45240–1634''.

PART 160—LIFESAVING EQUIPMENT

104. The authority citation for part 160 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, and 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

105. In § 160.010–1, revise the heading to read as follows:

§ 160.010–1 Incorporation by reference.

* * * * *

106. In § 160.021–1, revise the heading to read as follows:

§ 160.021–1 Incorporation by reference.

* * * * *

107. In § 160.022–1, revise the heading to read as follows:

§ 160.022–1 Incorporation by reference.

* * * * *

108. In § 160.023–1, revise the heading to read as follows:

§ 160.023–1 Incorporation by reference.

* * * * *

109. In § 160.024–1, revise the heading to read as follows:

§ 160.024–1 Incorporation by reference.

* * * * *

110. In § 160.037–1, revise the heading to read as follows:

§ 160.037–1 Incorporation by reference.

* * * * *

111. In § 160.040–1, revise the heading to read as follows:

§ 160.040–1 Incorporation by reference.

* * * * *

§ 160.048–1 [Amended]

112. In § 160.048–1(c), remove the words ''United States Coast Guard, Washington, DC 20591'' and add, in their place, the words ''U.S. Coast

Guard, 2100 Second Street, SW., Washington, DC 20593–0001''.

§ 160.049–1 [Amended]

113. In § 160.049–1(c), immediately following the words ''U.S. Coast Guard'', add the words ''2100 Second Street SW., Washington, DC 20593–0001,''.

114. Revise § 160.050–1 to read as follows:

§ 160.050–1 Incorporation by reference.

(a) *Standard.* This subpart makes reference to Federal Standard No. 595-Colors in § 160.050–3.

(b) *Copies on file.* The Federal Standard may be obtained from the Business Service Center, General Services Administration, Washington, DC 20407.

115. In § 160.057–1, revise the heading to read as follows:

§ 160.057–1 Incorporation by reference.

* * * * *

116. In § 160.171–3, revise the heading to read as follows:

§ 160.171–3 Incorporation by reference.

* * * * *

117. In § 160.174–3(a), remove the word ''(G–MMS–4)'' and add, in its place, the word ''(G–MSE–4)''; and revise the heading to read as follows:

§ 160.174–3 Incorporation by reference.

* * * * *

PART 161—ELECTRICAL EQUIPMENT

118. The authority citation for part 161 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 161.002–18 [Amended]

119. In § 161.002–18(d)(2), remove the word ''(b)'' and add, in its place, the word ''(a)(4)''.

PART 162—ENGINEERING EQUIPMENT

120. The authority citation for part 162 continues to read as follows:

Authority: 33 U.S.C. 1321(j) 1903; 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 162.027–1 [Amended]

121. In § 162.027–1(a), immediately preceding the words ''and is available from the sources indicated'', add the number ''20593–0001''.

§ 162.050–4 [Amended]

122. In § 162.050–4(b)(1), remove the words ''Publications Stock, 333 Pfingsten Road, Northbrook, Illinois 60062'' and add, in their place, the words ''(UL), 12 Laboratory Drive, Research Triangle Park, NC 27709–3995''.

§ 162.050–5 [Amended]

123. In § 162.050–5, remove the words ''or 100 p.p.m.'' in (a) introductory text; and in paragraph(a)(5), remove the number ''§ 111.05–5(d)'' and add, in its place, the number ''§ 110.25–1''.

§ 162.050–7 [Amended]

124. In § 162.050–7, remove paragraph (h)(2) and redesignate paragraphs (h)(3) through (h)(6) as (h)(2) through (h)(5) respectively.

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

125. The authority citation for part 167 continues to read as follows:

Authority: 46 U.S.C. 3306, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46

§ 167.15–25 [Amended]

126. In § 167.15–25(a), remove the words ''American Bureau of Shipping, New York, N.Y.'' and add, in their place, the words ''American Bureau of Shipping (ABS), Two World Trade Center—106th Floor, New York, NY 10048.''.

§ 167.20–1 [Amended]

127. In § 167.20–1(a), remove the words ''American Bureau of Shipping, New York, N.Y.'' and add, in their place, the words ''American Bureau of Shipping (ABS), Two World Trade Center—106th Floor, New York, NY 10048.''.

§ 167.40–1 [Amended]

128. In § 167.40–1—

a. In paragraph (a)(3), remove the words ''American Institute of Electrical Engineers'' and add, in their place, the words ''Institute of Electrical and Electronic Engineers, Inc. (IEEE)''; and

b. In paragraph (a)(3), remove the words ''American Institute of Electrical Engineers, New York, N.Y.'' and add, in their place, the words ''Institute of Electrical and Electronics Engineers, Inc. (IEEE), IEEE Service Center, 445 Hoes Lane, Piscataway, NJ 08855.''.

PART 169—SAILING SCHOOL VESSELS

129. The authority citation for part 169 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.45, 1.46; § 169.117 also issued under the authority of 44 U.S.C. 3507.

§ 169.115 [Amended]

130. In § 169.115—

a. In paragraph (c)(1), remove the words ''P.O. Box 806, 190 Ketchum Ave., Amityville, NY 11701'' and add, in their place, the words ''3069 Solomons Island Road, Edgewater, MD 21037''; and

b. In paragraph (c)(5), remove the words ''Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062'' and add, in their place, the words ''Underwriters Laboratories, Inc. (UL), 12 Laboratory Drive, Research Triangle Park, NC 27709–3995''.

PART 177—CONSTRUCTION AND ARRANGEMENT

131. The authority citation for part 177 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 177.410 [Amended]

132. In § 177.410(c)(1), remove the words ''type grilles'' and add, in their place, the word ''griddles''.

PART 181—FIRE PROTECTION EQUIPMENT

133. The authority citation for part 181 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 181.400 [Amended]

134. In § 181.400(d), remove the word ''grills'' and add, in its place, the word ''griddles''.

PART 189—INSPECTION AND CERTIFICATION

135. The authority citation for part 189 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3205, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

136. In § 189.60–15(a) and (b), remove the word ''Radiotelegraphy'' and add, in its place, the word ''Radio''; and revise the section heading to read as follows:

§ 189.60–15 Cargo Ship Safety Radio Certificate.

* * * * *

§ 189.60–20 [Removed]

137. Remove § 189.60–20.

§ 189.60–40 [Amended]

138. In § 189.60–40(c), remove the word ''Radiotelegraphy'' and add, in its place, the word ''Radio''; and remove the words ''and a Cargo Ship Safety Radiotelephony Certificate''.

PART 193—FIRE PROTECTION EQUIPMENT

139. The authority citation for part 193 continues to read as follows:

Authority: 46 U.S.C. 2213, 3102, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

140. In § 193.01–3(b), revise the heading and address for ''National Fire Protection Association (NFPA)'' to read as follows:

§ 193.01–3 Incorporation by reference.

* * * * *

(b) * * *

National Fire Protection Association (NFPA)

1 Batterymarch Park, Quincy, MA 02269–9101.

* * * * *

PART 197—GENERAL PROVISIONS

141. The authority citation for part 197 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 6101; 49 CFR 1.46.

§ 197.482 [Amended]

142. In § 197.482, in the NOTE, immediately following paragraph (e), remove the words ''R.S. 4290 (46 U.S.C. 201)'' and ''R.S. 4291 (46 U.S.C. 202)'' and add, in their places, the words ''46 U.S.C. 11301'' and ''46 U.S.C. 11302''.

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

143. The authority citation for part 199 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 46 CFR 1.46.

§ 199.03 [Amended]

144. In § 199.03(b)(5), remove the word ''immersions'' and add, in its place, the word ''immersion''.

145. In § 199.05(b), revise the entry for Resolution A. 760(18), under ''International Maritime Organization (IMO)'' to read as follows:

§ 199.05 Incorporation by reference.

* * * * *

(b) * * *

International Maritime Organization (IMO)

* * * * *

Resolution A.760(18), Symbols Related to Life-saving Appliances and Arrangements, 17 November 1993.	199.70; 199.90

* * * * *

§ 199.10 [Amended]

146. In § 199.10—

a. In paragraph (g)(3), remove the numbers ''(f)(2) and (3)'' and add, in their place, the numbers ''(e)(2) and (3)''; and

b. In paragraph (h)(1)(iv), remove the numbers ''(i)(1)(ii) and (i)(1)(iii)'' and add, in their place, the numbers ''(h)(1)(ii) and (h)(1)(iii)''.

§ 199.20 [Amended]

147. In § 199.20(d)(2), remove the word ''district'' and add, in its place, the word ''District''.

§ 199.30 [Amended]

148. In § 199.30—

a. In the definition of *Approved*, remove the word ''Approved'' and add, in its place, the words *''Approved lifesaving appliance''*.

b. In the definition of *Major character*, remove the word ''(G–MCO)'' and add, in its place, the word ''(G–MOC)'';

c. In the definition of *Officer in Charge, Marine Inspection (OCMI)*, remove the word ''guard'' and add, in its place, the word ''Guard''; and

d. Move the definition of *Seagoing condition*, immediately following the definition of *Rivers*, to immediately follow the definition of *Scientific personnel.*

§ 199.175 [Amended]

149. In § 199.175—

a. Remove paragraph (b)(21)(ii), and redesignate paragraph (b)(21)(i)(D) as paragraph (b)(21)(ii);

b. Redesignate paragraphs (b)(21)(i)(E), (F), and (G) as paragraphs (b)(21)(ii)(A), (B), and (C), and

c. In table 199.175 revise entries 21 and 37 to read as follows:

§ 199.175 Survival craft and rescue boat equipment.

* * * * *

TABLE 199.175.—SURVIVAL CRAFT EQUIPMENT

Item No.	Item	International voyage			Short-international voyage		
		Lifeboat	Rigid life raft (SOLAS A pack)	Rescue boat	Lifeboat	Rigid life raft (SOLAS B pack)	Rescue boat
*	* * *	*		*	*		*
21	Painter	2	1	1	2	1	1
*	* * *	*		*	*		*
37	Thermal protective aids [9]	10%	10%	10%	10%	10%	10%
*	* * *	*		*	*		*

§ 199.200 [Amended]

150. In § 199.200, remove the number ''§ 199.10(f)'' and add, in its place, the number ''§ 199.10(e)''.

§ 199.220 [Amended]

151. In § 199.220, in paragraph (a)(2), remove the number ''§ 199.130(b)(4)'' and add, in its place, the number ''§ 199.130(c)(4)''.

§ 199.260 [Amended]

152. In § 199.260, remove the number ''§ 199.10(g)'' and add, in its place, the number ''§ 199.10(f)''.

§ 199.280 [Amended]

153. In § 199.280—

a. In paragraph (b), remove the number ''§ 199.130(b)(4)'' and add, in its place, the number ''§ 199.130(c)(4)''; and

b. In paragraph (e), remove the number ''§ 199.150(b)'' and add, in its place, the number ''§ 199.150(c)''.

154. In § 199.610—

a. In table 199.610(b), in the Note to the table, remove the word ''Exept'' and add, in its place, the word ''Exempt'';

b. In paragraph (c), remove the words ''operating in coastwise; Great Lakes; lakes, bays, and sounds; and river service''; and

c. In the table 199.610(a) revise the entry for 199.175 to read as follows:

§ 199.610 Exemptions for vessels in specified services.

(a) * * *

TABLE 199.610(a).—EXEMPTIONS FOR ALL VESSELS IN SPECIFIED SERVICES

Section or paragraph in this part	Service			
	Coastwise	Great Lakes	Lakes, bays, and sounds	Rivers
* * * *	*	*	*	
199.175(b)(21)(i)(G) or 199.640(j)(4)(iii)(E): Float-free link	(6)	(6)	(6)	(6)
* * * *	*	*	*	

Dated: September 20 1999.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–25058 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 12

[USCG–1997–2799]

RIN 2115–AF49

User Fees for Licenses, Certificates of Registry, and Merchant Mariner Documents; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard has revised its application processing requirements for original licenses, certificates of registry, and merchant mariner documents and no longer does a criminal record check on all original applications. The new policy does not specifically identify which applications will undergo a record check and the Coast Guard therefore cannot charge a fee for this part of the application process. As published in the final rule, fees for original documents need to be corrected to remove the charge for criminal record checks.

EFFECTIVE DATE: This correction is effective October 4, 1999.

ADDRESSES: The public docket for this rulemaking is maintained at the Docket Management Facility, (USCG–1997–2799), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001. You may access docket materials at the facility or over the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact CDR David Skewes, U.S. Coast Guard Headquarters, Office of Planning and Resources (G–MRP), telephone 202–267–0785. For questions on viewing, or submitting material to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION: On August 5, 1999, the Coast Guard published a final rule entitled ''User Fees for Licenses, Certificates of Registry, and Merchant Mariner Documents. The rulemaking changed merchant mariner licensing and documentation fees based on the latest cost recalculations. The evaluation fees for:

- Original License, Upper Level;
- Original License, Lower Level;
- Original Radio Officer License;
- Original Certificate of Registry (MMD holder);
- Original Certificate of Registry (MMD applicant);
- Original Merchant Mariner Document without endorsement; and * Original Merchant Mariner Document with endorsement included a charge for criminal record checks. This correction removes that charge from the evaluation fees for original documents.

Correction of Publication

Accordingly, the publication on August 5, 1999, of the final rule (USCG–1997–2799), which is the subject of FR Doc. 99–20037, is corrected as follows:

§ 10.109 [Corrected]

1. On page 42815, TABLE 10.109—FEES should read as follows:

* * * * *

TABLE 10.109—FEES

If you apply for—	And you need—		
	Evaluation—then the fee is—	Examination—then the fee is—	Issuance—then the fee is—
License:			
Original:			
Upper level	$100	$110	$45
Lower level	100	95	45
Raise of grade	100	45	45
Modification or removal of limitation or scope	50	45	45
Endorsement	50	45	45
Renewal	50	45	45
Renewal for continuity purposes	n/a	n/a	45
Reissue, Replacement, and Duplicate	n/a	n/a	[1] 45
Radio Officer License:			
Original	50	n/a	45

TABLE 10.109—FEES—Continued

If you apply for—	And you need—		
	Evaluation—then the fee is—	Examination—then the fee is—	Issuance—then the fee is—
Endorsement	50	45	45
Renewal	50	n/a	45
Renewal for continuity purposes	n/a	n/a	45
Reissue, Replacement, and Duplicate	n/a	n/a	[1] 45
Certificate of Registry:			
Original (MMD holder)	90	n/a	45
Original (MMD applicant)	105	n/a	45
Renewal	50	n/a	45
Renewal for continuity purposes	n/a	n/a	45
Endorsement	n/a	n/a	45
Reissue, Replacement, and Duplicate	n/a	n/a	[1] 45
STCW Certification:			
Original	No fee	No fee	No fee.
Renewal	No fee	No fee	No fee.

[1] Duplicate for document lost as result of marine casualty—No Fee.

* * * * *

§ 12.02–18 [Corrected]

2. On page 42816, TABLE 12.02–18–FEES should read as follows:

* * * * *

TABLE 12.02–18—FEES

If you apply for—	And you need—		
	Evaluation—Then the fee is—	Examination—Then the fee is—	Issuance—Then the fee is—
Merchant Mariner Document:			
Original:			
Without endorsement	$95	n/a	$45.
With endorsement	$95	$140	$45.
Endorsement for qualified rating	$95	$140	$45.
Upgrade or Raise in Grade	$95	$140	$45.
Renewal without endorsement for qualified rating	$50	n/a	$45.
Renewal with endorsement for qualified rating	$50	$45	$45.
Renewal for continuity purposes	n/a	n/a	$45.
Reissue, Replacement, and Duplicate	n/a	n/a	$45.[1]
STCW Certification:			
Original	No fee	No fee	No fee.
Renewal	No fee	No fee	No fee.
Other Transactions:			
Duplicate Continuous Discharge Book	n/a	n/a	$10.
Duplicate record of sea service	n/a	n/a	$10.
Copy of certificate of discharge	n/a	n/a	$10.

[1] Duplicate for document lost as result of marine casualty—No Fee.

Dated: September 15, 1999.

R.C. North,

Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–25546 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–15–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1, 13, 22, 80, 87, 90, 95, 97, and 101

[WT Docket No. 98–20; WT Docket No. 96–188; RM–8677; RM–9107; FCC 99–139]

Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission disposes of several petitions for reconsideration and clarifies its licensing rules into a single set of rules for all wireless radio services. The Commission further establishes a streamlined set of rules that minimizes filing requirements; eliminates redundant, inconsistent, or unnecessary submission requirements; and assures ongoing collection of reliable licensing and ownership data.

DATES: Effective November 30, 1999, except for §§ 22.529(c), 22.709(f), 22.803(c), and 22.929(d) which contain modified information collection requirements that have not been approved by the Office of Management and Budget. The Commission will publish a document announcing the effective date of these sections in the **Federal Register**. Written comments by the public on the modified information collections are due November 1, 1999. Written comments must be submitted by OMB on the information collections on or before November 30, 1999.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Don Johnson, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418–7240; Jamison Prime or Karen Franklin, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0871.

SUPPLEMENTARY INFORMATION: This *Memorandum Opinion and Order on Reconsideration* in WT Docket No. 98–20, WT Docket No. 96–188, RM–8677, and RM–9107 adopted June 10, 1999 and released June 28, 1999, is available for inspection and copying during normal business hours in the FCC Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC 20036 (202) 857–3800. The document is also available via the internet at http://www.fcc.gov/Bureaus/Wireless/Orders/1999/index.html.

Synopsis of Memorandum Opinion and Order on Reconsideration

I. Introduction

In this *Memorandum Opinion and Order on Reconsideration (MO&O)* we address petitions for reconsideration of our *Report and Order*, 63 FR 68904 (December 14, 1998) in the Universal Licensing proceeding (*ULS R&O*). The *ULS R&O*, adopted on September 17, 1998, established consolidated and streamlined rules governing license application procedures for the Universal Licensing System (ULS), the Commission's automated licensing system and integrated database for wireless services. The *ULS R&O* also adopted new consolidated application forms to enable all wireless licensees and applicants to file applications electronically in ULS. In addition, we established procedures to ensure a smooth transition from our pre-existing licensing processes to the processes developed for ULS. We received eight petitions for reconsideration addressing various aspects of the *ULS R&O*. Four parties filed comments on the petitions and four parties filed reply comments. In this order, we substantially uphold the decisions made in the *ULS R&O*, but we make certain revisions and clarifications to our rules in response to the petitions and on our own motion.

II. Discussion

A. Electronic Filing Issues

1. Electronic Filing Deadlines

Background. In the *ULS R&O*, we concluded that all applicants and licensees in auctionable services and in common carrier services that are not subject to auction because they operate on shared spectrum would be required to file applications electronically as of (1) July 1, 1999, or (2) six months after the conversion of the particular service to ULS, whichever is later.

Discussion. We recognize that converting to electronic filing poses technical challenges for filers, and we provide a six month transition period during which filers can test their ability to file electronically in ULS before mandatory electronic filing takes effect. We do not believe that a blanket 24-hour grace period is in the public interest. We also disagree with the presumption underlying the grace period concept that most technical difficulties are in fact beyond the applicants' control. Applicants can minimize the risk of unexpected last-minute technical difficulties with electronic filing by testing equipment and software in advance, familiarizing themselves with the electronic filing process, and preparing to file far enough in advance of the deadline to deal with technical problems that may occur. Applicants can consult with the Commission's ULS technical support staff at 202–414–1250 at any time during normal business hours.

We recognize that there may be instances where an applicant exercises diligence in preparing to file electronically, but nonetheless encounters technical difficulties that are truly beyond its control. We believe that such situations are better handled on a case-by-case basis by waiver rather than by means of a blanket rule. In those instances where applicants are unable to file electronically because of a technical problem with the Commission's own electronic filing system, we will extend filing deadlines as needed until the Commission staff has resolved the problem.

2. Copy Requirements for Manually Filed Forms

Background. A petitioner requested that the requirement of a copy for manually filed applications be eliminated so that only the original need be submitted.

Discussion. We believe that requiring an original plus a copy of manually filed applications will minimize the risk of losing or misplacing the application before it is scanned into ULS, because the original will be on file while the copy is scanned.

3. Transition Period for Filing of Pre-ULS Forms

Background. In the *ULS R&O* we determined that use of pre-ULS forms would be allowed for six months after the effective date of the ULS rules adopted in the *ULS R&O*. The ULS rules became effective on February 12, 1999. As a result, the six month transition period for use of pre-ULS forms expires on August 12, 1999. However, under the current ULS deployment schedule, some wireless services will not be converted from their ''legacy'' licensing databases to ULS until after this date.

Discussion. We conclude that the transition period during which applicants may continue to file pre-ULS forms should be extended for those services that have not yet been converted to ULS. Therefore, on our own motion, we amend our rules to allow the filing of pre-ULS forms until (1) August 12, 1999, or (2) six months after the service is converted to ULS, whichever is later.

B. Standardization of Practices and Procedures for WTB Applications and Authorizations

1. Amendments to Applications

Background. A petitioner asked for clarification of section 1.927 of the Commission's rules, as amended by the *ULS R&O*, regarding amendments of pending applications.

Discussion. We clarify that applicants can amend their applications as a matter of right as long as the application has not been listed on a public notice for a competitive bidding process and is not subject to any of the remaining exceptions in section 1.927.

2. Frequency Coordination of Minor Amendments/Modifications

Background. In certain part 90 and part 101 services, frequency coordination is required of applicants or licensees prior to filing certain applications, major amendments to

pending applications, or major modifications to licenses. In the *ULS R&O*, we revised our frequency coordination requirements in part 90 and part 101 so that all applicants and licensees subject to coordination will comply with the same frequency coordination requirements. We also specified in part 1 that amendments to applications or modifications to licenses that require prior coordination are defined as major changes for filing purposes. Two petitioners asked for clarification or reconsideration of our rules relating to frequency coordination for certain technical changes in the fixed microwave services that are defined as minor under section 1.929.

Discussion. Section 101.103(d) of our rules sets forth coordination requirements for changes to microwave systems. The only change we have implemented in this procedure in the *ULS R&O* was to eliminate the requirement previously contained in section 101.103(d) that in the case of minor amendments, the coordination process must be completed prior to the *filing* of the amendment. However, a microwave applicant or licensee proposing a minor technical change must still coordinate as required by the rule prior to implementing the change.

3. Returns and Dismissals of Incomplete or Defective Applications

Background. In the *ULS R&O*, we adopted a single consolidated rule concerning dismissal of applications and established a uniform policy regarding return of applications for correction and refiling by the applicant. Under section 1.934, the Commission may dismiss any defective application, but we also retain the discretion to return an application for correction if circumstances warrant. We stated that applicants receiving returned applications would have 30 days from the date of the Commission's return letter to correct the defect and refile the application, unless the return letter specified a shorter period. One petitioner asked for reconsideration of the 30 day standard.

Discussion. We conclude that a 60 day period is more reasonable. We will also apply this policy to returns in all wireless services, including non-coordinated services. However, we take this opportunity to reiterate several aspects of our dismissal and return policy. First, in conjunction with the deployment of ULS, the Wireless Telecommunications Bureau (Bureau) has announced uniform standards for dismissal of defective applications that will reduce the number of applications that are returned rather than dismissed without prejudice. Second, in those instances where we return applications for correction, we retain the discretion to require refiling in less than 60 days, provided that the return notice specifies the shorter period. Finally, if a corrected application includes changes that constitute major amendments, it will be governed by our major amendment rule and treated as a new application with a new filing date.

4. Discontinuation of ''Reinstatement'' Applications

Background. In the *ULS R&O*, we eliminated reinstatement procedures in those wireless services that allowed licensees who failed to file a timely renewal application to request reinstatement of the expired license. One petitioner asked for reconsideration of this decision, and proposed that we apply a 30-day reinstatement window to all wireless licenses.

Discussion. We emphasize that the licensee is fully responsible for knowing the term of its license and filing a timely renewal application. In addition, as we stated in the *ULS R&O*, ULS will send out reminder letters to licensees 90 days prior to the renewal deadline.

Our treatment of late-filed renewal applications will take into consideration the complete facts and circumstances involved, including the length of the delay in filing, the performance record of the licensee, the reasons for the failure to timely file, and the potential consequences to the public if the license were to terminate. In instances where a renewal application is late-filed up to 30 days after the expiration date of the license, denial of the renewal application and termination of the licensee's operations would be too harsh a result in proportion to the nature of the violation. At the same time, we believe that some sanction is warranted for late filing of renewal applications, even if the late filing is inadvertent and the length of delay is not significant. We will handle late-filed renewal applications as follows: If a renewal application is late-filed up to 30 days after the license expiration date in any wireless service, and the application is otherwise sufficient under our rules, we will grant the renewal *nunc pro tunc*. The Wireless Bureau, after reviewing all facts and circumstances concerning the late filing of the renewal application, may, in its discretion, also initiate enforcement action against the licensee for untimely filing and unauthorized operation between the expiration of the license and the late renewal filing, including, if appropriate, the imposition of fines or forfeitures for these rule violations. Applicants, who file renewal applications more than 30 days after license expiration, may also request renewal *nunc pro tunc*, by filing a request for rule waiver. Such requests for rule waiver filed more than 30 days after license expiration will be subject to stricter review and will not be granted routinely and may be accompanied by enforcement action including more significant fines or forfeitures.

5. Assignments of Authorization and Transfers of Control

Background. One petitioner argued that the Commission should eliminate the need for wireless licensees to file public interest statements as exhibits to applications for assignment of license or transfer of control.

Discussion. Our ULS rules do not require a public interest statement to be attached to assignment or transfer applications, nor is there such a requirement on FCC Form 603. In some instances, such as transfers or assignments that have competitive implications or involve designated entities, we have required applicants to provide a public interest statement because additional information is needed for the Commission to make a determination under section 310(d) of the Act that the proposed transfer or assignment is in the public interest.

6. Use of Taxpayer Identification Numbers

Background. In the *ULS R&O*, we required all ULS applicants and licensees to register their Taxpayer Identification Numbers (TINs) with the Commission through ULS. In the case of auctionable services, we also required applicants and licensees to provide TIN information for attributable interestholders as defined in section 1.2112(a) of the rules. Attributable interestholders are defined as any person or entity who holds a direct or indirect interest in the applicant/licensee of 10 percent or greater, or any other person or entity who exercises actual control of the applicant/licensee.

Several petitioners asked for reconsideration of our requirement to disclose the TINs of attributable interestholders. Applicants and licensees are required by the Debt Collection Improvement Act (DCIA) to submit their TINs to the Commission. Petitioners contend that any collection of TIN information from persons or entities other than the licensee or applicant itself is beyond the scope of the DCIA. A petitioner contends that the TIN collection requirement is overbroad because it will require officers and directors of a licensee to submit their individual Social Security numbers

(SSNs). Similarly, an amateur radio licensee asked for reconsideration of the requirement that Amateur Radio applicants and licensees provide their SSNs to the Commission.

Discussion. We disagree with the contention that the DCIA authorizes the collection of only applicant and licensee TINs. Congress enacted the DCIA as part of an effort to increase the government's effectiveness in collecting debt from private entities. The DCIA requires all persons ''doing business'' before a Federal agency to provide a TIN as a condition to receiving governmental benefits, regardless of whether fees are collected. The DCIA defines a person ''doing business with a Federal Agency'' as ''an applicant for, or recipient of, a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency * * *.'' We concluded that this definition extended to 10 percent or greater interestholders in the applicant because these parties are treated as akin to the applicant for purposes of our ownership disclosure requirements.

We continue to believe that both the letter and the spirit of the DCIA require collection of TIN information beyond the applicant/licensee level. We also affirm our decision to extend the TIN reporting requirement for auctionable services to all 10 percent or greater interestholders in the applicant or licensee, as defined in section 1.2112(a). With or without control, persons or entities with a 10 percent or greater interest in an applicant or licensee have a significant stake in the venture and reap substantial benefits from the award of the license. We believe it is reasonable for DCIA purposes to regard persons and entities that hold an attributable interest in an applicant or licensee as ''doing business'' with the Commission.

We also clarify certain elements of the TIN requirement. One petitioner argues that officers and directors of a corporation should not be required to provide SSNs, because they are not personally liable for corporate debts and fall outside the scope of the DCIA. We disagree with the contention that disclosure of individual officer or director SSNs is necessarily beyond the scope of the DCIA. In circumstances where a director or officer is an attributable interestholder in the licensee (by virtue of holding a 10 percent or greater ownership interest) or otherwise personally exercises control over the licensee, the officer or director must be identified under section 1.2112(a) of the rules. We conclude that it meets the DCIA definition of a person ''doing business'' before the agency. We clarify, however, that the TIN disclosure requirement does not extend to officers or directors that hold no attributable ownership interest and do not otherwise exercise personal control over the licensee. In the absence of one or both of these factors, we do not believe that status as an officer or director *per se* brings the individual within the scope of the DCIA, just as it is not a sufficient interest to require disclosure under section 1.2112(a). One petitioner also sought relief from the TIN disclosure requirement with respect to attributable interestholders that are beyond the control of the applicant or licensee. We believe that requests for relief from this rule are better handled on a case-by-case basis under our waiver rules.

Finally, we deny reconsideration of the requirement that Amateur Radio applicants and licensees provide their SSNs to the Commission. We have determined that Amateur applicants and licensees are not exempt from the TIN disclosure requirement.

C. Collection of Licensing and Technical Data

1. Public Mobile Radio Service Data Requirements

In the *ULS R&O,* we streamlined many of our rules to reduce the burden on applicants and licensees providing licensing and technical data for commercial services.

a. Site-based vs. Geographic-based Licensing

Background/Discussion. One petitioner argued that the *ULS R&O* was ambiguous as to whether cellular would be classified in ULS as a site-specific service, a geographically licensed service, or a ''hybrid'' of the two. We clarify that we did not intend to place any additional requirements on cellular other than those enunciated in the rules.

b. Construction Notification

Background/Discussion. One petitioner noted that the revised section 1.946(d) required a licensee to notify the Commission of the completion of construction within 15 days of the ''expiration of the applicable construction or coverage period.'' We amend our part 22 rules to clarify that the notification requirements are governed by section 1.946 of our rules.

c. Phase II Applications—Ownership Information

Background/Discussion. One petitioner also sought elimination of section 22.953(a)(5) of the Commission's rules, which requires that cellular unserved area applicants provide ownership information. We will remove section 22.953(a)(5) as requested.

d. Revised Section 22.165(e)

Background/Discussion. One petitioner asserted that we revised section 22.165(e) in such a way as to make a substantive rule change limiting the circumstances in which a cellular licensee may enter into a contract extension with a neighboring licensee to add transmitters with contours that extend beyond the licensee's CGSA. We made no substantive changes to the rule, which still permits contract extensions as it did prior to the ULS R&O.

e. Mapping Requirements

Background/Discussion. A petitioner requested reconsideration of our decision to retain the requirement for filing maps until ULS's mapping software is available. We disagree with the proposal to eliminate the filing of maps immediately. The primary purpose of maintaining a file of up to date CGSA maps is to provide a quick and easy way for interested parties and the public to determine the availability of unserved areas in a particular cellular market. The only time full size paper maps must be filed with the Commission is when there is a change to a licensee's CGSA in connection with the licensee's system information update (SIU) at the conclusion of its five-year initial build-out of an MSA or RSA, or a Phase II application. At this time, the Commission is not prepared to set a date certain as to the availability of the ULS mapping program. The Bureau will issue a Public Notice when the new ULS mapping utility is online and cellular licensees and applicants no longer need to file maps. The ULS mapping program will not rely on SIU filings, but ULS will use the most current technical data in the ULS database, whether from the database correction letters filed in 1998 or subsequent application filings, to determine a CGSA in the ULS mapping program.

f. Antenna Pattern Information

Background. In the *ULS R&O* we eliminated the requirement that Part 22 paging licensees submit data concerning antenna type, model, and manufacturer to the Commission. We amended our rules to require Part 22 licensees to maintain this information in their station records and to produce it to other licensees or applicants upon request. On February 12, 1999, Timothy E. Welch dba Hill & Welch (Welch) filed a petition for review of the *ULS R&O* in the United States Court of Appeals for the District of Columbia Circuit. Welch

asked for judicial review of our decision to eliminate this requirement stating that it is essential for applicants and licensees to be able to obtain this information from the Commission.

Discussion. Although Welch did not file a petition for reconsideration on this issue, the Commission addresses his petition for review on our own motion. Welch overstates the relevance of antenna type, model, and manufacturer information to the determination of paging licensee service contours. Under our paging rules adopted in the *Part 22 Rewrite Order,* 59 FR 59502 (1994), service contours are calculated based on a formula that utilizes the transmitting antenna's effective radiated power (ERP) and height above average terrain (HAAT). Prior to 1994, the Commission used a different methodology to calculate service area contours that required licensees to provide more detailed information regarding each transmitter, including technical antenna information concerning antenna type and model. However, when the Commission replaced this approach with the formula-based approach of the *Part 22 Rewrite Order,* 59 FR 59502 (1994), antenna type and model information became irrelevant to the determination of service contours under the rules. Our decision to eliminate these technical filing requirements in the *ULS R&O* simply recognized the fact that the Commission no longer required this information as part of the paging licensing process. Under the revised rules, site-based paging applicants must still file other technical information regarding their facilities, including ERP, antenna height, and other information specified in section 22.529(c).

We conclude that in the few cases where antenna make and model information may be required to resolve an interference dispute, the procedures adopted in the *ULS R&O* adequately protect the interests of parties who may require this information. These procedures require Part 22 licensees to retain technical antenna information in their station records and to produce it to other parties within ten days of a request.

2. Service Code Classification of Private Land Mobile Services

Background. One petitioner suggested the Commission establish a new Public Service Pool and corresponding service codes for power and petroleum and railroad services and other critical infrastructure or public service entities.

Discussion. Retention of service codes eliminated in the *Refarming Second Report and Order* or the creation of a new Public Service Pool is beyond the scope of this proceeding.

3. Fixed Microwave Service Data Requirements

Background. One petitioner requests clarification that point-to-point microwave applicants do not need to specify a geographic area of operation on Form 601 because geographic area of service is not applicable to point-to-point operations.

Discussion. Although Form 601 requires identification of the geographic area of operation for certain services, we clarify that this requirement does not apply to point-to-point microwave services. Moreover, if an applicant electronically files an application for point-to-point microwave channels, the field requesting identification of geographic area of operation will be blocked automatically, preventing the applicant from incorrectly entering information in the field.

4. Amateur Radio Service Issues

a. Modifications to Amateur Application Form (Form 605)

Background. One petitioner requested various changes to Form 605 including: (1) Provision of a short-form specifically for Amateur Radio; (2) Exclusion from the requirement to provide telephone numbers and e-mail addresses; (3) Exclusion from certifying compliance with section 5301 of the Anti-Drug Abuse Act of 1988; and (4) Clarification of certain questions and instructions on Form 605, Schedule D. Another petitioner requested that Form 605 be modified to allow for inclusion of (1) Additional information regarding certifications by Volunteer Examiner Coordinators (VECs), and (2) Information concerning where and when an examination for a new or upgraded license was administered.

Discussion. We believe the Form 605 will provide for fast and easy filing by Amateur applicants, particularly if they file electronically. Similarly, we believe it is reasonable to request that Amateur applicants provide a telephone number and e-mail address. We clarify, however, that the provision of telephone and e-mail information by Amateur Radio applicants is optional as long as they provide a valid U.S. mailing address. We will also modify the Form 605 certification pertaining to the Anti-Drug Abuse Act to clarify that it does not apply to services, including Amateur Radio, that are exempted from this requirement under section 1.2002(c) of the rules.

b. Charges by Volunteer Examiner Coordinators

Background. A petitioner filed a Petition for Reconsideration and Request for Rule Making (Petition and Request) in reference to the *Electronic Filing of License Renewal and Modification Applications in the Amateur Radio Service Order* requesting that Volunteer Examiner Coordinators (VECs) not be allowed to charge fees for renewals or modification of amateur licenses. With respect to fees for renewals and modifications, this petitioner maintained that VECs may only be reimbursed for out-of-pocket expenses incurred in the examination procedure.

Discussion. Modifications and renewals performed by VECs do not fall within the provisions governing VEC reimbursement that apply to activities related to conducting examinations for amateur operator license applicants. Compensation, if any, the VEC organization receives as a result of assisting with renewals and modifications is a matter that is between the Amateur operator choosing to use the organization's services and the organization.

c. Issuance of License Documents

Background. One petitioner stated that a legal and practical necessity still exists for Amateur operators to receive a license document issued by the Commission.

Discussion. Amateur operators will continue to receive a printed license generated by ULS shortly after their licensing data has been entered into the ULS database.

d. Club Station Call Sign Administrators

Background. One petitioner requested several new rules concerning Club Station Call Sign Administrators (CSCSAs).

Discussion. We retain our current requirement that CSCSAs retain application information for 15 months, which is the same requirement applicable to retention of such information by VECs. We confirm that assignment of call signs to club stations will be based on the sequential call sign system used by all Amateur operators.

e. Other Amateur Issues

Background. One petitioner requested that (1) United States citizens who are also citizens of other countries should not receive reciprocal authorization and that a reciprocal licensee must be a citizen of the country which issued the basic amateur radio license; (2) Clarification of various operating privileges; and (3) That all requirements

pertaining to Amateur Radio should appear in only one rule part and not appear in Part 1.

Discussion. On our own motion, we make certain non-substantive amendments and corrections to our Amateur rules to eliminate duplicative rules and conform them with our consolidated ULS rules. Specifically, we revise section 97.15 to conform it with Part 17 of the rules and to restore a rule section that was inadvertently removed by the *ULS R&O.* We also delete language in sections 97.17 and 97.21 regarding administering Volunteer Examiner requirements that duplicates other rule sections.

5. General Mobile Radio Service Issues

In the *ULS R&O,* we adopted numerous changes to the General Mobile Radio Service (GMRS) to eliminate rules that had become duplicative or otherwise unnecessary to our regulatory responsibilities, as well as to ensure that our streamlined licensing process collects the minimum information needed of GMRS licensees and applicants.

On June 1, 1999, in response to several petitions, we adopted a partial stay order in which we determined that it was in the public interest to stay the effectiveness of our new rule, section 95.29(e)—which restricts the use of the 462.675 MHz/467.675 MHz channel pair to traveler's assistance and emergency use—pending resolution of the petitions. Also, as an initial matter, we conclude that because the ''repeater'' definition adopted in the *ULS R&O* describes the usage characteristics outlined in the now-removed rule section describing mobile relay station communication points (§ 95.57) and limited by our rule describing available channels (§ 95.29), our definition is consistent with both our former rules and current practice.

a. Channeling Plan

In the *ULS R&O,* we adopted an ''all-channel'' usage plan, which authorized stations to transmit on any authorized channel from any geographic location where the FCC regulates communication, but restricted use of the 462.675 MHz/467.675 MHz channel pair to emergency and traveler's assistance use. Consistent with the actions we took in the *PRSG Stay Order,* FCC 99–129 (rel. June 9, 1999), we allow unrestricted use of the of the 462.675 MHz/467.675 MHz channel pair by all eligible GMRS licensees. We conclude that allowing use of the 462.675 MHz/467.675 MHz channel pair in the same way that GMRS users may use any other channel pair will not hinder emergency and traveler's assistance communications, and remove the restriction on use of the 462.675 MHz/467.675 MHz channel pair.

b. Use of Repeaters

In the *ULS R&O,* we also determined that the points of communication rules should be eliminated. To remove any misconceptions, we include in our rules a statement that limiting the use of a repeater to certain user stations is permissible. Repeater owners, as part of management of their GMRS systems, are free to decide what means of control, if any, are necessary. We disagree with one commenter's argument that removal of the points-of-communication rules pertaining to repeater use makes the GMRS rules ''in judicial noncompliance'' with the U.S. Criminal Code. The commenter did not attempt to describe how the unauthorized use of a GMRS repeater satisfies the elements of the crime described in the statue, nor how the statute places such a restriction on the Commission.

c. GMRS Licensing by Non-Personal Licensees

Under our GMRS rules, non-individual licensees (who would be ineligible to obtain a license for a new GMRS system under our current rules) are allowed to maintain existing systems under ''grandfathering'' provisions, but are prohibited from modifying or expanding their operations beyond their current authorization. Our treatment of, and procedures with respect to, ''grandfathered'' GMRS licensees have not changed. Section 95.5 of our Rules expressly prohibits grandfathered non-individual GMRS licensees from making major modifications to an existing system license. To remove any possible ambiguity, however, we add a cross-reference in section 95.5 to section 1.92 and clarify the point that the major modifications listed in the part 1 rules apply to GMRS.

We also take this opportunity to resolve a pending petition for rulemaking which had requested organizational licensing eligibility under GMRS in order to support disaster service organizations. Organizational licensing had already been rejected in a 1988 restructuring of GMRS, and the petition offered no additional basis for reconsidering that decision. We dismiss the petition and decline to alter the eligibility rules as adopted in the *ULS R&O.*

One petitioner suggests that FCC Form 605 is inappropriate for non-individual licensees, as they will continue to need to specify certain technical data. These ''grandfathered'' licensees will be required to operate in accordance with certain technical specifications no longer required of individual licensees, and are also prohibited from making major modifications to their systems. Thus, we have no need for these licensees to specify technical data.

d. Technical Issues

One petitioner asks that we update our rules to define a ''channel pair.'' Under our ''all-channel'' usage plan, we clarify that a channel pair consists of one 462 MHz frequency and one 467 MHz frequency, and revise §§ 95.29(a) and (b) to reflect this concept. We do not agree that a channel pair must consist of two channels exactly 5.000 MHz apart.

GMRS users continue to have a responsibility under § 95.7(a) of our rules to ''cooperate in the selection and use of channels to reduce interference and to make the most effective use of the facilities,'' Our new rules under § 95.29 support this policy by allowing GMRS users the flexibility to select the best channel at any given time or place, and this flexibility is not intended to allow GMRS users to introduce practices that create additional interference or result in inefficient use of spectrum to the detriment of other GMRS users.

The *ULS R&O* defined ''repeater'' to clarify its meaning for GMRS licensees and users with commonly accepted GMRS terminology. One petitioner claims that our use of the term ''simultaneously'' excludes many repeaters from our technical definition. By ''simultaneously,'' we mean that the repeater initiates the retransmission of a communication at the same time it is still receiving that communication. We distinguish this from ''instantaneous,'' by which we mean receipt and retransmission without delay. Stations that cannot engage in simultaneous receipt and retransmission of communications do not fall within the definition of a ''repeater'' and thus may not use the channels designated for repeater use. The operation of stations in this configuration is no different than the operation of any two other GMRS stations transmitting on the same channel. Our rules sharply restrict GMRS communications from any station, prohibiting, *inter alia,* communications intended for mass media broadcast and messages to amateur stations.

In the *ULS R&O,* we modified § 95.179(a) to remove the requirement that eligible immediate family members must live in the same household as the individual GMRS licensees, as we do

not collect that information and that distinction is largely unenforceable. We did not modify § 95.179(d). Accordingly, we conclude that §§ 95.179(a) and 95.179(d) are not contradictory, as they are subsections of a general rule describing who may be station operators.

III. CONCLUSION

In this proceeding, the Commission addresses petitions for reconsideration of our *Report and Order* in the Universal Licensing proceeding. In this order, we substantially uphold the decisions made in the *ULS R&O,* but we make certain revisions and clarifications to our rules in response to the petitions and on our own motion.

IV. PROCEDURAL MATTERS

A. Regulatory Flexibility Act

Supplementary Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (''RFA''), an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated in the *Notice of Proposed Rule Making,* 63 FR 16938, April 7, 1998, in WT Docket No. 98–20. The Commission sought written public comment on the proposals in the *Notice of Proposed Rule Making,* including comment on the IRFA. A Final Regulatory Flexibility Analysis (''FRFA'') was incorporated in the *ULS R&O,* and the Commission received no petitions for reconsideration on any issues related to the FRFA. This present Supplemental Final Regulatory Flexibility Analysis conforms to the RFA, *see* 5 U.S.C. 604, and accompanies this *MO&O,* which addresses petitions for reconsideration submitted regarding the *ULS R&O.*

A. Need for and objectives of this Memorandum Opinion and Order on Reconsideration

In this rulemaking the Commission consolidates, revises, and streamlines its rules governing license application procedures for radio services licensed by the Bureau (Bureau). *See* the description in section D, *infra.* The rule changes effected by this *Memorandum Opinion and Order on Reconsideration* will further implement the policy changes put in place by the *ULS R&O.*

B. Summary of significant issues raised by public comments in response to the Final Regulatory Flexibility Analysis (FRFA)

No petitions for reconsideration were filed with respect to the Final Regulatory Flexibility Analysis contained in the *ULS R&O.* This *MO&O* is consistent with and does not materially change the Final Regulatory Flexibility Analysis, pursuant to the Regulatory Flexibility Act, *see* 5 U.S.C. 604, contained in *ULS R&O,* with the exception of the projected reporting, recordkeeping and other compliance requirements and the professional skills needed to prepare any records or reports.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

As noted above, a Final Regulatory Flexibility Analysis was incorporated into the *ULS R&O.* In that analysis, we described in detail the small entities that might be significantly affected by the rules adopted in the *ULS R&O.* Those entities may be found in a number of wireless services including: cellular radiotelephone service, broadband and narrowband PCS, paging, air-ground radiotelephone service, specialized mobile radio service, private land mobile radio service, aviation and marine radio service, offshore radiotelephone service, general wireless telecommunications service, fixed microwave service, commercial radio operators, amateur radio services, personal radio services, public safety radio services and governmental entities, rural radiotelephone service, marine coast service, and wireless communications service. In this present Supplemental Final Regulatory Flexibility Analysis, we hereby incorporate by reference the description and estimate of the number of small entities from the previous FRFA in this proceeding.

The rule changes in this *MO&O* will affect all small businesses filing new wireless radio service license applications or modifying or renewing an existing license. To the extent that a rule change here affects a particular wireless service, our estimates, contained in Appendix B of the *ULS R&O,* remain valid as to the size of those services.

D. Description of the projected reporting, recordkeeping, and other compliance requirements

We will amend sections 22.529, 22.709, 22.803, and 22.929 so as to make those rules conform with the *ULS R&O.* Part 22 Licensees will no longer need to file certain categories of antenna information with the Commission. The licensees will need to keep that information on file and produce it within ten days of receiving a request for such information from other licensees or applicants. This policy change was already assessed in the Final Regulatory Flexibility Analysis. In addition, section 1.928 (''Frequency Coordination, Canada'') reinstates a rule that was inadvertently removed.

E. Steps taken to minimize significant economic impact on small entities, and significant alternatives considered:

As noted in the Part E, Appendix B, *ULS R&O,* the development of the ULS will greatly reduce the cost of preparing wireless applications and pleadings, while increasing the speed of the licensing process. We expect that these changes will benefit all firms and businesses, including small entities. The changes made in the *MO&O* are consistent with our Final Regulatory Flexibility Analysis. The Universal Licensing System will continue to present tremendous advantages for small businesses because it permits access to licensing information at tremendously reduced costs.

F. Report to Congress

The Commission shall send a copy of this Memorandum Opinion and Order, including this Supplemental Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. 801(a)(1)(A). A copy of the Memorandum Opinion and Order and Supplemental Final Regulatory Flexibility Analysis (or a summaries, thereof) will be published in the **Federal Register**. *See* 5 U.S.C. 604(b). A copy of the Memorandum Opinion and Order and Supplemental Final Regulatory Flexibility Analysis will also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

B. Paperwork Reduction Act (PRA)

Paperwork Reduction Act Analysis:

Dates: Written comments by the public on the modified information collections are due November 1, 1999. Written comments must be submitted by OMB on the information collections on or before November 30, 1999.

Address: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov; and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, NW, Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

Further Information: For additional information concerning the information collections contained in this *MO&O* contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

Supplementary Information: This *MO&O* contains a modified information collection, which has been submitted to the Office of Management and Budget for approval. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on the information collection contained in this *MO&O*, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public comments should be submitted to OMB and the Commission, and are due thirty days from date of publication of this *MO&O* in the **Federal Register**. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) The accuracy of the Commission's burden estimates; (c) Ways to enhance the quality, utility, and clarity of the information collected; and (d) Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0865.

Title: Wireless Telecommunications Bureau Universal Licensing System Recordkeeping and Third Party Disclosure Requirements.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 62,790.

Estimated Time Per Response: Varies.

Total Annual Burden: 32,297.

Frequency of Response: On Occasion.

Total Annual Estimated Costs: No Additional Costs.

Needs and Uses: ULS establishes a streamlined set of rules that minimizes filing requirements; eliminates redundant, inconsistent, or unnecessary submission requirements; and assures ongoing collection of reliable licensing and ownership data. The recordkeeping and third party disclosure requirements contained in this collection are a result of the eliminate of a number of filing requirements. The ULS forms contain a number of certifications, which eliminated for a number of previous filing requirements. However, applicants must maintain records to document compliance with the requirements. In some instance applicants may also be required to coordinate activities with third parties prior to submitting applications.

IV. ORDERING CLAUSES

It Is Further Ordered that, pursuant to the authority of sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), 47 CFR Parts 1, 13, 22, 80, 87, 90, 95, 97, and 101 of the Commission's Rules are AMENDED as set forth in Rule Changes November 30, 1999 except for §§ 22.529(c), 22.709(f), 22.803(c), and 22.929(d) which contain modified information collection requirements that have not been approved by the Office of Management and Budget. The Commission will publish a document announcing the effective date of these sections in the **Federal Register**.

It Is Further Ordered that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this *Memorandum Opinion and Order on Reconsideration*, including the Supplemental Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

LIST OF SUBJECTS in 47 CFR Parts 1, 13, 22, 80, 87, 90, 95, 97, and 101

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 13, 22, 80, 87, 90, 95, 97, and 101 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 255, and 303(e).

2. Section 1.923 is amended by adding paragraph (i) to read as follows:

§ 1.923 Content of applications.

* * * * *

(i) Unless an exception is set forth elsewhere in this chapter, each applicant must specify an address where the applicant can receive mail delivery by the United States Postal Service. This address will be used by the Commission to serve documents or direct correspondence to the applicant.

3. Section 1.927 is amended by revising paragraph (a) to read as follows:

§ 1.927 Amendment of applications.

(a) Pending applications may be amended as a matter of right if they have not been designated for hearing or listed in a public notice as accepted for filing for competitive bidding, except as provided in paragraphs (b) through (e) of this section.

* * * * *

Section 1.928 is added to read as follows:

§ 1.928 Frequency coordination, Canada.

(a) As a result of mutual agreements, the Commission has, since May 1950 had an arrangement with the Canadian Department of Communications for the exchange of frequency assignment information and engineering comments on proposed assignments along the Canada-United States borders in certain bands above 30 MHz. Except as provided in paragraph (b) of this section, this arrangement involves assignments in the following frequency bands.

MHz

30.56–32.00
33.00–34.00
35.00–36.00
37.00–38.00
39.00–40.00
42.00–46.00
47.00–49.60
72.00–73.00
75.40–76.00
150.80–174.00
450–470
806.00–960.00
1850.0–2200.0
2450.0–2690.0
3700.0–4200.0
5925.0–7125.0

GHz

10.55–10.68
10.70–13.25

(b) The following frequencies are not involved in this arrangement because of the nature of the services:

MHz

156.3
156.35
156.4
156.45
156.5
156.55
156.6
156.65
156.7
156.8
156.9
156.95
157.0 and 161.6

157.05
157.1
157.15
157.20
157.25
157.30
157.35
157.40.

(c) Assignments proposed in accordance with the railroad industry radio frequency allotment plan along the United States-Canada borders utilized by the Federal Communications Commission and the Department of Transport, respectively, may be excepted from this arrangement at the discretion of the referring agency.

(d) Assignments proposed in any radio service in frequency bands below 470 MHz appropriate to this arrangement, other than those for stations in the Domestic Public (land mobile or fixed) category, may be excepted from this arrangement at the discretion of the referring agency if a base station assignment has been made previously under the terms of this arrangement or prior to its adoption in the same radio service and on the same frequency and in the local area, and provided the basic characteristics of the additional station are sufficiently similar technically to the original assignment to preclude harmful interference to existing stations across the border.

(e) For bands below 470 MHz, the areas which are involved lie between Lines A and B and between Lines C and D, which are described as follows:

Line A—Begins at Aberdeen, Wash., running by great circle arc to the intersection of 48 deg. N., 120 deg. W., thence along parallel 48 deg. N., to the intersection of 95 deg. W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45 deg. N., 85 deg. W., thence southward along meridian 85 deg. W., to its intersection with parallel 41 deg. N., thence along parallel 41 deg. N., to its intersection with meridian 82 deg. W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southern-most point of Searsport, Maine, at which point it terminates; and

Line B—Begins at Tofino, B.C., running by great circle arc to the intersection of 50 deg. N., 125 deg. W., thence along parallel 50 deg. N., to the intersection of 90 deg. W., thence by great circle arc to the intersection of 45 deg. N., 79 deg. 30′ W., thence by great circle arc through the northernmost point of Drummondville, Quebec (lat: 45 deg. 52′ N., long: 72 deg. 30′ W.), thence by great circle arc to 48 deg. 30′ N., 70 deg. W., thence by great circle arc through the northernmost point of Campbellton, N.B., thence by great circle arc through the northernmost point of Liverpool, N.S., at which point it terminates.

Line C— Begins at the intersection of 70 deg. N., 144 deg. W., thence by great circle arc to the intersection of 60 deg. N., 143 deg. W., thence by great circle arc so as to include all of the Alaskan Panhandle; and

Line D— Begins at the intersection of 70 deg. N., 138 deg. W., thence by great circle arc to the intersection of 61 deg. 20′ N., 139 deg. W., (Burwash Landing), thence by great circle arc to the intersection of 60 deg. 45′ N., 135 deg. W., thence by great circle arc to the intersection of 56 deg. N., 128 deg. W., thence south along 128 deg. meridian to Lat. 55 deg. N., thence by great circle arc to the intersection of 54 deg. N., 130 deg. W., thence by great circle arc to Port Clements, thence to the Pacific Ocean where it ends.

(f) For all stations using bands between 470 MHz and 1000 MHz; and for any station of a terrestrial service using a band above 1000 MHz, the areas which are involved are as follows:

(1) For a station the antenna of which looks within the 200 deg. sector toward the Canada-United States borders, that area in each country within 35 miles of the borders;

(2) For a station the antenna of which looks within the 160 deg. sector away from the Canada-United States borders, that area in each country within 5 miles of the borders; and

(3) The area in either country within coordination distance as described in Recommendation 1A of the Final Acts of the EARC, Geneva, 1963 of a receiving earth station in the other country which uses the same band.

(g) Proposed assignments in the space radiocommunication services and proposed assignments to stations in frequency bands allocated coequally to space and terrestrial services above 1 GHz are not treated by these arrangements. Such proposed assignments are subject to the regulatory provisions of the International Radio Regulations.

(h) Assignments proposed in the frequency band 806–890 MHz shall be in accordance with the Canada-United States agreement, dated April 7, 1982.

5. Section 1.929 is amended by revising paragraphs (b)(2), (c)(4)(i), (c)(4)(iii), (c)(4)(v), and (d) to read as follows:

§ 1.929 Classification of filings as major or minor.

* * * * *

(b) * * *

(2) Request that a CGSA boundary or portion of a CGSA boundary be determined using an alternative method; or,

* * * * *

(c) * * *

(4) In the Private Land Mobile Radio Services (PLMRS) and in GMRS systems licensed to non-individuals:

(i) Change in frequency or modification of channel pairs;

* * * * *

(iii) Change in effective radiated power from that authorized or, for GMRS systems licensed to non-individuals, an increase in the transmitter power of a station;

* * * * *

(v) Change in the authorized location or number of base stations, fixed, control, or, for systems operating on non-exclusive assignments in GMRS or the 470–512 MHz, 800 MHz or 900 MHz bands, a change in the number of mobile transmitters, or a change in the area of mobile transmitters, or a change in the area of mobile operations from that authorized;

* * * * *

(d) In the microwave services:

(1) Except as specified in paragraph (d)(2) and (d)(3) of this section, the following, in addition to those filings listed in paragraph (a) of this section, are major actions that apply to stations licensed to provide fixed point-to-point, point-to-multipoint, or multipoint-to-point, communications on a site-specific basis, or fixed or mobile communications on an area-specific basis under Part 101 of this chapter:

(i) Any change in transmit antenna location by more than 5 seconds in latitude or longitude for fixed point-to-point facilities (*e.g.*, a 5 second change in latitude, longitude, or both would be minor); any change in coordinates of the center of operation or increase in radius of a circular area of operation, or any expansion in any direction in the latitude or longitude limits of a rectangular area of operation, or any change in any other kind of area operation;

(ii) Any increase in frequency tolerance;

(iii) Any increase in bandwidth;

(iv) Any change in emission type;

(v) Any increase in EIRP greater than 3 dB;

(vi) Any increase in transmit antenna height (above mean sea level) more than 3 meters, except as specified in paragraph (d)(3) of this section;

(vii) Any increase in transmit antenna beamwidth, except as specified in paragraph (d)(3) of this section;

(viii) Any change in transmit antenna polarization;

(ix) Any change in transmit antenna azimuth greater than 1 degree, except as specified in paragraph (d)(3) of this section ; or,

(x) Any change which together with all minor modifications or amendments since the last major modification or amendment produces a cumulative

effect exceeding any of the above major criteria.

(2) Changes to transmit antenna location of Multiple Address System (MAS) Remote Units and Digital Electronic Message Service (DEMS) User Units are not major.

(3) Changes in accordance with paragraphs (d)(1)(vi), (d)(1)(vii) and (d)(1)(ix) of this section are not major for the following:

(i) Fixed Two-Way MAS on the remote to master path,

(ii) Fixed One-Way Inbound MAS on the remote to master path,

(iii) Multiple Two-Way MAS on the remote to master and master to remote paths,

(iv) Multiple One-Way Outbound MAS on the master to remote path,

(v) Mobile MAS Master,

(vi) Fixed Two-Way DEMS on the user to nodal path, and

(vii) Multiple Two-Way DEMS on the nodal to user and user to nodal paths.

Note to paragraph (d)(3) of § 1.929: For the systems and path types described in paragraph (d)(3) of this section, the data provided by applicants is either a typical value for a certain parameter or a fixed value given in the Form instructions.

* * * * *

6. Section 1.939 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 1.939 Petitions to deny.

* * * * *

(b) *Filing of petitions.* Petitions to deny and related pleadings may be filed electronically via ULS. Manually filed petitions to deny must be filed with the Office of the Secretary, 445 Twelfth Street, S.W., Room TW-B204, Washington, DC 20554. * * *

* * * * *

7. Section 1.947 is amended by revising paragraph (b) to read as follows:

§ 1.947 Modification of licenses.

* * * * *

(b) Licensees may make minor modifications to station authorizations, as defined in § 1.929 of this part (other than pro forma transfers and assignments), as a matter of right without prior Commission approval. Where other rule parts permit licensees to make permissive changes to technical parameters without notifying the Commission (e.g., adding, modifying, or deleting internal sites), no notification is required. For all other types of minor modifications (e.g., name, address, point of contact changes), licensees must notify the Commission by filing FCC Form 601 within thirty (30) days of implementing any such changes.

* * * * *

8. Section 1.955 is revised amended by revising both paragraph (a)(1) after the first sentence and the last sentence of paragraph (b)(2) to read as follows:

§ 1.955 Termination of authorizations.

(a) * * *

(1) * * * *See* § 1.949 of this part. No authorization granted under the provisions of this part shall be for a term longer than ten years.

* * * * *

(b) * * *

(2) * * * *See* § 1.946(c) of this part.

* * * * *

PART 13—COMMERCIAL RADIO OPERATORS

9. The authority citation for part 13 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154 and 303, unless otherwise noted.

10. Section 13.8 is added to read as follows:

§ 13.8 Authority conveyed.

Licenses, certificates and permits issued under this part convey authority for the operating privileges of other licenses, certificates, and permits issued under this part as specified below:

(a) First Class Radiotelegraph Operator's Certificate conveys all of the operating authority of the Second Class Radiotelegraph Operator's Certificate, the Third Class Radiotelegraph Operator's Certificate, the Restricted Radiotelophone Operator Permit, and the Marine Radio Operator Permit.

(b) A Second Class Radiotelegraph Operator's Certificate conveys all of the operating authority of the Third Class Radiotelegraph Operator's Certificate, the Restricted Radiotelophone Operator Permit, and the Marine Radio Operator Permit.

(c) A Third Class Radiotelegraph Operator's Certificate conveys all of the operating authority of the Restricted Radiotelophone Operator Permit and the Marine Radio Operator Permit.

(d) A General Radiotelephone Operator License conveys all of the operating authority of the Marine Radio Operator Permit.

(e) A GMDSS Radio Operator's License conveys all of the operating authority of the Marine Radio Operator Permit.

(f) A GMDSS Radio Maintainer's License conveys all of the operating authority of the General Radiotelephone Operator License and the Marine Radio Operator Permit.

11. Section 13.10 is added to read as follows:

§ 13.10 Licensee Address

In accordance with § 1.923 of this chapter all applicants must specify an address where the applicant can receive mail delivery by the United States Postal Service except as specified below:

(a) Applicants for a Restricted Radiotelephone Operator Permit;

(b) Applicants for a Restricted Radiotelephone Operator Permit—Limited Use.

PART 22—PUBLIC MOBILE SERVICES

12. The authority citation for part 22 continues to read as follows:

Authority: Secs. 4, 303, 309 and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 309 and 332, unless otherwise noted.

13–14. Section 22.165 is amended by removing the term ''COSA'' and add, each place it appears, the term ''CGSA'' in paragraph (e).

15. Section 22.529 is amended by revising the introductory text and by adding paragraph (c) to read as follows:

§ 22.529 Application requirements for the Paging and Radiotelephone Service.

In addition to information required by subparts B and D of this part, applications for authorization in the Paging and Radiotelephone Service contain required information as described in the instructions to the form. Site coordinates must be referenced to NAD83 and be correct to +-1 second.

* * * * *

(c) Upon request by an applicant, licensee, or the Commission, a part 22 applicant or licensee of whom the request is made shall furnish the antenna type, model, and the name of the antenna manufacturer to the requesting party within ten (10) days of receiving written notification.

16. Section 22.709 is amended by adding paragraph (f) to read as follows:

§ 22.709 Rural radiotelephone service application requirements.

* * * * *

(f) *Antenna Information.* Upon request by an applicant, licensee, or the Commission, a part 22 applicant or licensee of whom the request is made shall furnish the antenna type, model, and the name of the antenna manufacturer to the requesting party within ten (10) days of receiving written notification.

17. Section 22.803 is amended by adding paragraph (c) to read as follows:

§ 22.803 Air-ground application requirements

* * * * *

(c) Upon request by an applicant, licensee, or the Commission, a part 22 applicant or licensee of whom the request is made shall furnish the antenna type, model, and the name of the antenna manufacturer to the requesting party within ten (10) days of receiving written notification.

18. Section 22.929 is amended by revising the introductory text and by adding paragraph (d) to read as follows:

§ 22.929 Application requirements for the Cellular Radiotelephone Service.

In addition to information required by subparts B and D of this part, applications for authorization in the Cellular Radiotelephone Service contain required information as described in the instructions to the form. Site coordinates must be referenced to NAD83 and be correct to ±1 second.

* * * * *

(d) *Antenna Information.* Upon request by an applicant, licensee, or the Commission, a cellular applicant or licensee of whom the request is made shall furnish the antenna type, model, and the name of the antenna manufacturer to the requesting party within ten (10) days of receiving written notification.

19. Section 22.946 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 22.946 Service commencement and construction periods for cellular systems.

(a) * * * The licensee must notify the FCC (FCC Form 601) after the requirements of this section are met (*see* § 1.946 of this chapter).

* * * * *

§ 22.953 [Amended]

20. In § 22.953 remove paragraph (a)(5).

PART 80—STATIONS IN THE MARITIME SERVICES

21. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, and 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

22. Section 80.59 is amended by revising the last sentence of paragraph (c)(2) to read as follows:

§ 80.59 Compulsory ship inspections.

* * * * *

(c) * * *

(2) * * * Emergency requests must be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, S.W., TW–B204, Washington, D.C. 20554.

* * * * *

PART 87—AVIATION SERVICES

23. The authority citation for Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 307(e), unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

§ 87.25 [Amended]

24. In § 87.25 remove paragraph (a).

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

25. The authority citation for Part 90 continues to read as follows:

Authority: Secs. 4, 251–2, 303, 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 251–2, 303, 309, and 332, unless otherwise noted.

26. Section 90.167 is amended by revising the subject heading to read as follows:

§ 90.167 Time in which a station must commence service.

* * * * *

27. Section 90.693 is amended by adding a sentence at the end of paragraphs (b), (c), (d)(1), and (d)(2):

§ 90.693 Grandfathering provisions for incumbent licensees.

* * * * *

(b) * * * Pursuant to the minor modification notification procedure set forth in 1.947(b), the incumbent licensee must notify the Commission within 30 days of any changes in technical parameters or additional stations constructed that fall within the short-spacing criteria. See 47 CFR 90.621(b).

(c) * * * Pursuant to the minor modification notification procedure set forth in 1.947(b), the incumbent licensee must notify the Commission within 30 days of any changes in technical parameters or additional stations constructed that fall within the short-spacing criteria. See 47 CFR 90.621(b).

(d) Consolidated license.

(1) * * * Incumbents exercising this license exchange option must submit specific information on Form 601 for each of their external base sites after the close of the 800 MHz SMR auction.

(2) * * * Incumbents exercising this license exchange option must submit specific information on Form 601 for each of their external base sites after the close of the 800 SMR auction.

PART 95—PERSONAL RADIO SERVICES

28. The authority citation for part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154 and 303.

29. Section 95.5 is revised to read as follows:

§ 95.5 Licensee eligibility.

(a) An *individual* (one man or one woman) is eligible to obtain, renew, and have modified a GMRS system license if that individual is 18 years of age or older and is not a representative of a foreign government.

(b) A *non-individual* (an entity other than an individual) is ineligible to obtain a new GMRS system license or make a major modification to an existing GMRS system license (*see* § 1.929 of this chapter).

(c) A GMRS system licensed to a non-individual before July 31, 1987, is eligible to renew that license and all subsequent licenses based upon it if:

(1) The non-individual is a partnership and each partner is 18 years of age or older; a corporation; an association; a state, territorial, or local government unit; or a legal entity;

(2) The non-individual is not a foreign government; a representative of a foreign government; or a federal government agency; and

(3) The licensee has not been granted a major modification to its GMRS system.

30. Section 95.7 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 95.7 Channel sharing.

(a) Channels or channel pairs (one 462 MHz frequency listed in § 95.29(a) of this part and one 467 MHz frequency listed in § 95.29(b) of this part) are available to GMRS systems only on a shared basis and will not be assigned for the exclusive use of any licensee. * * *

* * * * *

31. Section 95.29 is amended by revising paragraphs (a) and (b) and by removing and reserving paragraph (e) to read as follows:

§ 95.29 Channels available.

(a) For a base station, fixed station, mobile station, or repeater station (a GMRS station that simultaneously retransmits the transmission of another GMRS station on a different channel or channels), the licensee of the GMRS system must select the transmitting channels or channel pairs (*see* § 95.7(a) of this part) for the stations in the GMRS system from the following 462 MHz channels: 462.5500, 462.5750, 462.6000,

462.6250, 462.6500, 462.6750, 462.7000 and 462.7250.

(b) For a mobile station, control station, or fixed station operated in the duplex mode, the following 467 MHz channels may be used only to transmit communications through a repeater station and for remotely controlling a repeater station. The licensee of the GMRS system must select the transmitting channels or channel pairs (*see* § 95.7(a) of this part) for the stations operated in the duplex mode, from the following 467 MHz channels: 467.5500, 467.5750, 467.6000, 467.6250, 467.6500, 467.6750, 467.7000 and 467.7250.

* * * * *

(e) [Reserved]

* * * * *

32. Section 95.101 is amended to add paragraph (d) to read as follows:

§ 95.101 What the license authorizes.

* * * * *

(d) For non-individual licensees, the license together with the system specifications for that license as maintained by the Commission represent the non-individual licensees' maximum authorized system.

33. Section 95.103 is amended by revising paragraphs (a) and (b) to read as follows:

§ 95.103 Licensee duties.

(a) The licensee is responsible for the proper operation of the GMRS system at all times. The licensee is also responsible for the appointment of a station operator.

(b) The licensee may limit the use of repeater to only certain user stations.

* * * * *

PART 97—AMATEUR RADIO SERVICE

34. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended: 47 U.S.C. 151–155, 301–609, unless otherwise noted.

35. Section 97.15 is revised to read as follows:

§ 97.15 Station antenna structures.

(a) Owners of certain antenna structures more than 60.96 meters (200 feet) above ground level at the site or located near or at a public use airport must notify the Federal Aviation Administration and register with the Commission as required by part 17 of this chapter.

(b) Except as otherwise provided herein, a station antenna structure may be erected at heights and dimensions sufficient to accommodate amateur service communications. (State and local regulation of a station antenna structure must not preclude amateur service communications. Rather, it must reasonably accommodate such communications and must constitute the minimum practicable regulation to accomplish the state or local authority's legitimate purpose. *See* PRB–1, 101 FCC 2d 952 (1985) for details.)

36. Section 97.17 is amended by revising paragraphs (b)(1) and (c) to read as follows.

§ 97.17 Application for new license grant.

* * * * *

(b) * * *

(1) Each candidate for an amateur radio operator license which requires the applicant to pass one or more examination elements must present the administering VEs with all information required by the rules prior to the examination. The VEs may collect all necessary information in any manner of their choosing, including creating their own forms.

* * * * *

(c) No person shall obtain or attempt to obtain, or assist another person to obtain or attempt to obtain, an amateur service license grant by fraudulent means.

* * * * *

37. Section 97.21 is amended by revising paragraph (a)(2) to read as follows:

§ 97.21 Application for a modified or renewed license.

(a) * * *

(2) May apply to the FCC for a modification of the operator/primary station license grant to show a higher operator class. Applicants must present the administering VEs with all information required by the rules prior to the examination. The VEs may collect all necessary information in any manner of their choosing, including creating their own forms.

* * * * *

PART 101—FIXED MICROWAVE SERVICES

38. The authority citation for Part 101 continues to read as follows:

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

39. Section 101.705 is revised to read as follows:

§ 101.705 Special showing for renewal of common carrier station facilities using frequency diversity.

Any application for renewal of license, for a term commencing January 1, 1975, or after, involving facilities utilizing frequency diversity must contain a statement showing compliance with § 101.103(c) or the exceptions recognized in paragraph 141 of the *First Report and Order* in Docket No. 18920 (29 FCC 2d 870). (This document is available at: Federal Communications Commission, Library (Room TW–B505), 445 Twelfth Street, SW, Washington, DC) If not in compliance, a complete statement with the reasons therefore must be submitted.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 96–115; FCC 99–223]

Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reconsiders the first CPNI order, addresses petitions for forbearance from the requirements of that order, and establishes rules to implement section 222. The intended effect is to further Congress' goals of fostering competition in telecommunications markets and ensure the privacy of customer information.

DATES: All of these rules contain information collection requirements that have not yet 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.

FOR FURTHER INFORMATION CONTACT: Eric Einhorn, Attorney Adviser, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580 or via the Internet at eeinhorn@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order adopted August 16, 1999, and released September 3, 1999. The full text of this Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S. W., Room CY–A257, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc99223.wp, or may be

purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N. W., Washington, D.C. 20036.

Regulatory Flexibility Certification:

As required by the Regulatory Flexibility Act, the Order contains a Final Regulatory Flexibility. A brief description of the analysis follows. Pursuant to section 604 of the Regulatory Flexibility Act, the Commission performed a comprehensive analysis of the Order with regard to small entities. This analysis includes: (1) A succinct statement of the need for, and objectives of, the Commission's decisions in the Order; (2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the Commission's assessment of these issues, and a statement of any changes made in the Order as a result of the comments; (3) a description of and an estimate of the number of small entities to which the Order will apply; (4) a description of the projected reporting, recordkeeping and other compliance requirements of the Order, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for compliance with the requirement; (5) a description of the steps the Commission has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the Order and why each one of the other significant alternatives to each of the Commission's decisions which affect small entities was rejected.

Synopsis of Order

I. Introduction

1. On February 26, 1998, the Commission released the *CPNI Order,* 63 FR 20326, April 24, 1998, adopting rules implementing the new statutory framework governing carrier use and disclosure of customer proprietary network information (CPNI) created by section 222 of the Communications Act (hereinafter ''the Act''). CPNI includes, among other things, to whom, where, and when a customer places a call, as well as the types of service offerings to which the customer subscribes and the extent the service is used.

2. This order on reconsideration is issued in response to a number of petitions for reconsideration, forbearance, and/or clarification of the *CPNI Order.* In this order we modify the *CPNI Order,* in part, to preserve the consumer protections mandated by Congress while more narrowly tailoring our rules, where necessary, to enable telecommunications carriers to comply with the law in a more flexible and less costly manner.

3. The Telecommunications Act of 1996 (1996 Act) became law on February 8, 1996. Although most of the provisions in the 1996 Act aim to implement Congress' intent that the 1996 Act ''provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition,'' section 222 addresses a different and additional goal. CPNI is extremely personal to customers as well as commercially valuable to carriers. As we stated in the *CPNI Order:* Congress recognized * * * that the new competitive market forces and technology ushered in by the 1996 Act had the potential to threaten consumer privacy interests. Congress, therefore, enacted section 222 to prevent consumer privacy protections from being inadvertently swept away along with the prior limits on competition.

4. As the Commission previously noted in the *CPNI Order,* section 222 is largely a consumer protection provision that establishes restrictions on carrier use and disclosure of personal customer information. The aim of section 222 stands in contrast to the other provisions of the 1996 Act that seek primarily to ''[open] all telecommunications markets to competition,'' and mandate competitive access to facilities and services. Section 222 reflects Congress' view that as competition increases, it brings with it the potential that consumer privacy interests will not be adequately protected by the marketplace. Thus, section 222 requires *all* carriers, whether or not a market is competitive, to protect CPNI and embodies the principle that customers must be able to control their personal information from unauthorized use, disclosure, and access by carriers. Where information is not specific to the customer, or where the customer so directs, section 222 permits the free flow or dissemination of information beyond the existing customer-carrier relationship.

5. In most circumstances, the constraints placed on carriers by section 222 only restrict the use or disclosure of CPNI *without* customer approval. When carriers are prevented from using a customer's CPNI by section 222, and the rules we promulgated in the *CPNI Order,* carriers need only obtain the customer's approval to use that customer's CPNI. Once a carrier has acquired customer approval, carrier use or disclosure of CPNI, in most cases, is unrestricted. Thus, section 222 enables customers to relinquish the presumption of privacy as they see fit.

6. Congress' determination in section 222 to balance competitive interests with consumers' interests in privacy and control over CPNI governed the Commission's reasoning and conclusions in the *CPNI Order.* This order is no different: we seek to carry out vigilantly Congress' consumer protection and privacy aims, while simultaneously reducing the burden of carrier compliance with section 222 by eliminating unnecessary expense and administrative oversight where customer privacy and control will not be sacrificed.

II. Overview

7. By this order, we respond to the requests for reconsideration, clarification and forbearance as follows:

(a) We deny the petitions for reconsideration which ask us to amend the CPNI rules to differentiate among telecommunications carriers.

(b) We decline to modify or forbear from the total service approach adopted in the *CPNI Order* because the total service approach keeps control over the use of CPNI with the customer and best protects privacy while furthering fair competition. We also clarify a number of aspects of the total service approach in response to petitioners' requests.

(c) We grant, in part, the petitions for reconsideration which request that we allow all carriers to use CPNI to market customer premises equipment (CPE) and information services under section 222(c)(1) without customer approval. We conclude that all carriers may use CPNI, without customer approval, to market CPE. We further conclude that CMRS carriers may use CPNI, without customer approval, to market all information services, while wireline carriers may do so for certain information services. We deny the petitions for forbearance on these issues.

(d) We eliminate the restrictions on a carrier's ability to use CPNI to regain customers who have switched to another carrier, contained in Section 64.2005(b)(3) of our rules. We find that ''winback'' campaigns are consistent with Section 222(c)(1). The Order concludes, however, that if a carrier uses information regarding a customer's decision to switch carriers derived from its wholesale operations to retain the

customer, such conduct violates the prohibitions in section 222(b) against use of proprietary information gained from another carrier in marketing efforts.

(e) We address various aspects of a customer's approval to use CPNI consistent with section 222. We also grandfather a limited set of pre-existing notifications to use CPNI and adopt the conclusions reached in the Common Carrier Bureau's *Clarification Order*, 63 FR 33890, June 22, 1998. We also eliminate, in an effort to reduce confusion and regulatory micro-management, § 64.2007(f)(4) of our rules, which requires a carrier's solicitation for approval, if written, to be on the same document as the carrier's notification. Further, we affirm our decision to exercise our preemption authority on a case-by-case basis for state rules that conflict with our own.

(f) We lessen the regulatory burden of various CPNI safeguards while continuing to require that carriers protect customer privacy. We modify our flagging requirement so that carriers must clearly establish the status of a customer's CPNI approval prior to the use of CPNI, but leave the specific details of compliance with the carriers. In so doing, we allow the carriers the flexibility to adapt their record keeping systems in a manner most conducive to their individual size, capital resources, culture and technological capabilities. Similarly, we amend our rules to eliminate the electronic audit trail requirement and instead require carriers to maintain a record of their sales and marketing campaigns that use CPNI.

(g) We affirm our conclusion in the *CPNI Order* that the most reasonable interpretation of the interplay between sections 222 and 272 is that section 272 does not impose any additional obligations on the Bell operating companies (BOCs) when they share their CPNI with their section 272 affiliates. We also adopt the Common Carrier Bureau's conclusion in the *Clarification Order* that a customer's name, address and telephone number are ''information'' for the purposes of section 272(c)(1), and consequently, if a BOC makes such information available to its 272 affiliate, it must then make it available to non-affiliated entities.

(h) We find that the relationship of sections 222 and 254 does not confer any special status to carriers seeking to use CPNI to market enhanced services and CPE in rural exchanges to select customers. Moreover, the Order rejects the contention that the Commission should apply the requirements of sections 201(b), 202(a) and 272 to incumbent local exchange carriers (ILECs) to impose a duty on ILECs to electronically transmit a customer's CPNI to any other entity that obtains a customer's oral approval to do so.

III. Background

A. The CPNI Order

8. On May 17, 1996, the Commission initiated a rulemaking, in response to various formal requests for guidance from the telecommunications industry, regarding the obligation of carriers under section 222 and related issues. The Commission subsequently released the *CPNI Order* on February 26, 1998. The *CPNI Order* addressed the scope and meaning of section 222, and promulgated regulations to implement that section. It concluded, among other things, as follows: (a) Carriers are permitted to use CPNI, without customer approval, to market offerings that are related to, but limited by, the customers' existing service relationship; (b) before carriers may use CPNI to market outside the customer's existing service relationship, carriers must obtain express written, oral, or electronic customer approval; (c) prior to soliciting customer approval, carriers must provide a one-time notification to customers of their CPNI rights; (d) in light of the comprehensive regulatory scheme established in section 222, the *Computer III* CPNI framework is unnecessary; and (e) sections 272 and 274 impose no additional CPNI requirements on the Bell Operating Companies (BOCs) beyond those imposed by section 222.

B. The Clarification Order

9. On May 21, 1998, in response to a number of requests for clarification of the *CPNI Order*, the Common Carrier Bureau released a *Clarification Order*. This order addressed several issues. It concluded that independently-derived information regarding customer premises equipment (CPE) and information services is not CPNI and may be used to market CPE and information services to customers in conjunction with bundled offerings. In addition, it clarified that a customer's name, address, and telephone number are not CPNI. Moreover, it stated that a carrier has met the requirements for notice and approval under section 222 and the Commission's rules if it has both provided annual notification to, and obtained prior written authorization from, customers with more than 20 access lines in accordance with the Commission's former CPNI rules. Finally, it determined that carriers are not required to file their certifications of corporate compliance, which carriers are required to issue by the *CPNI Order*, with the Commission.

C. The Stay Order

10. In the *CPNI Order*, the Commission required, among other things, that carriers develop and implement software systems that ''flag'' customer service records in connection with CPNI and that carriers maintain an electronic audit mechanism (''audit trail'') that tracks access to customer accounts. The Commission chose to defer the enforcement of these rules until eight months after the effective date of the rules: January 26, 1999. On September 24, 1998, however, the Commission stayed, until six months after the release date of an order addressing these issues on reconsideration, the enforcement of actions against carriers for noncompliance with applicable requirements set forth in the Commission's rules.

IV. Consistent Treatment for All Carriers

A. Incumbents vs. CLECs

11. Section 222(c)(1) restricts the ability of telecommunications carriers to use CPNI without customer approval. In the *CPNI Order*, we concluded that ''Congress did not intend to, and we should not at this time, distinguish among carriers for the purpose of applying Section 222(c)(1).'' We found, based upon the language of the statute itself, that section 222 applies to all carriers equally and, with few exceptions, does not distinguish among classes of carriers. Various parties on reconsideration, however, seek reversal of this conclusion. One group of petitioners advocates that we impose stricter CPNI restrictions on incumbent carriers than competitors, based upon the greater potential for anticompetitive use or disclosure of CPNI by ILECs. We previously rejected this very argument in the *CPNI Order*. These parties have not raised any arguments or facts that persuade us to reverse our conclusion that section 222 is intended to apply to all segments of the telecommunications marketplace regardless of the level of competition present in any segment. Accordingly, we affirm that section 222 does not distinguish between classes of carriers and applies to all carriers equally.

B. Wireline vs. Wireless

12. Congress enacted section 222 at a time when the wireless industry had been subject to less regulatory requirements than wireline carriers. Congress was fully aware that CMRS

providers, and CLECs for that matter, were to evolve in more competitive environments. Notwithstanding, there is nothing in the statute or its legislative history to indicate that Congress intended that the CPNI requirements in section 222 should not apply to wireless carriers. Given the opportunity to exclude competitive carriers from the scope of section 222, we must give meaning to the fact that Congress did not exempt them. Moreover, the underlying policy objective of section 222 is to protect *consumers,* while balancing competitive interests. We believe that the privacy interests of CMRS customers are no less deserving of protection than those of wireline customers, although the differences in customer expectations may warrant different approaches. We note too that this reconsideration lightens the impact of compliance with the CPNI rules on all carriers by providing flexibility for technological differences in administrative systems with regard to the electronic safeguards rules, which should be beneficial to all companies, including independent CMRS providers. Finally, we note that a few parties urge the Commission to forbear from enforcing CPNI obligations on CMRS providers generally. We address these arguments in Part V.B.3.d. Therefore, we deny those petitions for reconsideration that seek different treatment for CMRS carriers.

C. Small and Rural Carriers

13. As we noted in the *CPNI Order,* the Commission's CPNI rules apply to small carriers just as they apply to other sized carriers ''because we are unpersuaded that customers of small businesses have less meaningful privacy interests in their CPNI.'' Petitioners have not raised any new arguments or facts that persuade us to reverse this conclusion with respect to these carriers. Thus, we will not distinguish among carriers based upon the number or density of lines they serve either.

V. Carrier's Right to Use CPNI Without Customer Approval

A. The Total Service Approach

1. Background

14. In the CPNI Order, the Commission addressed the instances in which a carrier could use, disclose, or permit access to CPNI without prior customer approval under section 222(c)(1)(A). Section 222(c)(1) provides that a telecommunications carrier that receives or obtains CPNI by virtue of its ''provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable [CPNI] in the provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publication of directories.''

15. After considering the record, statutory language, history, and structure of section 222, we concluded that Congress intended that a carrier's use of CPNI without customer approval should depend on the service subscribed to by the customer. Accordingly, the Commission adopted the ''total service approach'' which allows carriers to use a customer's entire record, derived from complete service subscribed to from that carrier, to market improved services within the parameters of the existing customer-carrier relationship. The total service approach permits carriers to use CPNI to market offerings related to the customer's existing service to which the customer presently subscribes. Under the total service approach, the customer retains ultimate control over the permissible marketing use of CPNI, a balance which best protects customer privacy interests while furthering fair competition. Presented with the opportunity to permit or prevent a carrier from accessing CPNI for marketing purposes, the customer has the ability to determine the bounds of the carrier's use of CPNI.

2. Petitions for Reconsideration

16. GTE urges the Commission to reconsider the total service approach to allow carriers to use, without customer consent, CPNI derived from the provision of a package of telecommunications services in order to market other telecommunications services to which a customer does not subscribe. This ''package approach'' is only a slight variation of the ''single category approach,'' which we specifically analyzed and rejected in the *CPNI Order.* The single category approach would have permitted carriers to use CPNI obtained from the provision of any telecommunications service, including local or long distance or CMRS, to market any other service offered by the carrier, regardless of whether the customer subscribes to such service from that carrier.

17. We decline to grant GTE reconsideration on this issue because that would vitiate the total service approach and the attendant protection of a customer's sensitive information. The hallmark of the total service approach is that the customer, whose privacy is at issue, establishes the bounds of his or her relationship with the carrier. We note, however, that to the extent a customer already subscribes to a particular service or subscribes across services, GTE or any carrier can use the customer's CPNI to market or create enhancements to those services. Congress could not have intended an interpretation of section 222 that leaves the consumer without privacy protection. We concluded in the *CPNI Order,* and nothing has persuaded us otherwise here, that the total service approach best protects customer privacy while furthering fair competition. GTE seeks to use CPNI derived from the provision of certain telecommunications services to market other telecommunications services to which the customer does not subscribe. We conclude that this would not further the privacy goals that Congress sought to achieve in section 222. Over time, the total service approach rewards successful carriers who offer integrated packages by enabling marketing in more than one category but in a manner that respects customer privacy.

18. GTE requests, in the alternative, that the Commission adopt a rule that permits the use of CPNI for the limited purpose of identifying customers from whom it would like to solicit express, affirmative approval to use their CPNI for marketing out-of-category services. We conclude that such use of CPNI is implicit in section 222(c)(1) because the solicitation of approval is a logical prerequisite to actually obtaining approval. The carrier's use of CPNI under these limited circumstances, therefore, is merely a part of the process of obtaining approval. Thus, the use of CPNI for solicitations of approval to use CPNI to market services outside the bounds of the existing customer-carrier relationship necessarily falls under the customer approval exception stated in section 222(c)(1).

19. NTCA urges us to reconsider the total service approach because it is particularly disadvantageous to small, rural LECs looking to launch new service offerings. We addressed and rejected this argument in the *CPNI Order.* NTCA has presented no new evidence to persuade us that its members are disproportionately affected in any cognizable way by these requirements.

3. Petitions for Forbearance

20. Alternatively, GTE and Ameritech seek forbearance from the application of the total service approach to the marketing of out-of-category packages or service enhancements to customers. After careful review, we believe the forbearance test is not met. Forbearance

under section 10 of the Act is required where:

(1) Enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

(2) Enforcement of such regulation or provision is not necessary for the protection of consumers; and

(3) Forbearance from applying such provision or regulation is consistent with the public interest.

Section 10(b) provides that, in making the determination whether forbearance is consistent with the public interest, the Commission must consider whether forbearance will promote competitive market conditions, including the extent to which forbearance will enhance competition among providers of telecommunications services.

21. *Section 10(a)(1).* GTE and Ameritech assert that the ability to offer service packages will not result in unreasonable or discriminatory rates.

22. The primary focus of the CPNI rules is not, nor ever has been, intended to ensure reasonable rates or practices. Therefore, we determine that enforcement of the total service approach is not necessary to ensure that the charges, practices, classifications, or regulations are just and reasonable and are not unjustly or unreasonably discriminatory.

23. *Section 10(a)(2).* GTE asserts that prohibiting the use of CPNI without approval to market package enhancements is not necessary to protect consumers. Ameritech believes CPNI protection is not necessary where, like here, the use is consistent with customer expectations.

24. We conclude that the second criterion for forbearance is not met because customers' privacy interests would not be adequately protected absent the total service approach. GTE and Ameritech would have us forbear from enforcing the total service approach when consumer protection is a primary concern of section 222. Specifically, the customer approval process for the use of CPNI is necessary to protects customers' privacy expectations because, as stated in the CPNI Order, we do not believe that we can properly infer that a customer's decision to purchase one type of service offering constitutes approval for a carrier to use CPNI to market other service offerings to which the customer does not subscribe. Nor are we aware of any other law, regulation, agency or state requirement that would substitute for the effectiveness of our approach. The total service approach protects customer privacy expectations by placing the control over the approval process in the hands of the customer. The total service approach also protects customers in many instances where they would not realize potentially sensitive, personal information had been accessed or used. The GTE and Ameritech approaches lack this crucial element of consumer protection.

25. *Section 10(a)(3).* GTE believes forbearance is in the public interest because of the reduction in carriers' administrative costs to communicate with customers where a carrier can use CPNI to market across service categories without the need for customer approval.

26. We find that forbearance would not be in the public interest. The privacy goals of the statute are not met where carriers can use CPNI without customer approval to sell products and services outside the existing customer-carrier relationship. Although reducing the administrative costs to carriers may assist these companies in competing with other carriers, we find that any potential benefit is outweighed by the need to protect customer privacy. Customers who are interested in obtaining more information can arrange to do so easily by granting consent for their carriers' use of CPNI.

27. Pursuant to section 10(b) of the Act, we have evaluated whether forbearance from the total service approach will promote competitive market conditions, including the extent to which forbearance will enhance competition among providers of telecommunications services. We agree that, as a general matter, reducing carriers' administrative and regulatory costs promotes competitive market conditions and would improve the ability of new entrants to introduce new, improved combinations of competitive services and products. However, we are concerned that the GTE and Ameritech proposals, which eliminate the boundaries we have established for the use of CPNI, may unreasonably deprive other telecommunications carriers the opportunity to compete for a customer's business. The ability to use CPNI from an existing service relationship to market new services to a customer bestows an enormous competitive advantage on those carriers that currently have a service relationship with customers, particularly incumbent exchange carriers and interexchange carriers with a large existing customer base. This, in turn, poses a significant risk to the development of competition. For this reason, as well, we cannot find that forbearance is in the public interest.

4. Requests for Clarification

28. Several petitioners request clarification of aspects of the total service approach and its application in specific contexts. We address these requests.

a. Multiple Lines and Carriers. 29. MCI requests clarification as to whether the total service approach should be applied on a subscriber line-by-line basis or to the subscriber's services overall. MCI poses a second, related question, whether a customer can have more than one carrier in any given service category, thus allowing both carriers to market other services in the same category to that customer.

30. We believe that the total service approach applies to the *customer's* total telecommunications service subscription, and proper use of CPNI is not necessarily limited to the line from which it was derived. Section 64.2005(a) of our rules permits a telecommunications carrier to use CPNI for the purpose of marketing service offerings among the categories of service already subscribed to by the customer from the same carrier. Although MCI proposes to use CPNI from one line to market to another line of the same customer, the use of CPNI is permissible because it remains within the category of service. As to MCI's second question, we do not limit a customer's choice to select more than one carrier in a given service category. For the same reasons cited above, where the use of CPNI remains within a service category, a carrier is able to market that same service to the customer without the need for express customer approval. In this manner, a carrier's attempt to garner more of the customer's business is pro-competitive and does not impinge on a customer's privacy.

b. Codification of Service Categories. 31. MCI and CommNet request that the Commission explicitly state that all telecommunications services fall within three groupings—local, interLATA, and CMRS.

32. We decline to do so because it would have the effect of grafting onto the total service approach one of the critical flaws of the so-called ''three category'' approach. As explained in greater detail in the *CPNI Order,* the three category approach parsed telecommunications services into the three traditional service distinctions—local, interLATA, and CMRS. Given the dynamic nature of the telecommunications industry, we can not assume that all services necessarily fall into such categories. We believe the

total service approach is sufficiently flexible to incorporate new and different categories without periodic reviews to ascertain whether changes in the competitive environment should translate into changes in service categories. Rather, it is unnecessary to modify the total service approach in this regard or to further codify the three service categories in the rules.

c. Use of CPNI to Market Paging.

33. In the *CPNI Order,* the Commission determined that CMRS should be viewed in the entirety, when considering the ''total service approach.'' CommNet urges the Commission to revise its rules to make it clear that the service categories to which the ''total service'' relationship applies are only local exchange service, interexchange service, and CMRS, so that a paging carrier could use CPNI to market cellular service and vice versa. U S WEST objects on the grounds that the language of the current rule was taken directly from the statute and that the categories may blur over time and may disappear as customers migrate to single source providers.

34. We find that our rules are clear that under the total service approach, a CMRS carrier may use CPNI to market any CMRS service, including paging and cellular service. Therefore, no revision of the rules is required.

d. IntraLATA Toll Services. 35. In the *CPNI Order,* the Commission concluded that insofar as both local exchange carriers and interexchange carriers currently provide short-haul toll, it should be considered part of both local and long-distance service. We further concluded that permitting short-haul toll to ''float'' between categories would not confer a competitive advantage upon either interexchange or local exchange carriers. MCI concludes that the provision of short-haul toll may only be considered part of carrier's ''primary service category'' and requests that we make such a clarification.

36. We agree with MCI that our prior conclusion requires clarification. MCI argues that if a local exchange carrier is providing local service, then it may use a customer's local service CPNI to market intraLATA toll to that customer, and vice-versa, and if an interexchange carrier is providing long distance service to a customer, then it may use that customer's long distance CPNI to market intraLATA toll to him or her, and vice versa. We conclude that short-haul toll shall be considered as falling within the category of service the carrier is already providing to the customer. Long distance carriers providing intraLATA toll service, however, need obtain customer approval to use intraLATA toll CPNI to market local service. Likewise, local exchange carriers would need customer approval to use intraLATA toll CPNI to market interLATA long distance service. In this way, the rule is fair to both interexchange and local exchange carriers and treats them symmetrically.

B. Use of CPNI to Market Customer Premises Equipment and Information Services

1. Background

37. Section 222(c)(1) states that, ''[e]xcept as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains [CPNI] by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable [CPNI] in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.'' In the *CPNI Order,* we concluded that Congress intended that section 222(c)(1)(A) govern carriers' use of CPNI for providing *telecommunications services* and that section 222(c)(1)(B) governs carriers' use of CPNI for *non-telecommunications services.* Based upon the language of section 222(c)(1), we further concluded that: (1) inside wiring, CPE, and certain information services do not fall within the scope of section 222(c)(1)(A) because they are not ''telecommunications services''; and (2) CPE and most information services do not fall under section 222(c)(1)(B) because they are not ''services necessary to, or used in, the provision of such telecommunications service.'' We now find that the phrase ''services necessary to, or used in, the provision of such telecommunications service'' should be given a broader reading than the one given in the *CPNI Order.* The record produced on reconsideration persuades us that a different statutory interpretation is permissible, and importantly, would lead to appropriate policy results consistent with the statutory goals. Therefore, we conclude that section 222(c)(1)(B) allows carriers to use CPNI, *without* customer approval, to separately market CPE and many information services to their customers. We further clarify that the tuning and retuning of CMRS units and repair and maintenance of such units is a service necessary to or used in the provision of CMRS service under section 222(c)(1)(B). Finally, we deny petitioners' requests that we forbear from applying these restrictions for related CPE and information services.

2. Petitions for Reconsideration

38. *Customer Premises Equipment and Information Services under Section 222(c)(1).* We grant the petitions for reconsideration that argue that CPE and certain information services are ''necessary to, or used in, the provision of'' telecommunications services, and therefore use of CPNI derived from the provision of a telecommunications service, without customer approval, to market CPE and information services would be permitted under section 222(c)(1)(B). Under our previous interpretation, the exception was narrowly construed, resulting in very few services for which CPNI could be shared. Indeed, we rejected all CPE because it was not a ''service'' and most information services because they were not necessary to or used in the carrier's provision of the telecommunications service. While this interpretation is not inconsistent with the statutory language, we are persuaded that the better interpretation is that the exception includes certain products and services provisioned by the carrier with the underlying telecommunications service to comprise the customer's total service. This is because those related services and products facilitate the underlying telecommunications service and customers expect that they will be used in the provisioning of that service offering. Our new interpretation accords with the Commission's stated intention in the *CPNI Order* to revisit and if necessary revise its conclusions regarding customer expectations as those expectations changed in the marketplace with advancements in technology or as new evidence of the evolution of customer expectations becomes available to the Commission. Such evidence has now been made available to us by the record developed on reconsideration.

39. When evaluated as a whole, the exception can be reasonably interpreted to include those products used in the provision of telecommunications, including directories and CPE. First, we find statutory support for this interpretation through the only example Congress included in the exception—the publishing of directories. As described in the *CPNI Order,* directories are ''necessary to and used in'' the provision of service because without access to phone numbers, customers cannot complete calls. A directory is not a ''service,'' but rather, like CPE, is a product. Consistent with the statutory exception, however, the ''publishing'' of the directory is a service—the service by

which the carrier provisions the product necessary to, or used in, the customer's telecommunications service. Thus, Congress' publishing of directories example supports including those products as well as services provisioned by the carrier that are used in and necessary to the customer's telecommunications service. We believe that our previous interpretation construed the term ''services'' in isolation from the phrase ''necessary to, or used in.'' While it is obvious that CPE itself is not a service, the provision of CPE is a service that is necessary to, or used in the provision of the underlying telecommunications service. Customers cannot make, or complete, calls without CPE. This is consistent with Congress' example of the publishing of directories in section 222. Therefore, this finding concerning CPE is limited to section 222. Also, the CPE that is included in this exception is limited to CPE that is used in the provision of the telecommunications service from which the CPNI is derived.

40. Second, our broader statutory interpretation appropriately protects the customer's reasonable expectations of privacy in connection with CPNI, which many petitioners argue is the appropriate test for determining the limitations on the use of CPNI without a customer's approval. We are persuaded that CPE and many information services properly come within the meaning of section 222(c)(1)(B).

41. In the wireless context, our regulation of CMRS providers and the history of the industry has allowed the development of bundles of CPE and information services with the underlying telecommunications service. Thus, information services and CPE offered in connection with CMRS are directly associated and developed together with the service itself. Indeed, we are persuaded by the record and our observations of the development of the CMRS market generally that the information services and CPE associated with CMRS are reasonably understood by customers as within the existing service relationship with the CMRS provider. Customers expect to have CPE and information services marketed to them along with their CMRS service by their CMRS provider. Accordingly, we conclude that such CPE and information services come within the meaning of ''necessary to, or used in,'' the provision of service. In the CMRS context, carriers should be permitted to use CPNI, without customer approval, to market information services and CPE to their CMRS customers.

42. The wireline industry has developed somewhat differently from CMRS and, while the analysis is the same, the results concerning how carriers may use CPNI accordingly differ from the wireless industry. No evidence has been produced on the record which shows that allowing wireline carriers to market CPE to their customers, using CPNI without customer consent, violates customers' expectations. We are convinced that such usage by carriers would be beneficial to customers as new and advanced products develop. Therefore, wireline carriers should be permitted to use CPNI, without customer approval, to market CPE to their customers.

43. Within the broader reading of the statute, we find that certain wireline information services should also be considered necessary to, or used in, the provision of the underlying telecommunications service. In the *CPNI Order*, the Commission listed several information services that it believed should not be considered necessary to, or used in, the underlying telecommunications service: call answering, voice mail or messaging, voice storage and retrieval services, and fax storage and retrieval services. Applying the broader reading of the statute, along with the new evidence on the record, we now believe that all of these services should be considered necessary to, or used in, the provision of the underlying telecommunications service because customers have come to depend on these services to help them make or complete calls. The record indicates that customers have come to expect that their service provider can and will offer these services along with the underlying telecommunications service. Therefore, carriers may use CPNI, without customer approval, to market call answering, voice mail or messaging, voice storage and retrieval services, and fax storage and retrieval services.

44. We continue to exclude from this list, as the Commission did in the *CPNI Order*, Internet access services. There is no convincing new evidence on the record that shows that such services are necessary to, or used in, the making of a call, even in the broadest sense. There is also no evidence, currently, that customers expect to receive such services from their wireline provider, or that they expect to use such services in the way that they expect to receive or use the above-listed services.

45. We will, however, add protocol conversions to the list of services that carriers may market using CPNI without customer approval. In its petition, Bell Atlantic requests that we redefine protocol conversion as a telecommunications service. Bell Atlantic asserts that protocol conversions that do not alter the underlying information sent and received should not be defined as information services. We do not believe that protocol conversions should be redefined as a telecommunications service but because protocol conversions are necessary to the provision of the telecommunications service, in the instances where they are used, protocol conversions should be included in the group of information services listed above. Accordingly, we grant Bell Atlantic's request to use CPNI to market, without customer approval, protocol conversions.

3. Petitions for Forbearance

a. Introduction. 46. In the alternative, many parties urge the Commission to forbear from prohibiting CMRS providers and wireline carriers from using CPNI to market CPE and/or information services without customer approval. As we described in detail, section 10 of the Act requires the Commission to forbear from regulation when: (1) enforcement is not necessary to ensure that the carrier's charges and practices are just and reasonable; (2) enforcement is not necessary for the protection of consumers; and (3) forbearance is consistent with the public interest.

b. CMRS Providers. 47. In the preceding section, we granted the petitions for reconsideration to allow CMRS providers to use CPNI, without customer approval, to market CPE and information services to their customers. Therefore, we deny as moot the petitions for forbearance from section 222's prohibition against CMRS providers using CPNI to market, without customer approval, CPE and information services.

c. Wireline Carriers. 48. In the preceding section, we granted the petitions for reconsideration to allow wireline carriers to use CPNI, without customer approval, to market CPE and some information services to their customers. Therefore, we deny as moot the petitions requesting that we forbear from enforcing section 222's prohibition against wireline carriers to use CPNI to market CPE and information services such as call answering, voice mail or messaging, voice storage and retrieval services, fax storage and retrieval services, and protocol conversions. Bell Atlantic has requested that we forbear from enforcing section 222's prohibition against using CPNI without prior customer consent to market all

information services. We deny this request.

49. *Section 10(a)(1).* The primary focus of the CPNI rules is not, nor ever has been, intended to ensure reasonable rates or practices. Therefore, we determine that enforcement of the restrictions on the use of CPNI to market those information services that are not ''necessary to, or used in, the provision of'' telecommunications services are not necessary to ensure that the charges, practices, classifications, or regulations are just and reasonable and are not unjustly or unreasonably discriminatory.

50. *Section 10(a)(2).* We are unable to conclude that forbearing from enforcement of restrictions on the use of CPNI for marketing all information services would satisfy the second criterion. We note, however, that the ''integrated'' services that Bell Atlantic identifies include the information services which we have found above to be necessary to, or used in, the provision of the underlying telecommunications service. We have, on reconsideration, identified those types of information services for which our broader interpretation of section 222(c)(1)(B) is more in line with customer expectations and congressional intent. For these services, forbearance is not necessary. With regard to other information services such as Internet access, we find that enforcing section 222(c)(1)(B) is still necessary to protect consumers. Requiring prior consent protects customers in many instances where they would not realize potentially sensitive, personal information had been accessed or used. As noted above, there is no evidence, currently, that customers expect to receive such services from their wireline provider, or that they expect to use such services in the way that they expect to receive or use more integrated services. Nor are we aware of any other law, regulation, agency or state requirement that would substitute for the effectiveness of a prior consent requirement, which protects customer privacy expectations by placing the control over the use of CPNI for purposes of marketing non-integrated information services in the hands of the customer.

51. *Section 10(a)(3).* We concluded in the CPNI Order, however, that ''[u]nlike the Commission's pre-existing policies under Computer III, which were largely intended to address competitive concerns, section 222 of the Act explicitly directs a greater focus on protecting customer privacy and control.'' We further concluded that ''[t]his new focus embodied in section 222 evinces Congress' intent to strike a balance between competitive and customer privacy interests different from that which existed prior to the 1996 Act, and thus supports a more rigorous approval standard for carrier use of CPNI than in the prior Commission Computer III framework.'' More specifically, we concluded that an opt-out scheme does not provide any assurance that consent for the use of a customer's CPNI would be informed, and found that opt-out does not adequately protect customer privacy interests. Bell Atlantic, therefore, is incorrect in its assertion that our conclusions in Computer III dictate our findings relating to the public interest. We also conclude that the record on forbearance suggested here does not convince us that the privacy goals of the statute are met where carriers can use CPNI without express customer approval to sell services outside the existing customer-carrier relationship. We accordingly find that Bell Atlantic's request for forbearance of section 222's affirmative approval requirement is generally inconsistent with the public interest. Customers who are interested in obtaining more information can arrange to do so easily by granting consent for their carriers' use of CPNI. We have found no public interest benefits that would outweigh these concerns.

52. Pursuant to section 10(b) of the Act, we have evaluated whether forbearance from the prior consent requirement will promote competitive market conditions, including the extent to which forbearance will enhance competition among providers of telecommunications services. As we concluded above, the ability to use CPNI from an existing service relationship to market new services to a customer bestows an enormous competitive advantage for those carriers that currently have a service relationship with customers, particularly incumbent exchange carriers and interexchange carriers with a large existing customer base. This, in turn, poses a significant risk to the development of competition. Therefore, to the extent that Bell Atlantic is requesting forbearance from section 222's restrictions on the use of CPNI to market Internet access service, we find that such forbearance would neither promote competition nor enhance competition among telecommunications service providers. For instance, we recently stated that, although many Internet service providers (ISPs) ''compete against one another, each ISP must obtain the underlying basic services from the incumbent local exchange carrier, often still a BOC, to reach its customers.'' Because of the competitive advantage that many BOCs retain, we concluded that we would not remove certain safeguards designed to protect against BOC discrimination despite the competitive ISP marketplace. We reach a similar conclusion here: giving wireline carriers, particularly ILECs, the right to use CPNI without affirmative customer approval to market Internet access services could damage the competitive Internet access services market at this point in time. Accordingly, we deny Bell Atlantic's petition for forbearance on this issue.

d. Forbearance from all CPNI Rules for CMRS Providers. 53. A few parties urge the Commission to forbear from imposing any CPNI obligations on CMRS providers. Forbearance from enforcing all CPNI rules against CMRS carriers, according to one petitioner, will permit many beneficial and pro-competitive marketing practices to continue. The Commission must forbear from enforcing its rules or any statutory provision where the criteria of the forbearance test, set out in Part V.A.3 are satisfied. We deny this request.

54. *Section 10(a)(1).* As we have previously stated, the primary focus of the CPNI rules is not, nor ever has been, intended to ensure reasonable rates or practices. Therefore, we determine that enforcement of the CPNI rules for CMRS carriers is not necessary to ensure that the charges, practices, classifications, or regulations are just and reasonable and are not unjustly or unreasonably discriminatory.

55. *Section 10(a)(2).* We are unable to find that CMRS customers' privacy interests would be adequately protected absent section 222 and the rules promulgated in this proceeding. We are concerned, for example, that customers would be harmed by elimination of the restriction on carriers' use of CPNI to identify or track customers who call competing service providers contained in section 64.2005(b)(1) of our rules. Section 222 and our implementing rules protect customers in many instances where they would not realize potentially sensitive, personal information had been accessed or used. Moreover, we would be remiss in our duty under the statute if we created an environment in which CMRS customers' only recourse was to switch carriers after discovering that their CPNI had been used without authorization. Nor are we aware of any other law, regulation, agency or state requirement that would substitute for the effectiveness of our rules implementing section 222. Consequently, the second

criterion for forbearance has not been met.

56. *Section 10(a)(3).* We do not find that forbearance from section 222 and our CPNI rules for all CMRS providers is consistent with the public interest. Complete forbearance would eliminate section 222's procedures for the protection of both customers and carriers, such as the process for transferring CPNI from a former carrier to a new carrier pursuant to a customer's written request and the obligation to protect carrier proprietary information. Pursuant to section 10(b) of the Act, we have evaluated whether forbearance from section 222 for CMRS carriers will promote competitive market conditions, including the extent to which forbearance will enhance competition among providers of telecommunications services. On balance, we find that forbearance from the full range of CPNI protections would undermine consumer privacy to an extent that outweighs the potential benefits demonstrated on the record in terms of carrier cost savings. Therefore, we conclude that there is insufficient basis for a public interest finding under the third criterion.

C. Use of CPNI to Market to Former and ''Soon-to-be Former'' Customers

1. Background

57. The *CPNI Order* adopted section 64.2005(b)(3) to prohibit a carrier from using or accessing CPNI to regain the business of a customer who has switched to another provider. The Commission decided as a matter of statutory interpretation that once a customer terminates service from a carrier, CPNI derived from the previously subscribed service may not be used to retain or regain that customer. Specifically, the Commission foreclosed the use of CPNI for customer retention purposes under section 222(c)(1) because it felt such use was not carried out in the ''provision of'' service, but rather, for the purpose of retaining a customer that has already taken steps to change its provider. The *CPNI Order* also precluded the use of CPNI under section 222(d)(1), insofar as such use would be undertaken to market a service, rather than to ''initiate'' a service within the meaning of that provision.

58. A significant majority of the petitioners have requested that the Commission reconsider or forbear from the restrictions of section 64.2005(b)(3), which has been referred to as the ''winback'' prohibitions.

2. ''Winback''

a. Discussion. 59. Petitioners challenge the winback restrictions on a variety of grounds. On reconsideration, we conclude that all carriers should be able to use CPNI to engage in winback marketing campaigns to target valued former customers that have switched to other carriers. After reviewing the fuller record on this issue developed on reconsideration, we are persuaded that winback campaigns are consistent with section 222(c)(1) and in most instances facilitate and foster competition among carriers, benefiting customers without unduly impinging upon their privacy rights. Accordingly, we reverse our position and eliminate rule 64.2005(b)(3).

60. On reconsideration, we believe that section 222(c)(1)(A) is properly construed to allow carriers to use CPNI to regain customers who have switched to another carrier. While section 222(c)(1) is susceptible to different interpretations, we now think that the better reading of this language permits use of CPNI of former customers to market the same category of service from which CPNI was obtained to that former customer. We agree with those petitioners who argue that the use of CPNI in this manner is consistent with both the language and the goals of the statute. Section 222(c)(1)(A) permits the use of CPNI in connection with the ''provision of the telecommunications service from which the information is derived.'' The marketing of service offerings within a given presubscribed telecommunications service is encompassed within the ''provision of'' that service. In developing the total service approach, the Commission recognized that marketing is implicit in the term ''provision'' as used in section 222(c)(1). The *CPNI Order* stated that ''we believe that the best interpretation of section 222(c)(1) is the total service approach, which affords carriers the right to use or disclose CPNI for, among other things, *marketing related offerings* within customers' existing service for their benefit and convenience.'' While we recognize that this discussion in the CPNI Order also referred to the customer's ''existing'' service, we now conclude upon further reflection that our focus should not be so limited. Common sense tells us that customers are aware of and expect that their former carrier has information about the services to which they formerly subscribed. Businesses do not customarily purge their records of a customer when that customer leaves. We therefore disagree with the assertion that extending winback marketing for the same service to a former customer is an indefensible stretch of the total service approach.

61. Because customer expectations form the basis of the total service approach, they properly influence our understanding of the statute, a goal of which is to balance competitive concerns with those of customer privacy. Customers expect carriers to attempt to win back their business by offering better-tailored service packages, and that such precise tailoring is most effectively achieved through the use of CPNI. Winback restrictions may deprive customers of the benefits of a competitive market. Winback facilitates direct competition on price and other terms, for example, by encouraging carriers to ''out bid'' each other for a customer's business, enabling the customer to select the carrier that best suits the customer's needs.

62. Some commenters argue that ILECs should be restricted from engaging in winback campaigns, as a matter of policy, because of the ILECs' unique historic position as regulated monopolies. We believe that such action by an ILEC is a significant concern during the time subsequent to the customer's placement of an order to change carriers and prior to the change actually taking place. Therefore, we have addressed that situation at Part V.C.3. However, once a customer is no longer obtaining service from the ILEC, the ILEC must compete with the new service provider to obtain the customer's business. We believe that such competition is in the best interest of the customer and see no reason to prohibit ILECs from taking part in this practice.

63. We are also unpersuaded by the allegations that an incumbent carrier's use of CPNI in winback campaigns amounts to a predatory practice designed to prevent effective market entry by new competitors. Contrary to the commenters' suggestions, we believe such use of CPNI is neither a *per se* violation of section 201 of the Communications Act, as amended, nor the antitrust laws. Prior to the adoption of the rules promulgated under 1996 Act, incumbent carriers were able to use CPNI to regain customers lost to competitors. Assuming incumbent LECs have sufficient market power to engage in predatory strategies, they are constrained in their ability to raise and lower prices by our tariff rules and non-discrimination requirements. Because winback campaigns can promote competition and result in lower prices to consumers, we will not condemn such practices absent a showing that they are truly predatory.

64. Thus, we conclude that the statute permits a carrier evaluating whether to launch a winback campaign to use CPNI to target valued former customers who have switched service providers.

65. An important limitation derived from the statutory language is that the carrier may use CPNI of the former customer to offer that customer the service or services to which the customer previously subscribed. It would be inconsistent with the total service approach for a carrier to use such CPNI to offer new services outside the former customer-carrier relationship.

66. Some petitioners assert that winback is permissible under the exceptions enumerated in Section 222(d)(1) that allow the use of CPNI without customer approval to ''render'' or ''initiate'' service. Based upon our decision that the use of CPNI to winback customers is consistent with section 222(c)(1), we decline to reach these arguments. Similarly, we need not address arguments concerning the constitutionality of, propriety under the APA, and forbearance from, the former rule. Consequently, we eliminate § 64.2005(b)(3). We therefore do not need to reach the clarification petitions submitted on the former rule.

3. Retention of Customers

a. Background. 67. As noted above, the *CPNI Order* also prohibited a carrier's access to or the use of the CPNI of a ''soon-to-be-former'' customer to market the same services to retain that customer. The *CPNI Order* did not distinguish between marketing for the purpose of retaining customers versus regaining them. As explained above, on reconsideration, we believe that use of CPNI to regain former customers falls within the ambit of section 222(c)(1). We conclude here that use of CPNI to retain customers ordinarily does not come under section 222(c)(1), and in such instances would likely violate section 222(b).

b. Discussion. 68. We conclude that section 222 does not allow carriers to use CPNI to retain soon-to-be former customers where the carrier gained notice of a customer's imminent cancellation of service through the provision of carrier-to-carrier service. We conclude that competition is harmed if *any* carrier uses carrier-to-carrier information, such as switch or PIC orders, to trigger retention marketing campaigns, and consequently prohibit such actions accordingly.

69. The Commission previously determined that carrier change information is carrier proprietary information under section 222(b). In the *Slamming Order*, 64 FR 9219, February 24, 1999, the Commission stated that pursuant to section 222(b), the carrier executing a change ''is prohibited from using such information to attempt to change the subscriber's decision to switch to another carrier.'' Thus, where a carrier exploits advance notice of a customer change by virtue of its status as the underlying network-facilities or service provider to market to that customer, it does so in violation of section 222(b). We concede that in the short term this prohibition falls squarely on the shoulders of the BOCs and other ILECs as a practical matter. As competition grows, and the number of facilities-based local exchange providers increases, other entities will be restricted from this practice as well.

70. We agree that section 222(b) is not violated if the carrier has independently learned from its retail operations that a customer is switching to another carrier; in that case, the carrier is free to use CPNI to persuade the customer to stay, consistent with the limitations set forth in the preceding section. We thus distinguish between the ''wholesale'' and the ''retail'' services of a carrier. If the information about a customer switch were to come through independent, retail means, then a carrier would be free to launch a ''retention'' campaign under the implied consent conferred by section 222(c)(1).

c. Petitions for Forbearance. 71. A number of petitioners seek forbearance from restrictions that limit the ability of a carrier to retain a soon-to-be former customer who has indicated an intent to switch carriers. Petitioners request forbearance from the application of rules prohibiting retention marketing, however, as part of their overall requests that the Commission forbear from applying winback restrictions generally. Because the Commission has revised its interpretation and eliminated rule 64.2005(b)(3), that portion of their petitions is moot.

72. Section 10 of the Act requires the Commission to forbear from regulation when: (1) enforcement is not necessary to ensure that the carrier's charges and practices are just and reasonable; (2) enforcement is not necessary for the protection of consumers; and (3) forbearance is consistent with the public interest. For the reasons discussed below, we conclude the forbearance standard has not been met to the extent that carriers would seek to use CPNI to regain a soon-to-be former customer, precipitated by the receipt of a carrier-to-carrier order.

73. *Section 10(a)(1).* Petitioners assert that limiting the use of CPNI in retention efforts is not necessary to ensure just, reasonable, and nondiscriminatory rates.

74. We agree that the primary focus of the CPNI rules is not, nor ever has been, intended to ensure reasonable rates or practices. Therefore, we determine that enforcement of section 222's prohibition against allowing a carrier to use proprietary information that it receives by virtue of fulfilling carrier-to-carrier orders in a ''wholesale'' capacity is not necessary to ensure that the charges, practices, classifications, or regulations are just and reasonable and are not unjustly or unreasonably discriminatory.

75. *Section 10(a)(2).* Petitioners assert that retention restrictions are not necessary to protect customers generally. Although we agree that privacy concerns are not particularly jeopardized in winback situations, generally, that does not mean that enforcement of this restriction is unnecessary to protect customers. Rather, we conclude that consumers' substantial interests in a competitive and fair marketplace would be undermined if this restriction was not enforced. Consequently, the second criterion is not satisfied.

76. *Section 10(a)(3).* Finally, petitioners contend that customer retention is in the public interest. We are not persuaded, however, that permitting carriers to unfairly use information that they obtain in a ''wholesale'' capacity is in the public's interest. We conclude that there is insufficient basis for a public interest finding in this instance under the third criterion. Therefore, we deny the forbearance petitions on this issue.

D. Disclosure of CPNI to New Carriers When a Customer is ''Won''

77. In the *CPNI Order* we definitively concluded that the term ''initiate'' in section 222(d)(1) does not require that a customer's CPNI be disclosed by a carrier to a competing carrier who has ''won'' the customer as its own. We found that section 222(d)(1) applies only to carriers already possessing the CPNI, within the context of the existing service relationship, and not to any other carriers merely seeking access to CPNI. We noted, however, that section 222(c)(1) does not prohibit carriers from disclosing CPNI to competing carriers upon customer approval. Accordingly, we reasoned that although an incumbent carrier is not required to disclose CPNI pursuant to section 222(d)(1) or section 222(c)(2) absent an affirmative written request, local exchange carriers may need to disclose a customer's service record upon oral approval of a customer to a competing

carrier prior to its commencement of service as part of a local exchange carrier's section 251(c)(3) and (c)(4) obligations. In this way, we concluded, section 222(c)(1) permits the sharing of customer records necessary for the provisioning of service by a competitive carrier. Finally, we also noted that a carrier's failure to disclose CPNI to a competing carrier that seeks to initiate service to that customer who wishes to subscribe to a competing carrier's service, may well constitute an unreasonable practice in violation of section 201(b), depending on the circumstances.

78. We reject MCI's various requests for disclosure of CPNI by former carriers, *without* customer approval, to new carriers to enable the new carriers to initiate service. We deny MCI's petition in this regard.

79. First, MCI and TRA ask that we find that section 222(d)(1) allows ''one carrier to disclose CPNI to another to enable the latter to initiate service *without* customer approval'' thereby reversing our conclusion in the *CPNI Order*. Neither MCI nor TRA has presented any new facts or arguments that the Commission did not fully consider in the *CPNI Order* regarding the interpretation of section 222(d)(1). We therefore deny MCI and TRA's request that we reverse this portion of the *CPNI Order*.

80. Second, MCI also requests that the Commission, in any case, find that section 222(c)(1) authorizes the disclosure of CPNI *without* customer approval. We find that MCI's request is contrary to our conclusion in the *CPNI Order* that the language of 222(c)(1)(A) reflects Congress' judgment that customer approval for carriers to use, disclose, and permit access to CPNI can be inferred in the context of *an existing customer relationship*. We reasoned that such an inference is appropriate because the customer is aware that his or her carrier has access to CPNI, and, through subscription to the carrier's service, has implicitly approved the carrier's use of CPNI *within the existing relationship*. We are not persuaded that the disclosure of CPNI to a different carrier to initiate service *without* customer approval for that disclosure would be contemplated by a customer as a carrier's use of his or her CPNI *within* the existing customer-carrier relationship. As such, we deny MCI's request.

81. Third, MCI also asserts that sections 272, 201(b), and 202(a) require BOCs and other ILECs that disclose CPNI to affiliates without customer approval in order to initiate service to likewise disclose CPNI to any other requesting carrier ''needing it to initiate service. MCI has not provided any reasonable basis for altering these conclusions. Further, we are not persuaded by MCI's unsupported request that section 202(a) would require such relief. Accordingly, we deny MCI's request.

82. Fourth, MCI further argues that if the Commission does not grant any of the relief requested, then it should allow carriers to notify customers that their failure to approve the disclosure of CPNI to a new carrier may disrupt the installation of any new service they may request. As MCI has not persuaded us, however, that a customer's failure to approve such a disclosure may disrupt the installation of service, we deny MCI's request.

83. Finally, MCI requests that the Commission ''reconfirm'' that CPNI is an unbundled network element ''that BOCs and other ILECs must provide to all requesting carriers under section 251(c)(3) of the Act.'' This is not a fair characterization of the *CPNI Order's* conclusion. Rather, the *CPNI Order* held that local exchange carriers may need to disclose a customer's service record upon oral approval of a customer to a competing carrier prior to its commencement of service as part of a local exchange carrier's section 251(c)(3) and (c)(4) obligations. This conclusion does not indicate, as MCI has implied, that CPNI is an unbundled network element subject to section 251(c)(3)'s unbundling requirements separate from the Commission's requirement that incumbent carriers provide unbundled access to operations support systems and the information they contain. Therefore, MCI incorrectly concludes that the *CPNI Order* found that CPNI is an unbundled network element. In any case, the United States Supreme Court recently concluded that the Commission's unbundling rule, § 51.319 of the Commission's rules, should be vacated. As a result, the Commission reopened CC Docket 96–98 to refresh the record on the issues of (1) how, in light of the Supreme Court ruling, the Commission should interpret the standards set forth in section 251(d)(2) of the Telecommunications Act of 1996; and (2) which specific network elements the Commission should require incumbent LECs to unbundle.

VI. ''Approval'' Under Section 222(c)(1)

A. Grandfathering Pre-existing Notifications

84. On May 21, 1998, the Common Carrier Bureau released the *Clarification Order* clarifying several issues in the *CPNI Order*. Among other things, the *Clarification Order* made it clear that carriers that have complied with the *Computer III* notification and prior written approval requirements in order to market enhanced services to business customers with more than 20 access lines are also in compliance with section 222 and the Commission's rules. CompTel and LCI request that the Commission reverse the *Clarification Order's* conclusion. We decline to do so for the reasons discussed below and, in fact, hereby adopt the *Clarification Order*.

85. As discussed in the *Clarification Order*, the framework established under the Commission's *Computer III* regime, prior to the adoption of section 222, governed the use of CPNI by the BOCs, AT&T, and GTE to market CPE and enhanced services. Under this framework, those carriers were obligated to: (1) provide an annual notification of CPNI rights to multi-line customers regarding enhanced services, as well as a similar notification requirement that applied only to the BOCs regarding CPE; and (2) obtain prior written authorization from business customers with more than 20 access lines to use CPNI to market enhanced services. The *CPNI Order*, however, replaced the *Computer III* CPNI framework in all material respects. In its place, the *CPNI Order* established requirements compelling carriers to provide customers with specific one-time notifications prior and proximate to soliciting express written, oral, or electronic approval for CPNI uses beyond those set forth in sections 222(c)(1)(A) and (B). The *CPNI Order* further established an express approval mechanism for such solicitations as it is the ''best means to implement this provision because it will minimize any unwanted or unknowing disclosure of CPNI'' and will also ''limit the potential for untoward competitive advantages by incumbent carriers.''

86. The *Clarification Order* noted that, like the requirements established in the *CPNI Order*, ''the notification obligation established by the *Computer III* framework required, among other things, that carriers provide customers with illustrative examples of enhanced services and CPE, expanded definitions of CPNI and CPE, information about a customer's right to restrict CPNI use at any time, information about the effective duration of requests to restrict CPNI, and background information to enable customers to understand why they were being asked to make decisions about their CPNI.'' The *Clarification Order* determined that these *Computer III* notifications comply materially with the form and content of the notices

required by the *CPNI Order*. In addition, the *Clarification Order* concluded that the *Computer III* requirement to obtain prior written authorization constitutes a form of express, affirmative approval, as required by section 222. Accordingly, the *Clarification Order* concluded that carriers that complied with the *Computer III* notification and prior written approval requirement in order to market enhanced services to such carriers are also in compliance with section 222 and the Commission's rules.

87. We agree with the Bureau that carriers that have complied with the *Computer III* notification and prior written approval requirements in order to market enhanced services to certain large business customers should be deemed in compliance with section 222 and the Commission's rules. For the reasons stated in the *Clarification Order*, we agree that the *Computer III* framework required carriers to provide these large business customers with adequate notice and obtain express, affirmative approval in material compliance with the form and content of those required by section 222 and the Commission's rules. Although it is true that the *Computer III* consents were given prior to the advent of local competition, we believe that the detailed notice and express, affirmative consent required under that regime compensate for this deficiency. Moreover, we are not persuaded by CompTel's assertion that the BOCs warnings that they *may* have to change the customer's account representatives put undue pressure on these business customers to relent. Finally, we also conclude that although some of the *Computer III* annual notifications may not have been ''proximate to'' the carrier solicitations as required by section 222, the *Computer III* regime's annual notification requirement and limitation to business customers with more than 20 access lines—requirements that we note are more stringent than required by section 222—materially satisfy the concerns we intended to address by the proximate notification requirement promulgated in the *CPNI Order*. As such, we agree with the Bureau that the *Computer III* notifications are in material compliance with section 222 and the Commission's rules, and adopt the reasoning and conclusions of the *Clarification Order* as our own.

88. Other carriers request that the Commission ''grandfather'' authorizations obtained subsequent to the enactment of section 222, but prior to the promulgation of rules in the *CPNI Order*.

89. We conclude, based upon the evidence presented in the record of this proceeding, that AT&T's solicitations constitute a good faith effort to materially comply with section 222 provided they are supplemented with the curative written notification of rights AT&T has offered to distribute. Accordingly, we find that AT&T may continue to rely on the approvals given, provided the approvals were obtained in the manner detailed above, so long as AT&T supplements those approvals with a written notice to customers of their rights including an explanation that they have the right to withdraw their approval.

90. Other than AT&T, the parties in this proceeding have not provided sufficient detail describing their solicitations for the Commission to make a determination of material compliance. We urge them to examine the showing made by AT&T as discussed above. We will accept further waiver requests that are materially compliant with section 222, provided the carriers requesting waivers can make a showing similar to the one made by AT&T.

B. Oral and Written Notification

1. Background

91. Section 64.2007 of the Commission's Rules sets out several requirements for carriers who wish to obtain a customer's consent for the use of that customer's CPNI. Vanguard requests that the Commission clarify the requirements established in the *Order* for telecommunications providers seeking customer consent for the use of CPNI. Vanguard expresses concern that the rules will hinder providers from obtaining consent at the time of the execution of initial customer agreements.

92. GTE requests clarification of the ''one-time'' notification rules, noting that, under § 64.2007(f)(3), solicitation of approval to use CPNI must be proximate to the notification of a customer's CPNI rights. GTE requests that the Commission ''clarify that written notice followed proximately by either written or oral solicitation is sufficient and is consistent with the FCC's finding that 'one-time' notice is sufficient.'' GTE contends that this would require amending § 64.2007(f)(4).

93. SBC also requests that the Commission clarify that written notification followed by either an oral or written solicitation for approval is appropriate under the one-time notification scheme.

94. Omnipoint requests that, for CMRS providers, the Commission replace its ''opt-in'' requirement for approval of the use of CPNI with an ''opt-out'' rule.

2. Discussion

95. We find that Omnipoint has presented no new circumstances that warrant reversal of the Commission's conclusion that the requirement of affirmative consent is consistent with Congressional intent, as well as with the principles of customer control and convenience. Nor has Omnipoint shown that wireless carriers should not be subject to the requirement of affirmative consent.

96. We conclude, however, that the Commission should not attempt to micro-manage the methods by which carriers meet their obligations to secure customer consent. As long as the carrier can show that the rules previously promulgated, which ensure that the customer has been clearly notified of his or her right to refuse consent before the CPNI is used and that the notification clearly informs the customer of the consequences of giving or refusing consent, have been complied with, the consent will be effective. However, we note that those rules are specific in the requirements for written notification, *e.g.*, that the notice must be clearly legible, use sufficiently large type, and be placed in an area so as to be readily apparent to the customer. We intend to be vigilant in enforcing these rules, as we have in enforcing the rules against slamming, which similarly provide for clear and unambiguous notice to the telephone subscriber who signs a letter of agency for authorizing a change in his or her primary interexchange carrier. This policy is also consistent with the Commission's recent action to help ensure that consumers are provided with essential information in phone bills in a clear and conspicuous manner. We will entertain complaints that carriers have not met these requirements on a case-by-case basis.

97. We clarify, at Vanguard's request, that its plan for obtaining consent at the time of the execution of initial customer agreements would be appropriate assuming Vanguard provides ''complete disclosure'' prior to seeking customer approval as required by section 64.2007(f) of the Commission's rules, and is otherwise compliant with the remainder of section 64.2007. In other words, seeking customer consent at the time of execution of initial customer agreements is not prohibited by our rules. We also concur with U S WEST's assertion, however, that carriers should be left with flexibility in implementing our rules. Accordingly, Vanguard's proposal is merely one option among many that could comply with our rules.

98. Moreover, in keeping with our desire to avoid micro-management of the notification and authorization process, we shall grant SBC, Frontier, and GTE's requests that we eliminate § 64.2007(f)(4) of the Commission's rules.

C. Preemption of State Notification Requirements

99. In the *CPNI Order,* we declined to exercise our preemption authority, although we concluded that in connection with CPNI regulation we ''may preempt state regulation of intrastate telecommunications matters where such regulation would negate the Commission's exercise of its lawful authority because regulation of the interstate aspects of the matter cannot be severed from the intrastate aspects.'' Rather, we stated that we would examine any conflicting state rules on a case-by-case basis once the states have had an opportunity to review the requirements we adopted in the *CPNI Order.* At that time we noted that state rules that are vulnerable to preemption are those that (1) permit greater carrier use of CPNI than section 222 and the Commission's rules allow, or (2) seek to impose additional limitations on carriers' use of CPNI. We also indicated, however, that state rules that would not directly conflict with the balance or goals set by Congress were not vulnerable to preemption.

100. On reconsideration, we affirm our decision to exercise our preemption authority on a case-by-case basis. While it is possible that states might impose additional CPNI conditions that could require the expenditure of resources, we conclude it would be inappropriate for the Commission to speculate in this proceeding about what such conditions might be and how much compliance might cost. We note that while deciding to address preemption requests on a case-by-case basis, we reserve the right to consider the potential costs and burdens imposed by any state requirements that would apply retroactively. For these same reasons, we also deny GTE's request that we find that ''additional CPNI use restrictions will be expeditiously preempted, particularly where other federal statutes, such as 47 U.S.C. 227(c), already address customer privacy concerns.''

101. Neither AT&T nor GTE has presented any new facts or arguments that require us to reconsider our prior ruling. Both GTE and AT&T point to the Comments of the Texas Public Utility Commission, which describe and attach a CPNI rule under consideration by the Texas Commission, as support for the need to reconsider our conclusion on preemption in the *CPNI Order.* They assert that the proposed Texas rule is in conflict with the *CPNI Order* and the Commission's rules. That Texas, or any other state, might implement CPNI rules that may be in conflict with our rules was certainly considered in the *CPNI Order.* If such an event occurs, AT&T, GTE, or any other party may request that we preempt the alleged conflicting rules. We will then consider the specific circumstances at that time.

D. Details of CPNI Notice

102. Section 64.2007 of our rules establishes the minimum form and content requirements of the notification a carrier must provide to a customer when seeking approval to use CPNI. Section 64.2007(f)(2)(ii) requires that the notification must specify, inter alia, ''the types of information that constitute CPNI'' and ''the specific entities'' that will receive it. GTE requests that the Commission clarify the rule to permit carriers to avoid exhaustively specifying all types of CPNI and all of a carrier's subsidiaries and affiliates that may receive CPNI. We decline to do so. The minimum requirements of § 64.2007 were not crafted to provide precise guidance, but rather as general notice requirements. The rule seeks to strike an appropriate balance between giving carriers flexibility to craft CPNI notices tailored to their business plans and ensuring that customers are adequately informed of their CPNI rights.

103. Thus, at a minimum, a carrier must inform a customer of the types of CPNI it intends to use. We wish to ensure that any decision by a customer to grant or deny approval is fully informed and that we reduce the potential for carrier abuse. Also, to the extent a carrier intends to disseminate a customer's CPNI, the customer has a right to know the entities that will receive the CPNI derived from his or her calling habits. Contrary to GTE's assertion, we don't believe that a customer necessarily will be confused by the name of the recipient. Importantly, the customer should have the option of restricting access to CPNI among the carrier's intended recipients of his or her personal information.

VII. Safeguards Under Section 222

A. Background

104. In the *CPNI Order,* the Commission concluded that ''all telecommunications carriers must establish effective safeguards to protect against unauthorized access to CPNI by their employees or agents, or by unaffiliated third parties.'' To this end, we required carriers to develop and implement software systems that ''flag'' customer service records in connection with CPNI, and maintain an electronic audit mechanism (''audit trail'') that tracks access to customer accounts. In addition, the *CPNI Order* stated that carriers were to: train their employees as to when it would be permissible to access customers' CPNI; establish a supervisory review process that ensures compliance with CPNI restrictions when conducting outbound marketing; and, on an annual basis, submit a certification signed by a current corporate officer attesting that he or she has personal knowledge that the carrier is in compliance with the Commission's requirements. Because the Commission anticipated that carriers would need time to conform their data systems and operations to comply with the software flags and electronic audit mechanisms required by the Order, we deferred enforcement of those rules until eight months from when the rules became effective: specifically, January 26, 1999.

105. Following the release of the *CPNI Order,* several petitioners sought reconsideration of a variety of issues, including the decision to require carriers to implement the use of flags and audit trails. Other carriers sought reconsideration of the *CPNI Order's* employee training and discipline requirement in § 64.2009(b) of the Commission's rules, as well as the supervisory review requirement in § 64.2009(d) of the Commission's rules. On September 24, 1998, in response to concerns raised by a number of parties, the Commission ruled in the *Stay Order* that it would not seek enforcement actions against carriers regarding compliance with the CPNI software flagging and audit trail requirements as set forth in 47 CFR 64.2009(a) and (c) until six months after the release date of this order on reconsideration. We concluded that it serves the public interest to extend the deadline for the initiation of enforcement of the software flagging and audit trail rules so that the Commission could ''consider recent proposals to tailor our requirements more narrowly and to reduce burdens on the industry while serving the purposes of the CPNI rules.''

106. On November 9, 1998, PCIA filed a petition for reconsideration of the *Stay Order* requesting that the Commission retract the additional requirement for deployment of systems pending the Commission's reconsideration of the *CPNI Order.* We deny PCIA's petition, however, as we have granted, in part, the petitions for reconsideration with respect to the flagging and audit trail requirements. Thus, although new systems implemented prior to the

expiration of the stay period will be required to comply with the new rules promulgated in this order, we believe the new rules are significantly less burdensome. We have considered the potential impact of our rules in this area on carriers' year 2000 (Y2K) remedial efforts and their plans to stabilize their networks over the Y2K conversion. We expect, however, that the increased flexibility, reduction in compliance burden and additional time for implementation that we grant here will greatly reduce the risk of such impact. Thus, and in light of the facts before us, we believe that our rules will have no significant detrimental effect on carriers' Y2K efforts. We conclude that it is in the public interest to extend the stay period an additional two months so as not to impede those efforts for carriers that chose to implement electronic safeguards under the modified rules. Accordingly, the Commission will not seek enforcement actions against carriers regarding compliance with sections 64.2009(a) and (c) of the Commission's rules until eight months after the release date of this order on reconsideration.

107. An industry coalition (Coalition) comprised of a combination of thirty-one industry representatives has proposed specific amendments to §§ 64.2009(a), 64.2009(c), and 64.2009(e) of the Commission's rules (Coalition Proposal). After consideration of this proposal and other comments in the record, we adopt modifications to our flagging and audit trail requirements.

B. Notice

108. In the *NPRM,* we tentatively concluded that ''all telecommunications carriers must establish effective safeguards to protect against unauthorized access to CPNI by their employees or agents, or by unaffiliated third parties.'' We further noted that we previously required AT&T, the BOCs, and GTE to implement computerized safeguards and manual file indicators to prevent unauthorized access to CPNI, and sought comment on whether such safeguards should continue to apply to those carriers. The *NPRM* also tentatively concluded that we should not specify safeguard requirements for other carriers, but sought comment on the issue.

109. We reject CompTel's assertion that the Commission failed to give adequate notice of the ''systems modifications'' announced in the *CPNI Order* because, in fact, the *NPRM* stated that the Commission might require carriers other than AT&T, the BOCs, and GTE to implement computerized safeguards and manual file indicators, and solicited comment on the issue. As we modify the flagging and audit trail rules on reconsideration to allow carriers to institute non-computerized systems, we grant CompTel's Petition in this regard.

110. We also reject NTCA's argument that our description of the projected reporting, record-keeping, and other compliance requirements of the rule we proposed in the NPRM was inaccurate. As we described, the NPRM tentatively concluded that we would *not* require carriers other than AT&T, the BOCs, and GTE to implement specified safeguard requirements as those carriers had been required to under *Computer III.* Thus, the NPRM's Initial Regulatory Flexibility Analysis correctly stated that there were no projected reporting, record-keeping, or other compliance requirements for small business entities as a result of the NPRM.

C. Evidence of Cost of Compliance

111. When we established the flagging and audit trail requirements in the *CPNI Order,* the evidence before us was that carriers could, with relative ease, modify their systems to accommodate these requirements. Based upon many of the petitions filed on reconsideration, however, it does not appear that all of the relevant facts were before the Commission at that time. Numerous petitioners have now presented evidence that the safeguards we adopted would be costly to implement.

D. The Flagging Requirement

112. Upon reconsideration, based upon the new evidence before us, we agree with the petitioners that we should modify the flagging requirement promulgated in the *CPNI Order* for all carriers. The goal of the CPNI flagging rule is to ensure that carriers are aware of the status of, and observe, a customer's CPNI approval status prior to any use of that customer's CPNI. The Coalition proposes that we modify our rule to require carriers to train their marketing personnel to determine a customer's CPNI status prior to using that customer's CPNI for ''out of category'' marketing, and to make customer approval status available to such personnel in a readily accessible and easily understandable format. As is only now evident from the new evidence presented on reconsideration, implementation of the flagging rules promulgated in the *CPNI Order* will require significant expenditures of monetary and personnel resources for most carriers, regardless of size. Although we agree in principle that the Coalition's proposal will achieve the goals of the flagging requirements at a substantially reduced cost, we conclude that the Coalition's proposal can be modified to even simpler, less regulatory terms. We find that the carriers are in a better position than the Commission to create individual systems which ensure that their employees check each customer's CPNI approval status prior to any use of that customer's CPNI for out of category marketing. Accordingly, we amend section 64.2009(a) of our rules to state that telecommunications carriers must implement a system by which the status of a customer's CPNI approval can be clearly established prior to the use of CPNI. This modification will permit all carriers to develop and implement a system that is suitable to, among other things, its unique size, capital resources, culture, and technological capabilities.

E. The Audit Trail Requirement

113. We also agree with the petitioners, based upon the new evidence before us, that we should modify the *CPNI Order's* electronic audit trail requirement. This requirement was broadly intended to track access to a customer's CPNI account, recording whenever customer records are opened, by whom, and for what purpose. As AT&T points out, the *CPNI Order's* electronic audit trail requirement would generate ''massive'' data storage requirements at great cost. As it is already incumbent upon all carriers to ensure that CPNI is not misused and that our rules regarding the use of CPNI are not violated we conclude that, on balance, such a potentially costly and burdensome rule does not justify its benefit. As an alternative to the *CPNI Order's* electronic audit trail requirement, the Coalition has proposed that we require the creation of such a record, but only with respect to ''marketing campaigns.'' We find that the Coalition proposal is too narrow because, as MCI noted in an *ex parte* meeting with the Common Carrier Bureau, many carriers distinguish between ''sales'' and ''marketing.'' We determine that carriers must maintain a record, electronically or in some other manner, of their sales and marketing campaigns that use CPNI. The record must include a description of each campaign, the specific CPNI that was used in the campaign, the date and purpose of the campaign, and what products or services were offered as part of the campaign. We will also require carriers to retain the record for a minimum of one year. We amend section 64.2009(c) accordingly.

F. The Corporate Officer Certification

114. The Coalition also requests that we amend the Officer Certification rule to eliminate the requirement that the corporate officer signing the certification have personal knowledge that the carrier is in compliance with the Commission's CPNI rules. This we decline to do. Our revisions of the flagging and audit trail requirements in this order will allow telecommunications carriers more flexibility in determining how they will ensure their compliance with our CPNI rules. This flexibility puts the responsibility squarely on the carriers to ensure their compliance. This flexibility, and its concurrent responsibility, requires that some officer of the carrier have personal knowledge that the scheme designed by the carrier is adequate and complies with our CPNI rules. Because neither the petitioners nor the Coalition have persuaded us that personal knowledge on the part of an officer is unnecessary, we will not omit that requirement from our rule. We will, however, amend the rule to omit the word ''corporate'' because, as some parties explain, not all carriers are organized as corporations.

115. We will also amend § 64.2009(e) to require that telecommunications carriers have an officer, as an agent of the carrier, sign a compliance certificate on an annual basis stating that the operating procedure established by the carrier *is or is not* in compliance with the rules in this subpart. The carrier must provide a statement accompanying the certificate detailing how the carrier's operating procedure is and/or is not in compliance.

G. Other Safeguard Provisions

116. Parties also seek reconsideration of other safeguard provisions. In light of the important role these rules play in safeguarding the proper use of CPNI, we are not persuaded that these rules are so burdensome that they warrant modification. Moreover, as we have taken steps on reconsideration to allow carriers to decide for themselves how to implement the flagging and audit trail rules, the rules are now even less burdensome. It is, in fact, the continued application of the employees training and discipline rules, and the officer certification requirement, that permits us to make the substantial modifications of the flagging and audit trail requirements on reconsideration. Thus, we conclude the remaining requirements in section 64.2009 are reasonable as presently written.

H. Petitions for Forbearance

117. We deny both as moot NTCA and PCIA's petitions for forbearance from enforcement of the audit trail and flagging rules. Section 10 of the Act requires the Commission to forbear from regulation when: (1) Enforcement is not necessary to ensure that the carrier's charges and practices are just and reasonable; (2) enforcement is not necessary for the protection of consumers; and (3) forbearance is consistent with the public interest. Both PCIA and NTCA premise their forbearance arguments upon the fact that the flagging and audit trail requirements, as detailed in the *CPNI Order*, require the implementation of electronic safeguards. Based upon the new evidence the parties presented on reconsideration, we agree with both NTCA and PCIA that the rules we promulgated in the *CPNI Order* are unduly burdensome. We deny these forbearance petitions, however, because we conclude that the revised flagging and audit trail requirements resolve NTCA and PCIA's criticisms of the former rules and the basis for their forbearance requests. Under our new rules carriers, including NTCA and PCIA members, may establish non-computerized systems of their own design to comply with our requirements.

I. Small and Rural Carriers

118. We recognize, in light of the new evidence presented to the Commission, that the flagging and audit trail requirements promulgated in the *CPNI Order* might have a disparate impact on rural and small carriers. Our modification of the flagging and audit trail requirements in this order, however, effectively moots the requests we received from the parties seeking special treatment for small and rural carriers with respect to these requirements. In particular, under the amended rules, carriers are not required to maintain flagging and audit capabilities in electronic format. Rather, the amended rules leave it to the carriers' discretion to determine what sort of system is best for their circumstances. Thus, carriers whose records are not presently maintained in electronic form are not required to implement electronic systems if they do not wish to do so. We deny, therefore, the Independent Alliance's petition to exempt small and rural carriers from the provisions of sections 64.2009(a) and (c) because we have amended our rules to accommodate, in part, the concerns of small and rural carriers. Likewise, we deny NTCA's request that rural telecommunications companies should be eligible for a blanket waiver of the flagging and audit trail provisions, and TDS's request for reconsideration of the flagging and tagging rules for small and mid-sized carriers, for the same reason. Finally, on the same basis, we reject ALLTEL's request that we reconsider the application of the ''enforcement time frames and other requirements to rural and small carriers.''

J. Adequate Cost Recovery

119. We deny TDS's request that the Commission provide a mechanism, in the form of a ''nationwide averaged [and] clearly identified flat charge on all customers,'' to recover the costs that carriers will incur complying with section 222, the *CPNI Order*, and the Commission's rules. As we have now amended our rules to allow carriers the freedom to implement these safeguards in a more effective and flexible manner, we believe that carrier costs will be significantly reduced from the costs estimated by carriers subsequent to the *CPNI Order*. Accordingly, we reject TDS's request for a separate cost recovery mechanism at this time.

K. Enforcement of CPNI Obligations

120. In this Order, we have amended our rules to reflect a deregulatory approach which leaves many of the specific details of compliance to the carriers. However, we intend to enforce the rules, as amended, zealously. We expect carriers to protect the confidentiality of the CPNI in their possession in accordance with our rules. Carriers will be subject to penalties for improper use of CPNI. Moreover, failure to develop and implement a compliance plan to safeguard CPNI consistent with our rules will form a separate basis for liability. We also note that we will address, in a separate order, the enforcement and compliance issues raised in response to the *FNPRM*.

VIII. Section 222 and Other Act Provisions

A. Section 222 and Section 272

1. Background

121. Section 272(c)(1) states that, ''[i]n its dealings with its [section 272 affiliates], a Bell operating company . . . may not discriminate between the company or affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards.'' The Commission concluded in the *Non-Accounting Safeguards Order* that: (1) The term ''information'' in section 272(c)(1) includes CPNI; and (2) the BOCs must comply with the

requirements of both sections 222 and 272(c)(1). The Commission, however, declined to address the parties' other arguments regarding the interplay between section 272(c)(1) and section 222 to avoid prejudging issues that would be addressed in the *CPNI Order*. The Commission also declined to address the parties' arguments regarding the interplay between section 222 and section 272(g), which permits certain joint marketing between a BOC and its section 272 affiliate. The Commission emphasized, however, that, if a BOC markets or sells the services of its section 272 affiliate pursuant to section 272(g), it must comply with the statutory requirements of section 222 and any rules promulgated thereunder.

122. In the *CPNI Order* the Commission overruled the *Non-Accounting Safeguards Order*, in part, concluding that the most reasonable interpretation of the interplay between sections 222 and 272 is that the latter does not impose any additional CPNI requirements on BOCs' sharing of CPNI with their section 272 affiliates when they share information with their section 272 affiliates according to the requirements of section 222. The Commission reached this conclusion only after recognizing an apparent conflict between sections 222 and 272. We noted in the *CPNI Order* that, on the one hand, certain parties argued that under the principle of statutory construction the ''specific governs the general,'' and that section 222 specifically governs the use and protection of CPNI, but section 272 only refers to ''information'' generally. As such, they claimed that section 222 should control section 272. On the other hand, under the same principle of construction, other parties argued that section 272 specifically governs the BOCs' sharing of information with affiliates, whereas section 222 generally relates to all carriers. Therefore, they asserted, section 272 should control section 222. Because either interpretation is plausible, it was left to the Commission to resolve the tension between these provisions, and to formulate the interpretation that, in the Commission's judgment, best furthers the policies of both provisions and the statutory design. We determine that interpreting section 272 to impose no additional obligations on the BOCs when they share CPNI with their section 272 affiliates according to the requirements of section 222 most reasonably reconciles the goals of these two principles.

2. Discussion

123. We affirm our conclusion in the *CPNI Order* that the most reasonable interpretation of the interplay of sections 222 and 272 is that section 272 does not impose any additional obligations on the BOCs when they share CPNI with their section 272 affiliates. For the same reasons described in the *CPNI Order*, however, we conclude that our prior interpretation of the relationship between sections 222 and 272 is correct.

124. At the outset, we reject MCI's argument that there was not adequate notice that the Commission might reverse its conclusion in the *Non-Accounting Safeguards Order* relating to CPNI.

125. We further disagree with MCI's claim that the Commission's ''approach'' is flawed. We affirm our previous conclusion based upon our prior reasoning.

126. We also reject MCI and TRA's argument that the ''except as required by law'' clause in section 222(c)(1) encompasses, at least in part, section 272(c)(1). We conclude, for the same reasons as those we previously described in the *CPNI Order*, that the ''except as required by law'' clause does not encompass section 272.

127. We affirm the *CPNI Order*'s conclusion that the term ''information'' in section 272(c)(1) does not include CPNI despite CompTel and Intermedia's assertion that such an interpretation is contrary to the plain meaning of the Act and should be reconsidered.

128. While the legislative history is silent about the meaning of ''information'' in section 272(c)(1), the structure of the Act indicates strongly that the provision is susceptible to differing meanings. Indeed, as the courts have cautioned, the Commission is bound to move beyond dictionary meanings of terms and to consider other possible interpretations, assess statutory objectives, weigh congressional policy, and apply our expertise in telecommunications in determining the meaning of provisions. In this instance, we believe that the structure of the Act belies petitioners' contention that the term ''information'' has a plain meaning that encompasses CPNI. In enacting section 222, Congress carved out very specific restrictions governing consumer privacy in CPNI and consolidated those restrictions in a single, comprehensive provision. We believe that the specific requirements governing CPNI use are contained in that section and we disfavor, accordingly, an interpretation of section 272 that would create constraints for CPNI beyond those embodied in the specific provision delineating those constraints. As a practical matter, the interpretation proffered by petitioners would bar BOCs from sharing CPNI with their affiliates: the burden imposed by the nondiscrimination requirements would, in this context, pose a potentially insurmountable burden because a BOC soliciting approval to share CPNI with its affiliate would have to solicit approval for countless other carriers as well, known or unknown. We do not believe that is what Congress envisioned when it enacted sections 222 and 272. Rather, as we concluded in the *CPNI Order*, we find it a more reasonable interpretation of the statute to conclude that section 222 contemplates a sharing of CPNI among all affiliates (whether BOCs or others), consistent with customer expectations that related entities will share information so as to offer services best tailored to customers' needs. For these reasons, we find that the ''plain meaning'' argument raised by Comptel and Intermedia is not persuasive, and further that their meaning is not the one Congress most likely intended. Therefore, we affirm our previous conclusion.

129. In addition, we are not persuaded by CompTel's assertion that there is no indication that section 222 was intended to trump section 272 because the Commission previously recognized, in the *First Report and Order*, that section 222's obligations are not exclusive. Because Congress unambiguously prohibited the use of such CPNI in section 275(d), we concluded that the specific prohibition in section 275(d) controls the general CPNI rules described in section 222. This stands in stark contrast to the difficult task of reconciling sections 222 and 272.

130. Moreover, we do not agree with WorldCom's assertion that the Commission ignored section 272(b)(1). Thus, we deny reconsideration on this basis as WorldCom has not presented any new arguments or facts we did not already consider.

131. Finally, several parties also argue that our interpretation of the interplay of sections 222 and 272 gives BOC affiliates an unfair competitive advantage over other competitors. These parties raise no new arguments or facts on reconsideration of this point that we did not already consider. We previously identified in detail specific mechanisms in section 222 that address such competitive concerns. We therefore deny these parties' requests for reconsideration of this conclusion.

B. Disclosure of Non-CPNI Information Pursuant to Section 272

132. The Commission noted in a footnote in the *CPNI Order* that BOC non-discrimination obligations under section 272 would apply to the sharing of all other information and services with their section 272 affiliates. The Common Carrier Bureau further concluded in the *Clarification Order* that a customer's name, address, and telephone number are not CPNI. The Bureau reasoned that ''[i]f the definition of CPNI included a customer's name, address, and telephone number, a carrier would be prohibited from using its business records to contact any of its customers to market any new service that falls outside the scope of the existing service relationship with those customers.

133. We agree with the Common Carrier Bureau's clarification and adopt its reasoning and conclusion as our own. Accordingly, we grant MCI's request that we clarify that a customer's name, address, and telephone number are ''information'' for purposes of section 272(c)(1), and if a BOC makes such information available to its affiliate, then it must make that information available to non-affiliated entities.

134. MCI also argues that the Commission should find that a customer's PIC choice and PIC-freeze status are not CPNI as defined in section 222(f)(1). We are not persuaded by MCI's statutory interpretation. We conclude that a customer's PIC choice falls squarely within the definition of CPNI set out in both sections 222(f)(1)(A) and (B), and that PIC-freeze information meets the requirements of section 222(f)(1)(A). Finally, we agree with GTE that this result is consistent with the privacy goals set out by Congress in section 222.

C. Section 222 and Section 254

135. CenturyTel also argues that restricting the use of CPNI in marketing enhanced services and CPE to existing customers in rural exchanges is inconsistent with Universal Service provisions of the Act.

136. We disagree with the arguments made by CenturyTel and NTCA. As stated in Section V.A of this Order, we affirm the ''total service approach'' for all carriers. We find no reason to impose different notification requirements on large and small carriers. As we stated in the *CPNI Order*, concerns regarding customer privacy are the same irrespective of the carrier's size or identity. Further to the extent that CenturyTel and NTCA are requesting to use CPNI, without customer approval, to market CPE and certain information services, those requests have been granted. We also disagree with CenturyTel and NTCA's argument that section 254 requires the use of CPNI to allow rural carriers to implement Congress' Universal Service standards. Section 254 envisions that rural carriers would introduce and make available new technology to all of its customers. The CPNI rules in no way discourage rural carriers from doing that. In fact, one could argue that some of the CPNI rules require a carrier to make all of its customers aware of such new technology rather than using CPNI to pick and choose which customers to market the new technology to. The basis of CenturyTel and NTCA's arguments, however, is that they do not want to market the new technology to all of its customers. They want to make it available only to certain customers that they select by using their customers' CPNI. We fail to see how section 254 requires this outcome.

D. Application of Nondiscrimination Rules Under Sections 201(b) and 202(a)

137. We reject MCI's argument that the nondiscrimination requirement described in section 272 should be applied to all ILECs through the requirements of sections 201(b) and 202(a).

138. We agree with GTE that there is no justification to conclude, as a matter of statutory construction, that the broad non-discrimination requirements of these sections impose a specific disclosure obligation on ILEC use of CPNI. In any case, the same privacy concerns we identified in our discussion of the relationship between sections 222 and 272 apply here equally. For instance, requiring the disclosure of CPNI to other companies to maintain competitive neutrality would defeat, rather than protect, customers' privacy expectations and control over their own CPNI. We conclude that the specific consumer privacy and consumer choice protections established in section 222 supersede the general protections identified in sections 201(b) and 202(a). Thus, we are not persuaded that section 201(b) or section 202(a) require the result MCI seeks. Accordingly, we reject MCI's request.

IX. Other Issues

A. Status of Customer Rewards Program

139. Section 64.2005(b) of the Commission's Rules prohibits a telecommunications carrier from using, disclosing, or permitting access to CPNI to market to a customer, without customer approval, service offerings that are within a category of service to which the customer does *not* already subscribe.

140. Omnipoint and Vanguard contend that when a carrier provides free rewards, such as free equipment, for the purpose of retaining its accounts, the prohibition in section 64.2005(b) should not apply because (1) the customer subscribes to the service for which the reward is provided; and (2) the reward is free, and therefore is not ''marketed.'' Omnipoint and Vanguard request clarification because they claim that carriers are more likely to offer rewards if they are able to target them to high-volume or long-term customers, and if carriers do not need to seek customer approval. No party has objected to this proposal.

141. We agree with Omnipoint and Vanguard that, where a carrier uses CPNI to provide free rewards to its customer, such use of CPNI is within the scope of the carrier-customer relationship. As such, the use of the CPNI is limited to the existing service relationship between the carrier and the customer. Therefore, although the provision of free rewards is a marketing activity, it does not violate the Act or our rules, provided the telecommunications service being marketed is the service currently subscribed to by the customer.

B. Non-telecommunications Services Listed on Telephone Bill

142. CPNI is defined in section 222(f)(1)(B) of the Act as including ''information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; except that such term does not include subscriber list information.'' However, section 222(c)(1) prohibits a carrier's use of CPNI only where it receives the CPNI ''by virtue of its provision of a telecommunications service.''

143. In the Common Carrier Bureau's *Clarification Order*, the Bureau said that ''customer information derived from the provision of any non-telecommunications service, such as CPE or information services * * * may be used to provide or market any telecommunications service * * *'' Omnipoint asks the Commission to clarify that section 222 does not prohibit the use of customer information derived from non-telecommunications services bundled with telecommunications services merely because charges for those services appeared on a customer's telephone bill.

144. Section 222(c)(1) prohibits the use of CPNI only where it is derived

from the provision of a telecommunications service. Consequently, we find that information that is not received by a carrier in connection with its provision of telecommunications service can be used by the carrier without customer approval, regardless of whether such information is contained in a bill generated by the carrier. Therefore, consistent with the *Clarification Order*, customer information derived from information services that are held not to be telecommunications services may be used, even if the telephone bill covers charges for such information services.

C. Provision of Calling Card as ''Provision'' of Service

145. LECs often offer so-called ''post-paid'' calling cards that enable customers to complete long distance calls over a particular interexchange carrier's network when the customer is away from home. Such cards enable a customer to have the calls billed subsequently on the customer's local bill issued by the LEC. MCI asks the Commission to clarify that LECs may not use CPNI garnered in such circumstances to market services that the LEC offers absent permission from the customer.

146. We grant MCI's request for clarification. In the traditional LEC post-paid calling card situation, the LEC serves merely as a billing and collection agent on behalf of the interexchange carrier, much as the LEC does when a customer places long distance calls from home through the customer's pre-subscribed interexchange carrier (IXC). In both instances, the customer has established a customer-carrier relationship for the provision of interexchange services with the IXC that carried the customer's call over its network. The LEC, on the other hand, is standing in the place of the IXC only for billing and collection purposes, a service which the IXC could have chosen to provide itself. Where a LEC acts as a billing and collection agent, it may not use CPNI without the customer's permission under the total services approach.

D. Use of CPNI To Prevent Fraud

147. Section 222(d)(2) of the Act permits the use of CPNI to ''protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to services * * *'' Section 64.2005 of the Commission's rules provides that a telecommunications carrier may use, disclose, or permit access to CPNI, without customer approval, for a number of purposes, but does not mention the use of CPNI in connection with fraud prevention programs.

148. Comcast requests that the Commission clarify its rules to specify that (1) carriers are authorized to use CPNI in connection with fraud prevention programs; and (2) such use is permissible even after a customer has terminated service from the carrier making such use of the customer's CPNI.

149. We agree that Section 222(d)(2) on its face permits the use of CPNI in connection with fraud prevention programs, and does not limit such use of CPNI that is generated during the customer's period of service to any period of time. Since our rules do not cover the use of CPNI for fraud prevention programs, we will amend our rules to do so, in order to eliminate the possibility of misinterpretation.

E. Definition of ''Subscribed'' in Section 222(f)(1)(A)

150. We grant MCI's request for clarification of the meaning of the phrase ''service subscribed to by any other customer'' in section 222(f)(1)(A).

F. CPNI ''Laundering''

151. MCI requests clarification that ''the status of information as CPNI or carrier proprietary information [under section 222] is not lost or altered if [a] carrier discloses or transmits such information to an affiliated or unaffiliated entity, whether or not that entity transfers such information to other parties or back to the original carrier.''

152. We agree that as the stewards of CPNI and carrier proprietary information carriers must take steps to safeguard such information. Moreover, we find that implicit in section 222 is a rebuttable presumption that information that fits the definition of CPNI contained in section 222(f)(1) is in fact CPNI. We decline, however, to speak to MCI's other clarification requests as they regard issues relating to carrier proprietary information in section 222(b) and enforcement mechanisms to ensure carrier compliance with both sections 222(a) and (b). As *FNPRM* in this docket seeks comment on those specific issues, we would not want to prejudice resolution of those issues in this order.

G. Acts of Agents of Wireless Providers

153. Vanguard argues that sales agents of CMRS providers are not subject to Commission rules, and that CMRS providers should not be held responsible for the use of CPNI independently obtained by agents because it would be difficult or impossible for CMRS providers to enforce these obligations on agents.

154. We find that telecommunications service providers will be responsible for the actions of their agents to comply with our CPNI rules to the extent that telecommunications service providers share CPNI with their agents. Moreover, telecommunications service providers will be responsible for the actions of agents with respect to the use of CPNI acquired by their agents. It is well established that principals are responsible for the actions of their agents. In the absence of such a rule, the important consumer protections enacted by Congress in section 222 may be vitiated by the actions of agents.

155. We believe that telecommunications service providers can meet these requirements through the private contract arrangements they have with their agents. Carriers would normally have negotiating leverage to enforce this requirement in the case of agents who serve more than one carrier, since all carriers would be required to enforce the same rules. To the extent that it may be shown that some carriers would not be able to enforce these requirements, the Commission will address the exceptions on a case-by-case basis.

H. Information Known to Employees

156. Section 222(f)(1)(A) defines CPNI, in part, as including information ''that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship.'' We reject Comcast's argument that, based upon this definition, CPNI should not include ''institutional knowledge'' of the attributes of a particular customer's account gained by a carrier's employee from his or her work on the customer's account over the years if the employee does not actually access the customer's record, and U S WEST's argument that so long as an employee does not use a customer's record containing that customer's CPNI, the employee has not violated section 222. We are not persuaded that section 222(f)(1)(A) implies an exception based on whether the information acquired as part of the carrier-customer relationship is reduced to writing or is kept in the memory of a carrier representative. Thus, if a customer tells a carrier's employee information that otherwise fits the definition of CPNI provided in section 222(f)(1)(A), then that information is CPNI, no matter how the information is retained by the carrier.

I. Use of CPNI Under Section 222(d)(3) During Inbound Calls

157. Several carriers request that the Commission clarify the requirements for obtaining customer approval under section 222(d)(3). This section states that ''[n]othing in [section 222] prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents . . . to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

158. We agree that the detailed notification outlined in section 64.2007(f) of our rules is not necessary prior to soliciting a customer's approval to use his or her CPNI for the duration of an inbound call. It is unduly burdensome to require carriers to comply with the rule in light of the limited coverage of section 222(d)(3). Moreover, the rule reflects a discussion in the *CPNI Order* of the content of the general notification requirements under section 222(c)(1), and not those required for section 222(d)(3). Accordingly, we clarify that section 64.2007(f) does not apply to solicitations for customer approval under section 222(d)(3).

159. We deny, however, TDS's request that we reconsider our prior conclusion that section 222(d)(3) requires an affirmative customer approval. We previously stated in the *CPNI Order* that section 222(d)(3) ''contemplates oral approval.'' We conclude that a plain reading of the statute contradicts TDS's conclusion: If Congress meant consent to be inferred from the mere fact that the customer initiated the call, it would not have required that the customer both initiate the call *and* ''approve[] of the use of such information to provide such service.'' We deny TDS's request for reconsideration for this reason and because TDS has not presented any new arguments or facts that the Commission did not consider in the *CPNI Order* with regard to this issue.

160. Finally, pursuant to GTE's request, we clarify that carriers need not maintain records of notice and approval of carrier use of CPNI during inbound calls under section 222(d)(3). Section 64.2007(e) of the Commission's rules requires that carriers maintain customer notification and approval records for one year. Notifications and approvals under section 222(c)(1) and 222(d)(3), however, are markedly different in scope. Notifications and approvals under section 222(c)(1) are valid until revoked or limited by the customer, whereas notifications and approvals for inbound calls pursuant to section 222(d)(3) are only valid for the duration of each call. Therefore, unlike the retention of records of notifications and approvals under section 222(c)(1), which we previously concluded would facilitate the disposition of individual complaint proceedings if the sufficiency of a customer's notification or approval is challenged at some later time, requiring the retention of records of section 222(d)(3) notifications and approvals would provide little evidentiary value because the notification and customer's authorization to use CPNI automatically evaporate upon completion of the call. We do not find any advantage to requiring carriers to retain such records for purposes of section 222(d)(3). As such, we conclude that such a requirement would place an unnecessary burden on carriers.

X. Procedural Issues

161. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *FNPRM*. The Commission sought written public comment on the proposals in the *FNPRM*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

I. Need for and Objectives of This Order on Reconsideration and the Rules Adopted Herein

162. In the Order on Reconsideration, the Commission reconsiders the rules promulgated in the *CPNI Order* in light of an expanded record to better balance customer privacy concerns with those of customer convenience with the effect of minimizing the impact of our requirements on all carriers, including small and rural carriers. We have amended our rules relating to flagging and audit trails for all carriers, which will have a beneficial impact on small carriers. Additionally, we modify our rules to permit all carriers to use CPNI to market CPE to their customers, without express approval. We also find that customers give implied consent to use CPNI to CMRS carriers for the purpose of marketing all information services, but only give implied consent to wireline carriers for certain information services. We further modify our rules to allow carriers to use CPNI to regain customers who have switched to another carrier.

II. Summary of Significant Issues Raised by Public Comments in Response to the FRFA

163. As discussed in Section V, a number of small carriers or their advocates present evidence that the safeguard requirements of the CPNI rules are particularly burdensome for small and rural carriers. We recognize, in light of the new evidence presented to the Commission, that the flagging and audit trail requirements promulgated in the *CPNI Order* might have a disparate impact on rural and small carriers. Our modification of the flagging and audit trail requirements in this order, however, effectively moots the requests we received from the parties seeking special treatment for small and rural carriers with respect to these requirements. Moreover, the restrictions lifted on the marketing of CPE and information services will lessen the impact of compliance with our rules for small and rural carriers, generally, and enable these carriers to more efficiently use their marketing resources.

III. Description and Estimates of the Number of Small Entities Affected by the First Report and Order

164. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the actions taken in this *Order on Reconsideration*. The RFA generally defines the term ''small entity '' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss generally the total number of small telephone companies falling within both of those SIC categories. Then, we discuss the number of small businesses within the two subcategories, and attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

165. Although affected ILECs may have no more than 1,500 employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they either are dominant in their field of operations or are not independently owned and operated, and are therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term ''small ILECs'' to refer to any ILECs that arguably might be defined by SBA as ''small business concerns.''

166. *Total number of telephone companies affected.* The United States Bureau of the Census (the Census Bureau) reports that at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are either small entities or small incumbent LECs that may be affected by this order.

167. *Wireline carriers and service providers.* The SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census Bureau reports there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 2,295 small entity telephone communications companies other than radiotelephone companies are small entities or small ILECs that may be affected by this order.

168. *Local exchange carriers.* Neither the Commission nor the SBA has developed a definition of small providers of local exchange services. The closest applicable definition under the SBA's rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,371 companies reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, or are dominant we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 small providers of local exchange service are small entities or small ILECs that may be affected by this order.

169. *Interexchange carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA's rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs nationwide of which we are aware appears to be the data that we collect annually in connection with TRS. According to our most recent data, 143 companies reported that they were engaged in the provision of interexchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 143 small entity IXCs that may be affected by this order.

170. *Competitive access providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under the SBA's rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of CAPs nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 109 companies reported that they were engaged in the provision of competitive access services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 109 small entity CAPs that may be affected by this order.

171. *Operator service providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA's rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of operator service providers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 27 companies reported that they were engaged in the provision of operator services. Although it seems certain that some of these companies are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 27 small entity operator service providers that may be affected by this order.

172. *Pay telephone operators.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under the SBA's rules is for telephone communications companies

other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of pay telephone operators nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 441 companies reported that they were engaged in the provision of pay telephone services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 441 small entity pay telephone operators that may be affected by this order.

173. *Wireless carriers.* The SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by this order.

174. *Cellular service carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of cellular services. The closest applicable definition under the SBA's rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of cellular service carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 804 companies reported that they were engaged in the provision of cellular services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 804 small entity cellular service carriers that may be affected by this order.

175. *Mobile service carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. The closest applicable definition under the SBA's rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of mobile service carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 172 companies reported that they were engaged in the provision of mobile services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of mobile service carriers that would qualify under the SBA's definition. Consequently, we estimate that there are fewer than 172 small entity mobile service carriers that may be affected by this order.

176. *Broadband PCS licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has defined small entity in the auctions for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenue of not more than $15 million for the preceding three calendar years. These regulations defining small entity in the context of broadband PCS auctions have been approved by the SBA. No small business within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small businesses won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. However, licenses for Blocks C through F have not been awarded fully; therefore, there are few, if any, small businesses currently providing PCS services. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning bidders and the 93 qualifying bidders in the D, E, and F Blocks, for a total of 183 small PCS providers as defined by the SBA and the Commission's auction rules.

177. *Narrowband PCS licensees.* The Commission does not know how many narrowband PCS licenses will be granted or auctioned, as it has not yet determined the size or number of such licenses. Two auctions of narrowband PCS licenses have been conducted for a total of 41 licenses, out of which 11 were obtained by small businesses owned by members of minority groups and/or women. Small businesses were defined as those with average gross revenues for the prior three fiscal years of $40 million or less. For purposes of this FRFA, the Commission is utilizing the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. Not all of the narrowband PCS licenses have yet been awarded. There is therefore no basis to determine the number of licenses that will be awarded to small entities in future auctions. Given the facts that nearly all radiotelephone companies have fewer than 1,000 or fewer employees and that no reliable estimate of the number of prospective narrowband PCS licensees can be made, we assume, for purposes of the evaluations and conclusions in this FRFA, that all the remaining narrowband PCS licenses will be awarded to small entities.

178. *SMR licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. This definition of a ''small entity'' in the context of 800 MHz and 900 MHz SMR has been approved by the SBA. The rules adopted in this order may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million. We assume, for purposes of this FRFA, that all of the extended implementation

authorizations may be held by small entities, which may be affected by this order.

179. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected by the rule adopted in this order includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Thus, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. The Commission, however, has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. Moreover, there is no basis on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of this FRFA, that all of the licenses may be awarded to small entities who, thus, may be affected by this order.

180. *Resellers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under the SBA's rules is for all telephone communications companies. The most reliable source of information regarding the number of resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 339 companies reported that they were engaged in the resale of telephone services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 339 small entity resellers that may be affected by this order.

IV. Steps Taken To Minimize Significant Economic Impact on Small Entities and Small Incumbent LECs, and Alternatives Considered

181. We recognize, in light of the new evidence presented to the Commission, that the flagging and audit trail requirements promulgated in the *CPNI Order* might have a disparate impact on rural and small carriers. We have amended the flagging and audit trail requirements, and as more fully discussed in Section V, the amended rules leave it to the carrier's discretion to determine what sort of system is best for their circumstances. Thus, carriers whose records are not presently maintained in electronic form are not required to implement electronic systems if they do not wish to do so. We believe this modification of our rules will significantly minimize any adverse economic impact on small entities that our original rules may have had.

V. Report to Congress

182. The Commission shall send a copy of this Supplemental Final Regulatory Flexibility Analysis, along with this Order on Reconsideration, in a report to Congress pursuant to the Small business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this SFRFA will also be published in the **Federal Register**.

B. Supplemental Final Paperwork Reduction Analysis

183. The *CPNI Order* from which this Order on Reconsideration issues proposed changes to the Commission's information collection requirements. As required by the Paperwork Reduction Act of 1995, Public Law 104–13, the *CPNI Order* invited the general public and the Office of Management and Budget (OMB) to comment on the proposed changes. On June 23, 1998, OMB approved all of the proposed changes to our information collection requirements in accordance with the PRA.

184. This Order on Reconsideration amends our rules to merely state that telecommunications carriers must implement a system by which the status of a customer's CPNI approval can be clearly established prior to the use of CPNI, and must maintain an audit mechanism that tracks CPNI usage. We have removed the requirements of § 64.2009 (a) and (c) that carriers must develop and implement software that flags a customer's CPNI approval status and must maintain an electronic audit mechanism that tracks access to customer accounts. These amendments are new collections of information within the meaning of the PRA. Implementation of these requirements is subject to approval by the OMB, as prescribed by the PRA.

XI. Ordering Clauses

185. Accordingly, *it is ordered* that, pursuant to Sections 1, 4(i), 10, 222 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 160, 222 and 303(r), the Order is hereby adopted. The rules established by the Order contain information collection requirements that have not yet 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. *It is further ordered* that, pursuant to sections 1, 4(i) and 222 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and 222, the Petitions for Reconsideration, as listed in the Appendix to the Order, are granted to the extent indicated herein and otherwise denied.

186. *It is further ordered* that, pursuant to sections 1, 4(i), 10 and 222 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 160 and 222, the Petitions for Forbearance, as listed in Appendix A hereto, are denied.

187. *It is further ordered* that 64.2005(b)(3) of part 64 of the Commission's rules, 47 CFR 64.2005(b)(3), is removed.

188. *It is further ordered* that 64.2007(f)(4) of part 64 of the Commission's rules, 47 CFR 64.2007(f)(4), is removed.

189. *It is further ordered*, pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), that we shall not seek enforcement against carriers regarding compliance with 64.2009(a) and (c) of part 64 of the Commission's rules, 47 CFR 64.2009(a) and (c), as amended herein, until eight months after the release of this Order.

190. *It is further ordered* that part 64 of the Commission's rules, 47 CFR is amended. These rules contain information collection requirements that have not yet been approved by OMB. The Commission will publish a document in the **Federal Register** announcing the effective date of those sections. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Appendix—Petition for Forbearance

Note: This Appendix will not appear in the Code of Federal Regulations.

Petitions for Reconsideration Filed May 26, 1998

ALLTEL Communications, Inc. (ALLTEL)
AT&T Corp.
BellSouth Corporation
Comcast Cellular Communications, Inc.
Competitive Telecommunications Association (CompTel)
Independent Alliance (Alliance)
LCI International Telecom Corp.
MCI Telecommunications Corporation
Metrocall, Inc. (Metrocall)
Omnipoint Communications, Inc
Paging Network, Inc. (PageNet)
Personal Communications Industry Association (PCIA)
RAM Technologies, Inc. (RAM)
SBC Communications Inc.
Sprint Corporation
TDS Telecommunications Corporation
United States Telephone Association (USTA)
Vanguard Cellular Systems, Inc. (Vanguard)

Petitions for Forbearance

Personal Communications Industry Association (PCIA)

Petitions for Reconsideration/Forbearance

360° Communications Company
Ameritech
Bell Atlantic Telephone Companies (Bell Atlantic)
Cellular Telecommunications Industry Association
CommNet Cellular Inc.
GTE Service Corporation (GTE)
National Telephone Cooperative Association (NTCA)
Paging Network, Inc.
PrimeCo Personal Communications, L.P.
United States Telephone Association

Rule Changes

For the reasons discussed in the preamble, 47 CFR Part 64 is amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 10, 201, 218, 226, 228, 332, unless otherwise noted.

§ 64.2005 [Amended]

2. In § 64.2005, paragraph(b)(1) is revised, paragraph (b)(3) is removed, and paragraph (d) is added to read as follows:

* * * * *

(b) * * *

(1) A wireless provider may use, disclose, or permit access to CPNI derived from its provision of CMRS, without customer approval, for the provision of CPE and information service(s). A wireline carrier may use, disclose or permit access to CPNI derived from its provision of local exchange service or interexchange service, without customer approval, for the provision of CPE and call answering, voice mail or messaging, voice storage and retrieval services, fax store and forward, and protocol conversions.

* * * * *

(d) A telecommunications carrier may use, disclose, or permit access to CPNI to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services.

§ 64.2007 [Amended]

3. In § 64.2007 remove paragraph (f)(4).

§ 64.2009 [Amended]

4. In § 64.2009, paragraphs (a), (c) and (e) are revised to read as follows:

(a) Telecommunications carriers must implement a system by which the status of a customer's CPNI approval can be clearly established prior to the use of CPNI.

* * * * *

(c) All carriers shall maintain a record, electronically or in some other manner, of their sales and marketing campaigns that use CPNI. The record must include a description of each campaign, the specific CPNI that was used in the campaign, the date and purpose of the campaign, and what products or services were offered as part of the campaign. Carriers shall retain the record for a minimum of one year.

* * * * *

(e) A telecommunications carrier must have an officer, as an agent of the carrier, sign a compliance certificate on an annual basis stating that the officer has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the rules in this subpart. The carrier must provide a statement accompanying the certificate explaining how its operating procedures ensure that it is or is not in compliance with the rules in this subpart.

* * * * *

[FR Doc. 99–25232 Filed 9–30–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 15, 19, and 52

[FAC 97–14; Item XVI]

Federal Acquisition Regulation; Technical Amendments; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Technical amendments; Correction of Effective Date.

SUMMARY: FAC 97–14, Item XVI, Technical Amendments, which was published in the **Federal Register** on September 24, 1999, is corrected to amend the effective date of the amendment to 52.211–6. The document amended the Federal Acquisition Regulation to update references and make editorial changes.

EFFECTIVE DATE: This correction is effective September 24, 1999.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755.

Correction

In the issue of September 24, 1999, on page 51850, middle column, the effective date is corrected to read as follows:

EFFECTIVE DATE: September 24, 1999, except for sections 19.102, 52.211–6, and 52.219–18 which are effective November 23, 1999.

Dated: September 27, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–25537 Filed 9–30–99; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1002, 1003, 1007, 1011, 1012, 1014, 1017, 1018, 1019, 1021, 1034, 1039, 1100, 1101, 1103, 1104, 1105, 1113, 1133, 1139, 1150, 1151, 1152, 1177, 1180, and 1184

[STB Ex Parte No. 572 (Sub-No. 2]

Revision of Miscellaneous Regulations

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final rules.

SUMMARY: The Surface Transportation Board (Board) is revising, correcting, and updating regulations. Among the changes being made are the replacement of obsolete statutory references, the updating of office and address references, and the removal of references to obsolete organizational components. The Board is also making spelling, grammatical, terminology, explanatory, and typographical changes.

EFFECTIVE DATE: These rules are effective October 1, 1999.

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

SUPPLEMENTARY INFORMATION: We are updating, correcting, and revising our regulations in 49 CFR chapter X. Some of these changes are required by the enactment of the ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (ICCTA). For example, we are replacing obsolete statutory citations in parts 1151, 1177, and 1184. We are also removing references to divisions and joint boards (see parts 1012 and 1101).

We are also revising outdated office citations. References to the Office of Tariffs (Part 1011), the Office of Consumer Protection (Part 1021), and the Railroad Service Board (part 1034) are being changed to the Office of Compliance and Enforcement. References to the Budget and Fiscal Office are being changed to the Section of Financial Services (parts 1002, 1017, and 1018). The Office of Economics is now the Office of Economics, Environmental Analysis, and Administration, and the Section of Energy and Environment is now the Section of Environmental Analysis (parts 1011 and 1105). The Office of Public Assistance has been changed to the Office of Congressional and Public Services (parts 1011 and 1105). The references to the Office of Human Relations in section 1014.170 and the Office of the Managing Director in section 1019.6 are changed to the Section of Personnel Services. References to the System Services Branch are being changed to the Section of Systems Services (Part 1002). The reference in Part 1019 to the Managing Director's Counsel are changed to the Executive Counsel.

References to the following obsolete offices are being eliminated: the Office of the Managing Director (part 1007), the Bureau of Accounts (part 1139), the Publications Unit (part 1003), and the Office of Hearings and the Legal Branch (part 1011). We are revising our regulations to reflect the Board's changed address (parts 1007, 1012, and 1105). We are deleting room number references (parts 1012, 1014, 1105). We are also removing telephone numbers from the regulations (parts 1100 and 1105) to eliminate such outdated references and because the public has ready access to telephone numbers for key contacts at the Board through the Board's Internet web site at www.stb.dot.gov. Where public agencies or the public are to be notified by transmittal letter or newspaper notice, however, we are requiring that the appropriate Board telephone number be included (see appendices to Sections 1105.11 and 1105.12).

We are also making spelling, grammatical, terminology, explanatory, and typographical changes (parts 1002, 1039, 1104, 1105, 1113, 1133, 1151, 1152, and 1180). References limiting credit card payments to VISA and Mastercard have been eliminated (parts 1002 and 1018), while the option of credit card payment has been added in parts 1103 and 1152. A case citation has been updated (part 1150). It appears that, when the regulations were previously updated, we inadvertently changed references to state public commissions to ''Boards'' (parts 1139, 1150, and 1152) and we also changed historical references to the Interstate Commerce Commission (part 1139, Appendix I to subpart B). We are revising those references.

We are removing Section 1011.4(c)(7). It refers to 49 U.S.C. 1483, which concerns joint boards appointed by the Civil Aeronautics Board (CAB) and the Interstate Commerce Commission (ICC). That statute, as it pertains to joint boards, was repealed by Pub. L. 103–272, section 7(b), July 5, 1994, 108 Stat. 745. Accordingly, retaining this rule is unnecessary.[1] Finally, outdated references to committees of the Board (part 1012) are being removed.[2]

Because these changes either remove obsolete regulations, make revisions that are not substantive, or update rules to reflect current agency practice, we find good cause to dispense with notice and comment. 5 U.S.C. 553(b)(3)(A) and (B). Moreover, we find good cause for making these rules effective on less than the usual 30 days' notice under 5 U.S.C. 553(d), so that these changes will be effective by October 1, 1999, and therefore included in the next edition of the Code of Federal Regulations.

[1] Under former sections 1483(a) and (c), matters concerning through service and joint rates between air carriers and common carriers subject to the Interstate Commerce Act could be referred to a joint board upon complaint. Complaints could also be made to the ICC or CAB on any matter that could be referred to a joint board. While these sections have been repealed, parts of former section 1483 have been recodified at 49 U.S.C. 41502, which concerns joint prices and through service between air carriers and other carriers, including carriers subject to subtitle IV.

[2] At one time, the ICC had three standing committees on legislation, policy planning, and rules. *See Meetings of the Commission*, Ex Parte No. 333, 41 FR 56340, 56341 (Dec. 28, 1976).

Small Entities

The Board certifies that this rule will not have a significant economic effect on a substantial number of small entities, because, generally, obsolete, incorrect, and outdated references are being changed. The changes will have no economic effect on small entities.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information, User fees.

49 CFR Part 1003

Administrative practice and procedure.

49 CFR Part 1007

Administrative practice and procedure, Privacy.

49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

49 CFR Part 1012

Sunshine Act.

49 CFR Part 1014

Administrative practice and procedure, Civil rights, Equal employment opportunity, Federal buildings and facilities, Handicapped.

49 CFR Part 1017

Credit, Government employees.

49 CFR Part 1018

Claims, Debts.

49 CFR Part 1019

Government employees.

49 CFR Part 1021

Claims.

49 CFR Part 1034

Railroads.

49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Manufactured commodities, Railroads.

49 CFR Part 1100

Administrative practice and procedure.

49 CFR Part 1101

Administrative practice and procedure.

49 CFR Part 1103

Administrative practice and procedure, Lawyers.

49 CFR Part 1104

Administrative practice and procedure.

49 CFR Part 1105

Environmental impact statements, Reporting and recordkeeping requirements.

49 CFR Part 1113

Administrative practice and procedure.

49 CFR Part 1133

Claims, Freight.

49 CFR Part 1139

Administrative practice and procedure, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 1150

Administrative practice and procedure, Railroads.

49 CFR Part 1151

Administrative practice and procedure, Railroads.

49 CFR Part 1152

Administrative practice and procedure, Conservation, Environmental protection, National forests, National parks, National trails system, Public lands—rights-of-way, Railroads, Recreation and recreation areas, Reporting and recordkeeping requirements.

49 CFR 1177

Administrative practice and procedure, Archives and records, Railroads.

49 CFR Part 1180

Administrative practice and procedure, Bankruptcy, Railroads, Reporting and recordkeeping requirements.

49 CFR Part 1184

Administrative practice and procedure, Motor carriers.

Decided: September 24, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn and Commissioner Burkes.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, parts 1002, 1003, 1007, 1011, 1012, 1014, 1017, 1018, 1019, 1021, 1034, 1039, 1100, 1101, 1103, 1104, 1105, 1113, 1133, 1139, 1150, 1151, 1152, 1177, 1180, and 1184 of the Code of Federal Regulations are amended as follows:

PART 1002—FEES

1. The authority citation for Part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701; and 49 U.S.C. 721.

§ 1002.1 [Amended]

2. Remove the words ''electrostatic copies'' and add in their place the word ''photocopies'' in sections 1002.1(d) and 1002.1(f)(7) .

3. Remove the words ''System Services Branch'' and add in their place the words ''Section of Systems Services'' in section 1002.1(e)(2).

4. Remove the word ''rates'' and add in its place the word ''rate'' in section 1002.1(e)(3).

5. Remove the words ''Budget and Fiscal Office'' and add in their place the words ''Section of Financial Services'' in sections 1002.2(a)(2) and 1002.2(a)(2)(iii).

6. Revise section 1002.2(a)(3) to read as follows:

§ 1002.2 Filing Fees.

(a) * * *

(3) Fees will be payable to the Secretary, Surface Transportation Board, by check payable in United States currency drawn upon funds deposited in a United States or foreign bank or other financial institution, money order payable in United States currency, or by credit card.

* * * * *

PART 1003—FORMS

7. The authority citation for Part 1003 continues to read as follows:

Authority: 49 U.S.C. 721 and 13301(f).

§ 1003.1 [Amended]

8. Remove the words ''Publications Unit,'' in section 1003.1(c).

PART 1007—RECORDS CONTAINING INFORMATION ABOUT INDIVIDUALS

9. The authority citation for Part 1007 continues to read as follows:

Authority: 5 U.S.C. 552; 49 U.S.C. 721.

10. Remove the words ''Office of the Managing Director,'' in sections 1007.3(a), 1007.8(d), and 1007.11(b).

11. Remove the address ''Twelfth Street and Constitution Avenue, NW.,'' and add in its place the address ''1925 K Street, NW,'' in sections 1007.3(a), 1007.6(c), 1007.8(d), and 1007.11(b).

PART 1011—BOARD ORGANIZATION; DELEGATIONS OF AUTHORITY

12. The authority citation for Part 1011 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 7901; and 49 U.S.C. 701, 721, 11144, 14122, and 15721.

§§ 1011.4, 1011.7 and 1011.8 [Amended]

13. Section 1011.4(c)(7) is removed and reserved.

14. Remove the words ''assigned to the Office of Hearings'' and add in their place the words ''set for oral hearings'' in section 1011.7(c)(3).

15. Remove the words ''Director of the Office of Economics, the Deputy Director of Economics-Accounts, and the Chief of the Section of Audit and Accounting'' and add in their place the words ''Director and Associate Director of the Office of Economics, Environmental Analysis, and Administration and the Chief of the Section of Economics'' in section 1011.7(g).

16. Remove the words ''Office of Public Assistance'' and add in their place the words ''Office of Congressional and Public Services'' in sections 1011.8(a) and 1011.8(a)(1).

17. Remove the words ''Legal Branch,'' in section 1011.8(b)(2).

18. Remove the words ''Office of Tariffs'' and add in their place the words ''Office of Compliance and Enforcement'' in section 1011.8(b)(2).

19. Remove the words ''Section of Energy and Environment'' and add in their place the words ''Section of Environmental Analysis'' in section 1011.8(c)(10).

PART 1012—MEETINGS OF THE BOARD

20. The authority citation for Part 1012 continues to read as follows:

Authority: 5 U.S.C. 552b(g), 49 U.S.C. 701, 721.

21. Revise the second, third, and fourth sentences of section 1012.1(a) to read as follows:

§ 1012.1 General provisions.

(a) * * * They establish procedures under which meetings of the Surface Transportation Board (Board) are held. They apply to oral arguments as well as to deliberative conferences. They apply to meetings of the Board. * * *

* * * * *

22. Remove the words ''a Division, or a committee of the Board'' in section 1012.1(b).

23. Revise section 1012.2(a), the third sentence of section 1012.2(b), and section 1012.2(c) to read as follows:

§ 1012.2 Time and place of meetings.

(a) Conferences, oral arguments, and other meetings are held at the Board's offices located at 1925 K Street, NW, Washington, DC, unless advance notice of an alternative site is given. Room assignments will be posted at the Board on the day of the meeting.

(b) * * * Regular Board conferences and oral arguments before the Board normally begin at 9:30 a.m. * * *

(c) Special Board conferences or oral arguments are scheduled by the Chairman of the Board.

* * * * *

24. Remove the words ''by posting a notice on the bulletin board in the Board's Public Information Office,'' in section 1012.3(a).

25. Revise the first sentence of section 1012.3(b)(4) to read as follows:

§ 1012.3 Public notice.

* * * * *

(b) * * *

(4) If a vote is taken on the question of whether to close a meeting or a portion of a meeting to the public, a statement of the vote or position of each Board Member eligible to participate in that vote. * * *

* * * * *

PART 1014—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE SURFACE TRANSPORTATION BOARD

26. The authority citation for Part 1014 continues to read as follows:

Authority: 29 U.S.C. 794.

27. Revise the second sentence of section 1014.170(c) to read as follows:

§ 1014.170 Compliance procedures.

* * * * *

(c) * * * Complaints may be sent to the Section of Personnel Services, Surface Transportation Board, Washington, DC 20423.

* * * * *

PART 1017—DEBT COLLECTION—COLLECTION BY OFFSET FROM INDEBTED GOVERNMENT AND FORMER GOVERNMENT EMPLOYEES

28. The authority citation for Part 1017 continues to read as follows:

Authority: 31 U.S.C. 3716; 5 U.S.C. 5514; Pub L. 97–365; 4 CFR parts 101–105; 5 CFR part 550.

§§ 1017.4 and 1017.9 [Amended]

29. Remove the words ''Fiscal Services Branch'' and add in their place the words ''Section of Financial Services'' in section 1017.4(a).

30. Remove the words ''Budget and Fiscal Office'' and add in their place the words ''Section of Financial Services'' in sections 1017.9(a) and 1017.9(a)(6).

PART 1018—DEBT COLLECTION

31. The authority citation for Part 1018 continues to read as follows:

Authority: 31 U.S.C. 3701, 31 U.S.C. 3711 *et seq.*, 49 U.S.C. 721, 4 CFR parts 101–105.

§§ 1018.3 and 1018.29 [Amended]

32. Remove the words ''Budget and Fiscal Office'' and add in their place the words ''Section of Financial Services'' in sections 1018.3 and 1018.29(c).

33. Remove the words ''(VISA or MASTERCARD)'' and ''room 1330,'' in section 1018.29(c).

PART 1019—REGULATIONS GOVERNING CONDUCT OF SURFACE TRANSPORTATION BOARD EMPLOYEES

34. The authority citation for Part 1019 continues to read as follows:

Authority: 49 U.S.C. 721.

35. Remove the words ''Managing Director's'' and add in their place the words ''Board's Executive'' in section 1019.2(a).

36. Revise the last sentence of section 1019.6 to read as follows:

§ 1019.6 Disciplinary and other remedial action.

* * * The manual is available from the Section of Personnel Services, Surface Transportation Board, Washington, DC 20423.

PART 1021—ADMINISTRATIVE COLLECTION OF ENFORCEMENT CLAIMS

37. The authority citation for Part 1021 continues to read as follows:

Authority: 31 U.S.C. 3701, 3711, 3717, 3718.

§§ 1021.3 [Amended]

38. Remove the words ''Consumer Protection'' and add in their place the words ''Compliance and Enforcement'' in section 1021.3.

PART 1034—ROUTING OF TRAFFIC

39. The authority citation for Part 1034 continues to read as follows:

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

40. Remove the words ''Railroad Service Board'' and add in their place the words ''Office of Compliance and Enforcement'' in sections 1034.1(a) and 1034.1(c).

PART 1039—EXEMPTIONS

41. The authority citation for Part 1039 continues to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 10502 and 13301.

42. Amend section 1039.10, to correct the spelling of ''mattress'' in the item of the table relating to STCC number 22–911–63.

PART 1100—GENERAL PROVISIONS

43. The authority citation for Part 1100 continues to read as follows:

Authority: 49 U.S.C. 721.

44. Revise section 1100.4 to read as follows:

§ 1100.4 Information and inquiries.

Persons with questions concerning these rules should either send a written inquiry to the Secretary, Surface Transportation Board or should telephone the Secretary's Office.

PART 1101—DEFINITIONS AND CONSTRUCTION

45. The authority citation for Part 1101 continues to read as follows:

Authority: 49 U.S.C. 721.

46. Remove the words ''a division of the Board,'' and ''a joint board,'' in section 1101.2(b).

PART 1103—PRACTITIONERS

47. The authority citation for Part 1103 continues to read as follows:

Authority: 21 U.S.C. 862; 49 U.S.C. 703(e), 721.

48. Revise the second sentence in 1103.3(d) to read as follows:

§ 1103.3 Persons not attorneys-at-law—qualifications and requirements for practice before the Board.

* * * * *

(d) * * * Payment must be made either by check, money order or credit card payable to the Surface Transportation Board. * * *

* * * * *

PART 1104—FILING WITH THE BOARD—COPIES—VERIFICATION—SERVICE-PLEADINGS, GENERALLY

49. The authority citation for Part 1104 continues to read as follows:

Authority: 5 U.S.C. 559; 21 U.S.C. 853a; 49 U.S.C. 721.

50. Amend the first sentence in section 1104.15(b) to correct the spelling of the word ''certify.''

PART 1105—PROCEDURES FOR IMPLEMENTATION OF ENVIRONMENTAL LAWS

51. The authority citation for Part 1105 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 16 U.S.C. 470f, 1451, and 1531; 42 U.S.C. 4332 and 6362(b); and 49 U.S.C. 701 note (1995) (section 204 of the ICC Termination Act of 1995), 721(a), 10502, and 10903–10905.

52. Remove the words ''Office of Economics'' and add in their place the words ''Office of Economics, Environmental Analysis, and Administration'' in section 1105.2

53. Remove the words ''Energy and Environment'' and add in their place the words ''Environmental Analysis'' in sections 1105.2, 1105.3, 1105.4(i), 1105.10(a)(1), 1105.10(a)(3), 1105.10(b), the appendix to section 1105.11, and both of the newspaper notices in the appendix to section 1105.12.

55. Revise section 1105.3 to read as follows:

§ 1105.3 Information and assistance.

Information and assistance regarding the rules and the Board's environmental and historic review process is available by writing or calling the Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423.

56. Remove the acronym ''SEE'' and add in its place the acronym ''SEA'' in sections 1105.4(i), 1105.4(j), 1105.7(b)(11), 1105.10(b), 1105.10(d), 1105.10(g), the appendix to section 1105.11, and both of the newspaper notices in the appendix to section 1105.12.

57. Remove the words ''12th and Constitution Avenue, NW,'' and add in their place the words ''1925 K Street, NW.,'' in section 1105.3 and both of the newspaper notices in the appendix to section 1105.12.

58. Revise ''i.e,'' to ''i.e.,'' in section 1105.4(j).

59. Remove the words ''room 3219, Surface Transportation Board,'' and add in their place the words ''Surface Transportation Board, 1925 K Street, NW'' in the appendix to section 1105.11.

60. Remove the words ''Public Assistance'' and add in their place the words ''Congressional and Public Services'' in both of the newspaper notices in the appendix to section 1105.12.

61. Remove the telephone numbers ''202–927–6211'' and ''202–927–7597'' and add in their place the words ''[INSERT TELEPHONE NUMBER]'' in the appendix to section 1105.11 and both of the newspaper notices in the appendix to section 1105.12.

PART 1113—ORAL HEARING

62. The authority citation for Part 1113 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

63. Revise ''protest'' to ''protests'' in section 1113.19.

PART 1133—RECOVERY OF DAMAGES

64. The authority citation for Part 1133 continues to read as follows:

Authority: 49 U.S.C. 721.

65. Revise ''connot'' to ''cannot'' in section 1133.2(a).

PART 1139—PROCEDURES IN MOTOR CARRIER REVENUE PROCEEDINGS

66. The authority citation for Part 1139 continues to read as follows:

Authority: 49 U.S.C. 721, 13703.

67. Remove the word ''Boards'' and add in its place the word ''commissions'' in section 1139.22.

68. Remove the words ''Bureau of Accounts,'' in the explanatory note to Schedule A regarding ''Column (a)'' in section 1139.26.

69. Remove the words ''Surface Transportation Board'' and add in their place the words ''Interstate Commerce Commission'' in the third and fourth paragraphs of Appendix I to Subpart B.

PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES

70. The authority citation for Part 1150 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 49 U.S.C. 721(a), 10502, 10901, and 10902.

71. Remove the words ''Energy and Environmental Branch'' and add in their place the words ''Section of Environmental Analysis'' in sections 1150.1(b) and 1150.10(g).

72. Revise the last sentence in section 1150.16 to read as follows:

§ 1150.16 Procedures

* * * *See Exemption of Certain Designated Operators from Section 11343,* 361 ICC 379 (1979), as modified by *McGinness* v. *I.C.C.,* 662 F.2d 853 (D.C. Cir. 1981).

73. Remove the words ''State Public Service Board'' and add in their place the words ''State Public Service Commission'' in section 1150.36(c).

PART 1151—FEEDER RAILROAD DEVELOPMENT PROGRAM

74. The authority citation for Part 1151 continues to read as follows:

Authority: 49 U.S.C. 10907.

75. Remove the reference to ''10910'' and add in its place ''10907'' and remove the reference to ''10910(c)(1) and add in its place ''10907(c)(1)'' in section 1151.1.

76. Revise ''(GVC)'' to ''(GCV)'' in section 1151.3(a)(3)(i).

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

77. The authority citation for Part 1152 continues to read as follows:

Authority: 11 U.S.C. 1170; 16 U.S.C. 1247(d) and 1248; 45 U.S.C. 744; and 49 U.S.C. 701 note (1995) (section 204 of the ICC Termination Act of 1995), 721(a), 10502, 10903–10905, and 11161.

78. Remove the words ''public service Board'' and add in their place the words ''Public Service Commission'' in section 1152.12(b).

79. Revise the third sentence of section 1152.24 (a) to read as follows:

§ 1152.24 Filing and service of application.

(a) * * * A check, money order or payment by credit card payable to the Surface Transportation Board must also be submitted to cover the applicable filing fee. * * *

* * * * *

80. Remove the words ''Public Service Board'' and add in their place the words ''Public Service Commission'' in section 1152.24(c).

81. Amend section 1152.29(b)(1)(ii) by adding ''(CITU)'' after ''Certificate of Interim Trail Use or Abandonment'.

PART 1177—RECORDATION OF DOCUMENTS

82. The authority citation for Part 1177 continues to read as follows:

Authority: 49 U.S.C. 721, 11301.

83. Revise ''(84)'' to ''(83)'' in section 1177.3(c).

84. Revise ''11303'' to ''11301'' in section 1177.4(b).

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

85. The authority citation for Part 1180 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 11 U.S.C. 1172; 49 U.S.C. 721, 10502, 11323–11325.

86. Revise ''analyses'' to ''analysis'' in section 1180.4(b)(1)(ii).

87. Amend the second sentence of 1180.6(a)(8) by adding the word ''of'' after ''no later than the filing''.

88. Amend section 1180.7(d) by adding the word ''as'' after ''as well''.

89. Amend section 1180.9(c) by putting footnote marker 8 in superscript.

PART 1184—MOTOR CARRIER POOLING OPERATIONS

90. The authority citation for Part 1184 continues to read as follows:

Authority: 49 U.S.C. 721, 14302.

91. Remove the references to ''11342(b)'' and add in their place ''14302'' in sections 1184.1 and 1184.2.

[FR Doc. 99–25302 Filed 9–30–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 990414095–9251–02; I.D. 033199B]

RIN 0648–AM57

Regulations Governing the Taking of Marine Mammals by Alaskan Natives; Marking and Reporting of Beluga Whales Harvested in Cook Inlet

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

ACTION: Final rule.

SUMMARY: This rule finalizes the interim final rule published in the **Federal Register** on May 24, 1999, without changes. The rule requires the marking and reporting of beluga whales, *Delphinapterus leucas*, harvested from Cook Inlet, Alaska, by Alaskan Natives. The marking and reporting is necessary to provide essential biological data for the management and conservation of the stock. The effect of the information will be to provide a more sound scientific basis for management of the stock.

DATES: Effective October 1, 1999.

ADDRESSES: A copy of the Environmental Assessment (EA) for this action may be obtained by contacting Brad Smith: NMFS, 222 West 7th Avenue, Box 43, Anchorage, Alaska 99513. Comments regarding the burden-hour estimate or any other aspect of the collection of information in this rule should be sent to the preceding individual and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Brad Smith: telephone (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

On May 24, 1999, NMFS published an interim final rule amending 50 CFR 216.23 to require that Alaskan Natives harvesting beluga whales in Cook Inlet collect the left lower jaw from harvested whales and complete a report (64 FR 27925). In order to allow the opportunity for public comment, the rule was promulgated as an interim rule with a request for public comment. In addition, NMFS held a public hearing on the rule on July 26. Background information on the Cook Inlet stock of beluga whales, the Alaskan Native subsistence harvest, and the need for the regulation were contained in the publication of the interim final rule.

No written comments were received in response to the request for comments, and no comments were received at the public hearing. Accordingly, the interim final rule amending 50 CFR part 216, which was published at 64 FR 27925 on May 24, 1999, is adopted as a final rule without change.

Classification

An EA has been prepared by NMFS to address this action and is available for public review and comment. Persons wishing to obtain this EA should contact NMFS Anchorage Field Office (see **ADDRESSES**).

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

Because prior notice and opportunity for public comment are not required by 5 U.S.C. 553 or by any other law, under 5 U.S.C. 603(b) the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. *et seq*. are not applicable to this rule. Accordingly, an initial Regulatory Flexibility Analysis was not prepared for this rule.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648-0382. The public reporting burden for this collection of information is estimated to average thirty minutes per response, including the time necessary to remove and label the jawbone and complete the reporting form. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**)

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Dated: September 15, 1999.

Andrew Kemmerer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–25464 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 190
Friday, October 1, 1999

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150—AG26

Emergency Core Cooling System Evaluation Models

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to allow holders of operating licenses for nuclear power plants to reduce the assumed reactor power level used in evaluations of emergency core cooling system (ECCS) performance. Under the proposed rule, licensees would be given the option to apply a reduced margin for ECCS evaluation or to maintain the value of reactor power currently mandated in the regulation. This action would allow interested licensees to pursue small, but cost-beneficial, power uprates and would reduce unnecessary regulatory burden without compromising the margin of safety of the facility.

DATES: The comment period expires on December 15, 1999. Comments received after this date will be considered if it is practical to do so but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, Attention: Rulemakings and Adjudications Staff, Mail Stop O–16C1.

Deliver written comments to: One White Flint North, 11555 Rockville Pike, Rockville, Maryland between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Documents related to this rulemaking may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, D.C. Documents also may be viewed and downloaded electronically via the interactive rulemaking Web site established by NRC for this rulemaking (see the discussion under Electronic Access in the Supplementary Information section). Obtain single copies of the environmental assessment and the regulatory analysis from the NRC contact given below.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph E. Donoghue, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001; telephone: 301–415–1131; or by Internet electronic mail to jed1@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

A holder of an operating license (i.e., the licensee) for a light-water power reactor is required by regulations issued by the NRC to submit a safety analysis report that contains an evaluation of emergency core cooling system (ECCS) performance under loss-of-coolant accident (LOCA) conditions. 10 CFR 50.46, ''Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors,'' requires that ECCS performance under LOCA conditions be evaluated and that the estimated performance satisfy certain criteria. Licensees may conduct an analysis that ''realistically describes the behavior of the reactor system during a LOCA'' (often termed a ''best-estimate analysis''), or they may develop a model that conforms with the requirements of Appendix K to 10 CFR Part 50. Most ECCS evaluations are based on Appendix K requirements. The opening sentence of Appendix K establishes the requirement to conduct ECCS analyses at a specified power level: ''It shall be assumed that the reactor has been operating continuously at a power level at least 1.02 times the licensed power level (to allow for such uncertainties as instrumentation error).'' Licensees have proposed using instrumentation that would reduce the uncertainties associated with measurement of reactor power when compared with existing methods of power measurement. This would justify a reduced margin between the licensed power level and the power level assumed for ECCS evaluations. The proposed rule would revise this provision in Appendix K, thereby allowing licensees the option of using a value lower than 102 percent of licensed power in their ECCS analyses where justified.

Several licensees have expressed interest in using updated feedwater flow measurement technology discussed later in ''Calorimetric Uncertainty and Feedwater Flow Measurement'' as a basis for seeking exemptions from the Appendix K power level requirement and to implement power uprates. One licensee, Texas Utilities Electric Company (TUE), has obtained an exemption from the Appendix K requirement for Comanche Peak Units 1 and 2 and is pursuing an increase in licensed power based, in part, on more accurate feedwater flow measurement capability. The prospect of additional exemption requests from other licensees provides the impetus for the proposed rule.

The objective of this rulemaking is to reduce an unnecessarily burdensome regulatory requirement. Appendix K was issued to ensure an adequate performance margin of the ECCS in the event a design-basis LOCA were to occur. The margin is provided by conservative features and requirements of the evaluation models and by the ECCS performance criteria. The existing regulation does not require that the power measurement uncertainty be demonstrated, but rather mandates a 2-percent margin to account for uncertainties, including those expected to be involved with measuring reactor power. By allowing licensees to justify a smaller margin for power measurement uncertainty, the proposed rule does not violate the underlying purpose of Appendix K. The intent of Appendix K, to ensure sufficient margin to ECCS performance in the event of a LOCA, would still be met because of the substantial conservatism of other Appendix K requirements. The proposed rule would not significantly affect plant risk, as discussed in the section entitled, ''ECCS Evaluation Conservatism.''

Another objective is to avoid unnecessary exemption requests. As discussed above, a licensee has obtained an exemption from the 2-percent margin requirement in 10 CFR Part 50, Appendix K. It is likely that additional exemption requests will be submitted. Revising the rule to remove the need for licensees to obtain exemptions is considered by the NRC to be a prudent regulatory action.

If adopted, the proposed rule would give licensees the option of applying a reduced margin between the licensed power level and the assumed power level for ECCS evaluation, or maintaining the current margin of 2-percent power. As discussed in the section entitled ''ECCS Evaluation Conservatism,'' the NRC has concluded that the 2 percent power margin requirement in the existing rule appears to be based solely on considerations associated with power measurement extant at the time of the original ECCS rulemaking. If licensees can show that the uncertainties associated with power measurement instrumentation errors are less than 2 percent, thereby justifying a smaller margin, then the current rule unnecessarily restricts operation.

Making this change to the rule would give licensees the opportunity to use a reduced margin if they determine that there is a sufficient benefit. Licensees could apply the margin to gain benefits from operation at higher power, or the margin could be used to relax ECCS-related technical specifications (e.g., pump flows). Another potential benefit would be in modifying fuel management strategies (e.g., possibly by altering core power peaking factors). However, the proposed rule by itself does not allow increases in licensed power levels. Because licensed power level for a plant is a technical specification limit, proposals to raise the licensed power level must be reviewed and approved under the license amendment process. The license amendment request should include a justification of the reduced power measurement uncertainty and the basis for the modified ECCS analysis, including the justification for reduced power measurement uncertainty, should then be included in documentation supporting the ECCS analysis (see Section-by-Section Analysis).

In the short term, the NRC intends to grant exemptions to the assumed power level provision of Appendix K for properly supported exemption requests. In addition to satisfying the provisions of 10 CFR 50.12, properly supported exemption requests are expected to quantify the uncertainties associated with measuring reactor thermal power that are associated with the current 2-percent power margin.

In the longer term, the NRC intends to review the affected safety analysis guidance and will evaluate the impact of the proposed rule on those safety analyses. Further, the NRC is considering the need for specific guidance to help licensees appropriately account for power measurement uncertainty in safety analyses. However, the NRC expects that power uprate amendment requests based on the proposed rule will address the suitability of non-LOCA analyses for operation at proposed higher power levels.

In addition to comments on the proposed rule, the NRC is seeking comments on the specific issues set forth below under ''Issues for Public Comment.''

Conservatisms in Appendix K ECCS Evaluation Model

Appendix K defines conservative analysis assumptions for ECCS performance evaluations during design-basis LOCAs. Large safety margins are provided by conservatively selecting the ECCS performance criteria as well as conservatively establishing ECCS calculational requirements. The major analytical parameters and assumptions that contribute to the conservatisms in Appendix K are set forth in Sections A through D of the rule: (A) ''Sources of Heat During the LOCA'' (the 102-percent power provision is a key factor), (B) ''Swelling and Rupture of the Cladding and Fuel Rod Thermal Parameters,'' (C) ''Blowdown Phenomena,'' and (D) ''Post-blowdown Phenomena: Heat Removal by ECCS.'' In each of these areas, several assumptions are typically used to ensure substantial conservatism in the analysis results. For instance: under ''Sources of Heat During the LOCA,'' decay heat is modeled on the basis of an American Nuclear Society standard with an added 20-percent penalty, and the power distribution shape and peaking factors expected during the operating cycle are chosen to yield the most conservative results. In ''Blowdown Phenomena,'' the rule requires use of the Moody model and the discharge coefficient that yields the highest peak cladding temperature. ''Post'Blowdown Phenomena; Heat Removal by the ECCS,'' requires that the analysis assume the most damaging single failure of ECCS equipment.

One of several conservative requirements in Section A is to assume that the reactor is operating at 102 percent power when the LOCA occurs ''to allow for such uncertainties as instrumentation error. . . .'' (Appendix K, Section I.A., first sentence, emphasis added). The phrase, ''such as,'' suggests that the two percent power margin was intended to address uncertainties related to heat source considerations beyond instrument measurement uncertainties. However, the basis for the required assumption of 102 percent power (2 percent power margin) does not appear to be contained in the rulemaking record for the ECCS rules, 10 CFR 50.46 and Appendix K. These rules were adopted in 1974 (39 FR 1001, January 4, 1974), and were preceded by a formal rulemaking hearing which ultimately resulted in a Commission decision on the proposed rulemaking, CLI–73–39, 6 AEC 1085 (December 28, 1973). Neither the statement of considerations (SOC) for the final rule nor the Commission decision appear to provide specific basis for the required assumption of 102 percent power.

The SOC for the final 1974 rule discusses the 102 percent power assumption in general terms, and does not mention instrumentation uncertainty:

> The Commission believes that the implementation of the new regulations will ensure an adequate margin of performance of the ECCS should a design basis LOCA ever occur. This margin is provided by conservative features of the evaluation models and by the criteria themselves. Some of the major points that contribute to the conservative nature of the evaluations and the criteria are as follows:
>
> (1) Stored heat. The assumption of 102 percent of maximum power, highest allowed peaking factor, and highest estimated thermal resistance between the UO_2 and the cladding provides a calculated stored heat that is possible but unlikely to occur at the time of a hypothetical accident. While not necessarily a margin over the extreme condition, it represents at least an assumption that an accident happens at a time which is not typical.

39 FR at 1002 (first column).[1] Thus, while the pre-accident power level assumption is connected with the modeling of the rate of heat generation after the LOCA occurs, a clear basis for the 102 percent assumed power level requirement is not provided, nor does the SOC explain whether there are other uncertainties besides instrumentation uncertainties for which the 102 percent assumed power level is intended to compensate.

The Commission's decision in the ECCS rulemaking hearing also does not explain whether the 102 percent assumed power level was intended to address uncertainties other than instrumentation uncertainties. Section I of the Commission decision was the basis for the SOC discussion on the 102 percent assumed power level (See 6 AEC at 1093–94). Section III. A. of the Commission's decision, ''Required and Acceptable Features of the Evaluation Model,'' does not offer a detailed technical the basis for the power level chosen, but instead uses the language ultimately adopted in the final Appendix K rule:

[1] This statement in the SOC was taken unchanged from Section I of the Commission's ECCS decision. See CLI–73–39, 6 AEC 1085, 1093–94 (December 28, 1973).

For the heat sources listed in paragraphs 1 to 4 below it shall be assumed that the reactor has been operating continuously at a power level at least 1.02 times the licensed power level (to allow for such uncertainties as instrumentation error), with the maximum peaking factor allowed by the technical specifications.

6 AEC at 1100. Thus, the Commission's decision does not shed further light on the basis for the 102 percent assumed power level, nor whether the Commission had in mind uncertainties other than those associated with the instrumentation for measurement of power level.

NRC review of the ECCS rulemaking hearing record did not disclose presentations relating to quantification of power measurement uncertainties, or the magnitude of other uncertainties that the 102 percent assumed power level may have been intended to address. The Commission decision (CLI–73–39, 6 AEC 1085, December 28, 1973) cited three documents in the rulemaking hearing record. The first, cited in the Commission decision as Exhibit 1113, was ''Supplemental Testimony of the AEC Regulatory Staff on the Interim Acceptance Criteria for Emergency Core Cooling Systems for Light-Water Cooled Power Reactors,'' (filed October 26, 1972). In Section 10 of the document, stored energy in the fuel was considered, specifically the expected power distributions in fuel rods. The 102-percent power analysis requirement is not discussed. The second item, cited in the Commission decision as Exhibit 1137 was ''Redirect and Rebuttal Testimony of Dr. Donald H. Roy on Behalf of Babcock & Wilcox,'' (October 26, 1972) in which the characteristic of the decay heat release following reactor shutdown was discussed. In this document, the 102-percent assumption is associated with the predicted decay heat generation rate. The over-power condition is associated with a ''design-basis maneuvering operation,'' but the basis for the value of power chosen for the analysis (i.e., 102 percent) is not disclosed. Finally, in the ''Concluding Statement of Position of the Regulatory Staff—Public Rulemaking Hearing on: Acceptance Criteria for Emergency Core Cooling Systems for Light-Water Cooled Nuclear Power Reactors,'' April 16, 1973 (the Concluding Statement), the power level assumption is included as part of the proposed rule itself. The proposed rule language clearly states that the power level assumption is to ''allow for instrumentation error.'' The term ''such as'' does not appear here. It is unclear when or why the proposed language in this regard was changed to its current form. The power level assumption is mentioned again in the Concluding Statement indirectly in association with power level changes before the LOCA and the effect on decay heat generation. But it is discussed most directly with regard to initial stored energy in the fuel. In the discussion on stored energy, the 102-percent assumption is attributed to ''uncertainties inherent in the measurement of the operating power level of the core,'' (page 144 of the Concluding Statement). Reasons for choosing 102-percent as the value are not discussed.

When Appendix K was first issued, as is the case today, the thermal power generated by a nuclear power plant was determined by steam plant calorimetry, which is the process of performing a heat balance around the nuclear steam supply system (called a calorimetric). The heat balance depends upon measurement of several plant parameters, including flow rates and fluid temperatures. The differential pressure across a venturi installed in the feedwater flow path is a key element in the calorimetric measurement. Licensees have proposed using instrumentation other than a venturi-based system to obtain feedwater flow rate for calorimetrics. The lower uncertainty associated with the new instrumentation is information that was apparently not available during the original Appendix K rulemaking.

In view of the regulatory history for Appendix K, the Commission now believes that the 2-percent margin embodied in the requirement for a 102-percent assumed power level in Appendix K was based solely on uncertainties associated with the measurement of reactor power level.

Proposed Reduction in 102 Percent Assumed Power Level

The Commission believes that other requirements of Appendix K modeling include substantial conservatisms of much greater magnitude than the 2 percent margin embodied in the requirement for a 102 percent assumed power level. This point was discussed in ''Conservatisms in Appendix K ECCS Evaluation Model,'' above.

The Commission is also aware of new information gained since the 1974 rulemaking which shows that the Appendix K model contains substantial conservatisms. Evidence from experiments designed to simulate LOCA phenomena suggest that these conservatisms added hundreds of degrees Fahrenheit to the prediction of peak fuel cladding temperature than would actually occur during a LOCA. The significant conservatism was necessary when the rule was written because of a lack of experimental evidence at that time with respect to the relative effects of analysis input parameters, including pre-accident power level. Since that time, there has been substantial additional research on LOCA. NUREG–1230, ''Compendium of ECCS Research for Realistic LOCA Analysis,'' December 1988, contains the technical basis for improved understanding of LOCA progression and ECCS evaluation gained after the ECCS rule was issued. The NUREG includes a discussion of the basis for uncertainties in detailed fuel bundle power calculations as part of the consideration of overall calculational uncertainty inherent in best-estimate evaluations. Chapters 7 and 8 of the NUREG include consideration of the changes in licensed power level that could result from application of best-estimate evaluation methods. The discussion includes an estimated sensitivity of predicted peak clad temperature associated with changes in pre-accident power level. From that estimate, the NRC expects peak cladding temperature changes of approximately 15°F to result from 1-percent changes in plant power level that could result from the proposed rule.

In view of: (i) Substantial conservatisms embodied in the Appendix K requirements for ECCS evaluations, (ii) new information developed since the 1974 rulemaking which shows additional conservatism in the Appendix K modeling requirements beyond that understood by the Commission when it adopted the 1974 rule, and (iii) the relative insensitivity of the calculated clad temperatures to assumed power level, the Commission concludes that it is acceptable to allow a reduction in the currently-required 102 percent power level assumption if justified by the actual power level measurement instrumentation uncertainty. Accordingly, the Commission proposes to amend the Appendix K requirement for an assumed 102 percent power level. The proposed rule would allow a licensee to use an assumed power level of less than 102 percent (but not less than 100 percent), provided that the licensee has determined that the uncertainties in the measurement of core power level justifies the reduced margin.

Calorimetric Uncertainty and Feedwater Flow Measurement

The NRC staff has approved an exemption to the 102-percent power level requirement for Comanche Peak Units 1 and 2. The basis for the action is application of upgraded feedwater flow measurement technology at the

plant. As indicated, the prospect of additional licensees requesting similar action has prompted the proposed rule. Other methods, systems, or analyses could be used as the basis for demonstrating reduced power measurement uncertainty.

In most nuclear power plants, operators obtain a continuous indication of core thermal power from nuclear instruments, that provide a measurement of neutron flux. The nuclear instruments must be periodically calibrated to counteract the effects of changes in flux pattern, fuel burnup, and instrument drift. Steam plant calorimetry, which is the process of performing a heat balance around the nuclear steam supply system (called a calorimetric), is used to determine core thermal power and is the basis for the calibration. The differential pressure across a venturi installed in the feedwater flow path is a key element in the calorimetric measurement. Some plants use this calorimetric value directly to indicate thermal power; the nuclear instruments are used as anticipatory indicators for transients and for reactivity adjustments made with the control rods.

The system in use at Comanche Peak Units 1 and 2 is the Leading Edge Flowmeter (LEFM), manufactured by Caldon, Inc. The LEFM system is an ultrasonic flow meter that measures the transit times of pulses traveling along parallel acoustic paths through the flowing fluid. LEFM technology has been employed in non-nuclear applications, such as petroleum, chemical, and hydroelectric plants for several years. This operating experience will provide reliability data, supplementing data from nuclear applications. Additional information on the Comanche Peak Appendix K exemption and on the Caldon, Inc. LEFM system appears in safety evaluations issued by the NRC staff on March 8, 1999, and May 6, 1999.

ABB Combustion Engineering has expressed interest in the proposed rule because its flow-measuring system, known as Crossflow (which is also an ultrasonic flow-measuring device), is expected to be part of a licensee exemption request in the near future.

Issues for Public Comment

The NRC is seeking comments from the public on the following issues related to this proposed rule:

1. The current rule states that the required 2-percent analysis margin is to account for ''*such* uncertainties *as* instrumentation error. . . .'' (emphasis added). This suggests that the 2-percent margin was intended to account for other sources of uncertainty in addition to instrumentation error. However, explicit documentation of the basis for the value of the margin does not appear to be contained in the rulemaking record for the original 1974 ECCS rulemaking. The Commission is interested in whether there are other sources of uncertainty, relevant to sources of heat following a LOCA, that should be considered when licensees seek to reduce the margin in the Appendix K requirement for assumed power. If other contributors are suggested, a clear technical justification should accompany the suggestion.

2. Are there rulemaking alternatives to this proposed rule that were not considered in the regulatory analysis for this proposed rule?

3. What criteria should be used for determining whether a proposed reduction in the 2 percent power margin has been justified, based upon a determination of instrumentation error? For example, should a demonstrated instrumentation error of 1 percent in power level be presumptive of an acceptable reduction in assumed power margin of 1 percent?

4. How should the proposed rule address cases in which licensees determine that power measurement instrument error is greater than 2 percent?

Section-by-Section Analysis

Appendix K to Part 50—ECCS Evaluation Models (I)(A)—Sources of heat during the LOCA

This section would be amended by removing words from the first sentence in the section to specifically associate the power level requirement with instrumentation error, and by adding a sentence immediately following the first sentence in the section. The new sentence indicates that licensees may assume a power level lower than 102 percent, but not less than 100 percent, provided that the proposed lower alternative value can be shown to account for core thermal power measurement instrumentation uncertainty.

Appendix K, Part II (1)(a) requires that the values of analysis parameters or their basis be sufficiently documented to allow NRC review. The requirement applies to all analysis input parameters, including those related to other plant instrumentation, such as temperature and pressure. Changes to other inputs are documented in the same manner as the power measurement uncertainty would be documented under the proposed rule. NRC review and approval is not necessarily needed to change a parameter in an approved ECCS evaluation model. Estimated changes in ECCS performance due to revised analysis inputs are reported under § 50.46 (a)(3), at least annually. As discussed in the Statement of Considerations for Appendix K (53 FR 36001, September 16, 1988), the annual reports keep NRC apprised of changes. This should ensure that the NRC staff can judge a licensee's assessment of the significance of changes and maintain cognizance of modifications made to NRC-approved evaluation models. The licensee must include revised parameters and other changes in the ECCS evaluation as required by § 50.46 (a)(3) when a single change or an accumulation of changes is expected to affect peak cladding temperature by 50°F or more. The basis for the revised analysis parameter (i.e., the assumed power level) should be included in documentation of the evaluation model, as required by Appendix K, Part II (1)(a).

In most cases, the NRC expects that the analysis supporting the power measurement uncertainty, as well as the description of the relevant instrumentation and associated plant-specific parameters involved in the uncertainty analysis, would be submitted for NRC review and approval before being used. These requests are expected because most licensees have adopted Generic Letter 88–16, ''Removal of Cycle-Specific Parameter Limits from Technical Specifications.'' The generic letter provided guidance for licensees to transfer cycle-specific parameters from their technical specifications to a Core Operating Limits Report (COLR). Licensees following the generic letter guidance added an administrative requirement to their technical specifications that specifically identifies NRC-reviewed and approved methods used to determine core operating limits (e.g., topical reports). Because a number of core operating limits are based on LOCA analysis results, ECCS evaluation methods are included in the technical specification list. Therefore, most licensees opting to use the relaxation in the proposed rule would need to revise technical specifications to include a reference to an NRC-approved topical report that includes the uncertainty analysis justifying reduced power measurement uncertainty.

An additional technical specification consideration for licensees pursuing changes based on the proposed rule could involve nuclear instruments (NI) requirements. Existing plant technical specifications include surveillance requirements to calibrate the power range NIs based on the calorimetric measuring reactor thermal power. The

NIs provide the indication of reactor power used as an input for safety systems. Licensees obtaining the relaxation offered in the proposed rule are expected to change some operating parameter of the plant, whether it be power level, required ECCS flow, etc. By incorporating the justification of reduced uncertainty in power measurement in the basis for their ECCS analysis, licensees would be placing a condition on an input to the calorimetric. The NI calibration required by the plant licensee would then be based on a calorimetric assuming the reduced power measurement uncertainty. If, for some reason, during the course of plant operation the reduced uncertainty did not apply (e.g., the new feedwater flow meter became inoperable), the calorimetric would no longer be a valid source of calibration for the NIs. Licensees would need to take action to maintain compliance with their technical specification, for example, by using an alternate input to the calorimetric. The power measurement uncertainties associated with the alternate input would then apply and the plant would need to adjust its operating condition (possibly lower its operating power level) to satisfy the proposed rule and to maintain the validity of applicable safety analyses.

Referenced Documents

Copies of GL–88–16 and CLI–73–39 are available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, D.C.

Electronic Access

You may also submit comments via the NRC's interactive rulemaking Web site, ''Rulemaking Forum,'' through the NRC home page (http://ruleforum.llnl.gov). This site enables people to transmit comments as files (in any format, but WordPerfect version 6.1 is preferred), if your Web browser supports that function. Information on the use of the Rulemaking Forum is available on the Web site. For additional assistance on the use of the interactive rulemaking site, contact Ms. Carol Gallagher, telephone: 301–415–5905; or by Internet electronic mail to cag@nrc.gov.

Plain Language

The Presidential memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing,'' directed that the government's writing be in plain language. This memorandum was published June 10, 1998 (63 FR 31883). In complying with this directive, editorial changes have been made in this proposed amendment to improve readability of the existing language of the provisions being revised. These types of changes are not discussed further in this document. The NRC requests comment on the proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the **ADDRESSES** caption of the preamble.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC is proposing to provide holders of operating licenses for nuclear power plants with the option of reducing the assumed reactor power level used in ECCS evaluations. This proposed action constitutes a modification to an existing government-unique standard, 10 CFR part 50, appendix K issued by the NRC on January 4, 1974. The NRC is not aware of any voluntary consensus standard that could be adopted instead of the proposed government-unique standard. The NRC will consider using a voluntary consensus standard if an appropriate standard is identified. If a voluntary consensus standard is identified for consideration, the submittal must explain how the voluntary consensus standard is comparable and why it should be used instead of the proposed government-unique standard.

Finding of No Significant Environmental Impact: Availability

The NRC has determined under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in Subpart A of 10 CFR Part 51, that this regulation, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required.

The proposed action is likely to result in relatively small changes to ECCS analyses or to the licensed power of nuclear reactor facilities. The NRC staff expects that no significant environmental impact would result from the proposed rule, because licensee actions based on the proposed rule would not significantly increase the probability or consequences of accidents; no changes would be made in the types of any effluents that may be released off site; and there would be no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action. The proposed action does not involve non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

The determination of the environmental assessment is that there would be no significant offsite impact on the public from this action. However, the general public should note that the NRC welcomes public participation. Also, the NRC has committed itself to complying in all its actions with Executive Order (E.O.) 12898, ''Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,'' dated February 11, 1994. The NRC has determined that there are no disproportionately high and adverse impacts on minority and low-income populations. In the letter and spirit of E.O. 12898, the NRC is requesting public comments on any environmental justice considerations or questions that the public thinks may be related to this proposed rule, but that somehow were not addressed. The NRC uses the following working definition of environmental justice: Environmental justice means the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income, or educational level with respect to the development, implementation and enforcement of environmental laws, regulations, and policies. Comments on any aspect of the environmental assessment, including environmental justice, may be submitted to the NRC as indicated under the **ADDRESSES** heading.

The draft environmental assessment is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, D.C. Single copies of the environmental assessment are available from Mr. Joseph Donoghue, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone: 301–415–1131, or by Internet electronic mail to JED1@nrc.gov.

Paperwork Reduction Act Statement

This proposed rule increases the burden on licensees opting to use a reduced power level assumption for ECCS analysis (i.e., below 102%) to include the change in their annual

report required under 10 CFR 50.46 (a)(3)(ii). The public burden for this information collection is estimated to average one-half hour per response. Because the burden for this information collection is insignificant, Office of Management and Budget (OMB) clearance is not required. Existing requirements were approved by the Office of Management and Budget, approval number 3150–0011.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this regulation. Interested persons may examine a copy of the regulatory analysis at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, D.C. Single copies of the analysis are available from Mr. Joseph Donoghue, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone: 301–415–1131, or by Internet electronic mail to JED1@NRC.GOV.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the definition of ''small entities'' found in the Regulatory Flexibility Act or within the size standards established by the NRC in 10 CFR 2.810.

Backfit Analysis

The NRC has determined that the backfit rule in 10 CFR 50.109 does not apply to this proposed rule and that a backfit analysis is not required for this proposed rule because the change does not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1). The proposed rule would establish an alternative approach for ECCS performance evaluations that may be voluntarily adopted by licensees. Licensees may continue to comply with existing requirements in Appendix K. The proposed rule does not impose a new requirement on current licensees and therefore, does not constitute a backfit as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and peactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 10 CFR part 50 as follows:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

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

Authority: Sections 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a, and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Appendix K to Part 50 is amended by revising the introductory paragraph of I. A., ''Sources of heat during the LOCA,'' to read as follows.

Appendix K to Part 50—ECCS Evaluation Models

I. Required and Acceptable Features of the Evaluation Models

A. Sources of heat during the LOCA. For the heat sources listed in paragraphs I. A. 1 to 4 of this appendix it must be assumed that the reactor has been operating continuously at a power level at least 1.02 times the licensed power level (to allow for instrumentation error), with the maximum peaking factor allowed by the technical specifications. An assumed power level lower than the level specified in this paragraph (but not less than the licensed power level) may be used provided the proposed alternative value has been demonstrated to account for uncertainties due to power level instrumentation error. A range of power distribution shapes and peaking factors representing power distributions that may occur over the core lifetime must be studied. The selected combination of power distribution shape and peaking factor should be the one that results in the most severe calculated consequences for the spectrum of postulated breaks and single failures that are analyzed.

* * * * *

Dated at Rockville, Maryland, this 27th day of September, 1999.

For the Nuclear Regulatory Commission.

Kenneth R. Hart,

Acting, Secretary of the Commission.

[FR Doc. 99–25582 Filed 9–30–99; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–22–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require repetitive inspections to detect discrepancies of the cables, fittings, and pulleys of the engine thrust control cable installation, and replacement, if necessary. This proposal would also require certain preventative actions on the engine thrust control cable installation for certain airplanes. This proposal is prompted by reports of failure of engine thrust control cables. The actions specified by the proposed AD are intended to prevent such failures, which could result in a severe asymmetric thrust condition during landing, and consequent reduced controllability of the airplane.

DATES: Comments must be received by November 15, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–22–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00

p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dionne M. Stanley, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2250; fax (425) 227–1181.

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 shall 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 Number 99–NM–22–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, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–22–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In 1985, the FAA received a report indicating that an engine thrust control cable had failed following application of reverse thrust during landing on a Boeing Model 747–200B series airplane. This failure caused engine number 1 to advance to full forward thrust while engine numbers 2, 3, and 4 remained in full reverse thrust. The airplane exited the runway and eventually slid to a stop with consequent hull damage.

In addition, engine thrust control cables have failed on other Boeing airplane models that have installations similar to those on the Model 747 series airplane. In 1992, the FAA received a report of uncommanded thrust increase of the right engine on a Model 767–200 series airplane during engine start. The FAA recently received two reports of uncommanded throttle lever movement on Model 757–200 series airplanes. In all of these events, subsequent investigation revealed that the engine thrust control cable had severed. Such failure of a thrust control cable could result in a severe asymmetric thrust condition during landing, and consequent reduced controllability of the airplane.

Other Relevant Rulemaking

As a result of the 1985 event and other problems associated with the engine thrust control cable installation, the following AD's were issued to address design deficiencies on Model 747 series airplanes that could potentially result in an engine thrust control cable failure:

- AD 85–25–55, amendment 39–5326 (51 FR 20250, June 4, 1986);
- AD 86–10–10, amendment 39–5318 (51 FR 18571, May 21, 1986);
- AD 89–08–09, amendment 39–6188 (54 FR 14643, April 12, 1989);
- AD 89–19–07, amendment 39–6322 (54 FR 38210, September 15, 1989); and
- AD 93–17–06, amendment 39–8677 (58 FR 45831, August 31, 1993).

In addition, the FAA has issued two NPRM's to address this condition on other Boeing airplane models that have an engine thrust control cable installation similar to the Model 747 series airplane:

- NPRM 98–NM–323–AD (64 FR 7822, February 17, 1999), which applies to certain Model 757–200 series airplanes; and
- NPRM 98–NM–363–AD (64 FR 18386, April 14, 1999), which applies to certain Model 767 series airplanes.

Explanation of Relevant Service Information

The FAA has reviewed and approved the following service bulletins:

- Boeing Service Bulletin 747–76–2019, dated June 9, 1971, describes procedures for modification of the strut bulkhead assembly to enlarge the holes through which the engine thrust control cables pass.
- Boeing Service Bulletin 747–76–2067, Revision 1, dated November 19, 1987, describes procedures for a one-time inspection of the nacelle strut idler pulleys to determine the type of pulleys installed, and replacement of any aluminum-type pulleys with phenolic-type pulleys. The service bulletin also describes procedures for a detailed inspection to detect wear of the engine thrust control cables in any area where aluminum-type pulleys are installed, and replacement of the cables, if necessary.
- Boeing Service Bulletin 747–76A2068, Revision 3, dated August 22, 1991; including Notice of Status Change 747–76A2068 NSC 2, dated December 12, 1991; describes procedures for repetitive inspections of aluminum pulley bracket assemblies and adjacent support structure to detect cracking, and replacement of damaged parts, if necessary. The service bulletin also describes procedures for replacement of aluminum idler pulley brackets with steel brackets. Such replacement would eliminate the need for the repetitive inspections.
- Boeing Alert Service Bulletin 747–76A2073, Revision 1, dated July 28, 1988, describes procedures for a detailed inspection of the engine thrust control cables and pulley mounting bracket screws in the area aft and above main entry door number 2 on the left and right sides of the airplane to detect wear, and replacement of the cable, if necessary. The alert service bulletin also describes procedures for a modification of the pulley mounting bracket.
- Boeing Service Bulletin 747–53–2327, Revision 2, dated September 24, 1998, describes procedures for repetitive inspections of certain upper deck floor beams to detect cracking, and repair of any cracks found or reinforcement of those floor beams. The service bulletin also describes procedures for a detailed inspection to measure the clearance between the engine thrust control cables and the cable penetration holes in that area, and modification of the holes or replacement of the plate, if necessary.

Accomplishment of the actions specified in the service bulletins described previously, and the repetitive inspections specified in this proposed AD, is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would

require repetitive inspections to detect discrepancies of the cables, fittings, and pulleys, and replacement of discrepant parts. This proposal would also require certain preventative actions on the engine thrust control cable installation for certain airplanes. The actions would be required to be accomplished in accordance with the procedure included in Appendix 1. of this proposed AD, the airplane maintenance manual, and the service bulletins described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletins

Operators should note that this proposed AD would require all of the specified actions to be accomplished within 18 months after the effective date of this AD. The service bulletins recommend that these actions should be accomplished at various times, mostly ''at the earliest opportunity where manpower and facilities are available.'' In developing an appropriate compliance time for the proposed actions, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but also the number of proposed requirements and the availability of required parts. The FAA has determined that 18 months represents an appropriate interval of time allowable wherein all of these actions can be accomplished during scheduled airplane maintenance and an ample number of required parts will be available for modification of the U.S. fleet within the proposed compliance period. The FAA also finds that such a compliance time will not adversely affect the safety of the affected airplanes.

Operators should note that Boeing Service Bulletin 747–76–2067 specifies that the inspection to detect wear of the control cables described by that service bulletin may be accomplished in accordance with an ''operator's comparable procedure.'' However, this proposed AD specifies that the inspection be accomplished in accordance with the procedures specified in Chapter 20–21–03 of the Boeing 747 Maintenance Manual. An ''operator's comparable procedure'' may be used only if approved as an alternative method of compliance in accordance with paragraph (h) of this AD.

Operators also should note that Boeing Service Bulletin 747–76–2067 applies to certain Model 747 series airplanes equipped with Pratt & Whitney Model JT9D–70A engines or General Electric Model CF6 series engines. However, paragraph (c) of this proposed AD would apply only to Model 747 series airplanes equipped with General Electric Model CF6 series engines identified in the service bulletin. The engine thrust control cable installation is different on Model 747 series airplanes equipped with Pratt & Whitney Model JT9D–70A engines, and the unsafe condition discussed previously does not exist on those airplanes.

Boeing Service Bulletin 747–76A2068 describes procedures for repetitive inspections of aluminum pulley bracket assemblies and adjacent support structure to detect cracking, and replacement of damaged parts, if necessary, as well as procedures for replacement of aluminum idler pulley brackets with steel brackets. This proposed AD would require only the replacement of aluminum idler pulley brackets with steel brackets. Mandating this terminating action is based on the FAA's determination that, in this case, long-term continued operational safety would be better assured by a modification to remove the source of the problem, rather than by repetitive inspections.

Although Boeing Alert Service Bulletin 747–76A2073 describes procedures for a detailed inspection of the engine thrust control cables and pulley mounting bracket screw in the area aft and above main entry door number 2 on the left and right sides of the airplane to detect wear, this AD proposes only to mandate the detailed inspection of the engine thrust control cables in that area, and replacement of the cable, if necessary; and the modification of the pulley mounting bracket. The alert service bulletin also provides the option to modify the bracket within 750 hours of the detailed inspection whereas this AD would require both actions to be accomplished at the same time.

Operators also should note that, although Boeing Service Bulletin 747–53–2327 also describes procedures for inspection of certain upper deck floor beams, and repair of any cracks found or reinforcement of those floor beams, as applicable, this AD proposes to mandate only the detailed inspection to measure the clearance between the engine thrust control cables and the cable penetration holes in that area. The inspection, repair, and reinforcement of certain upper deck floor beams are mandated by AD 92–24–07, amendment 39–8412 (57 FR 53436, November 10, 1992). The detailed inspection to measure the clearance between the engine thrust control cables and the cable penetration holes was incorporated into the service bulletin after AD 92–24–07 was issued. Therefore, the FAA is proposing to mandate that part of the service bulletin in this AD. In addition, for airplanes on which insufficient clearance is measured, the proposed AD adds an additional inspection of the cable for wear in that area, and would require replacement of the cable, if necessary.

Cost Impact

There are approximately 624 airplanes of the affected design in the worldwide fleet. The FAA estimates that 182 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 3 work hours per airplane to accomplish the proposed inspection to verify the engine thrust control cable integrity, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed inspection on U.S. operators is estimated to be $32,760, or $180 per airplane, per inspection cycle.

For airplanes identified in Boeing Service Bulletin 747–76–2019 (30 U.S.-registered airplanes), it would take approximately 4 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. No parts are required. Based on these figures, the cost impact of this proposed modification on U.S. operators is estimated to be $7,200, or $240 per airplane.

For airplanes identified in Boeing Service Bulletin 747–76–2067, Revision 1 (12 U.S.-registered airplanes), it would take approximately 6 work hours per airplane to accomplish the proposed inspection of the nacelle strut idler pulleys, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed one-time inspection on U.S. operators is estimated to be $4,320, or $360 per airplane.

For airplanes identified in Boeing Service Bulletin 747–76A2068, Revision 3 (4 U.S.-registered airplanes), it would take approximately 16 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour.

Required parts would cost approximately $2,000 per airplane. Based on these figures, the cost impact of this proposed replacement on U.S. operators is estimated to be $11,840, or $2,960 per airplane.

For airplanes identified in Boeing Alert Service Bulletin 747–76A2073, Revision 1 (12 U.S.-registered airplanes), it would take approximately 4 work hours per airplane to accomplish the proposed action, at an average labor rate of $60 per work hour. The cost of required parts would be minimal. Based

on these figures, the cost impact of this proposed action on U.S. operators is estimated to be $2,880, or $240 per airplane.

Currently, there are no airplanes identified in Boeing Service Bulletin 747–53–2327, Revision 2, and subject to this AD, on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish this proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this one-time inspection would be $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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 the following new airworthiness directive:

Boeing: Docket 99–NM–22–AD.

Applicability: Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, SR, and SP series airplanes; certificated in any category; equipped with Pratt & Whitney Model JT9D–3 or –7 series engines, General Electric Model CF6–45 or –50 series engines, or Rolls-Royce Model RB211–524B, C, or D series engines.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent engine thrust control cable failures, which could result in a severe asymmetric thrust condition during landing, and consequent reduced controllability of the airplane, accomplish the following:

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Repetitive Inspections

(a) For all airplanes: Within 18 months after the effective date of this AD, accomplish the ''Thrust Control Cable Inspection Procedure'' specified in Appendix 1. (including Figure 1) of this AD to verify the integrity of the engine thrust control cables. Prior to further flight, replace any discrepant component found, in accordance with the procedures described in the Boeing 747 Maintenance Manual. Repeat the detailed inspection thereafter at intervals not to exceed 18 months.

Modification

(b) For airplanes identified in Boeing Service Bulletin 747–76–2019, dated June 9, 1971: Within 18 months after the effective date of this AD, modify the strut bulkhead assembly to enlarge the holes (2 places in each strut) through which the engine thrust control cables pass, in accordance with the service bulletin.

Inspection/Replacement

(c) For airplanes equipped with General Electric Model CF6 series engines and identified in Boeing Service Bulletin 747–76–2067, Revision 1, dated November 19, 1987: Within 18 months after the effective date of this AD, perform a one-time inspection of each nacelle strut idler pulley to determine the type of pulley installed, in accordance with the service bulletin.

Note 3: This paragraph does not apply to airplanes equipped with Pratt & Whitney Model JT9D–70 engines.

(1) If no aluminum-type pulley is installed, no further action is required by this paragraph.

(2) If any aluminum-type pulley is installed, prior to further flight, accomplish paragraphs (c)(2)(i) and (c)(2)(ii) of this AD in accordance with the service bulletin.

(i) Replace any aluminum-type pulley with a phenolic-type pulley having Boeing part number BACP30F4.

(ii) Except as provided by paragraph (d) of this AD: Perform a detailed inspection of the engine thrust control cables in any area where an aluminum-type pulley was installed, to detect wear. If any wear outside the criteria contained in Chapter 20–21–03 of the Boeing 747 Maintenance Manual is found, prior to further flight, replace the cable with a new cable, in accordance with the service bulletin. If any wear within the criteria contained in the maintenance manual is found, no further action is required by this paragraph.

Note 4: Accomplishment of the actions specified in Boeing Service Bulletin 747–76–2067, dated September 26, 1986, is acceptable for compliance with the actions required by paragraph (c) of this AD.

(d) Where Boeing Service Bulletin 747–76–2067, Revision 1, dated November 19, 1987, specifies that the actions required by paragraph (c)(2)(ii) of this AD may be accomplished in accordance with an ''operator's comparable procedure,'' the actions must be accomplished in accordance with the applicable chapters of the Boeing 747 Maintenance Manual, as specified in the service bulletin.

Replacement

(e) For airplanes identified in Boeing Service Bulletin 747–76A2068, Revision 3, dated August 22, 1991; including Notice of Status Change 747–76A2068 NSC 2, dated December 12, 1991: Within 18 months after the effective date of this AD, replace aluminum idler pulley brackets with steel brackets, in accordance with paragraphs E., F., G., and H. of the Accomplishment Instructions of the service bulletin.

Inspection/Modification

(f) For airplanes identified in Boeing Alert Service Bulletin 747–76A2073, Revision 1, dated July 28, 1988: Within 18 months after the effective date of this AD, accomplish

paragraphs (f)(1) and (f)(2) of this AD, in accordance with the alert service bulletin.

(1) Perform a detailed inspection of the engine thrust control cables and pulley mounting bracket screws in the area aft and above main entry door number 2 on the left and right sides of the airplane to detect damage. If any damage is found, prior to further flight, replace the cable with a new cable.

(2) Modify the pulley mounting bracket.

Note 5: Accomplishment of the actions specified in Boeing Alert Service Bulletin 747–76A2073, dated February 4, 1988, is acceptable for compliance with the actions required by paragraph (f) of this AD.

Inspection/Modification/Replacement

(g) For Model 747–100B SUD series airplanes identified in Boeing Service Bulletin 747–53–2327, Revision 2, dated September 24, 1998, with angle assemblies having Boeing part numbers 015U0454–63 and 015U0454–64 installed at body station 970: Within 18 months after the effective date of this AD, perform a detailed inspection to measure the clearance between the engine thrust control cables and the cable penetration holes, in accordance with the Cable Chafing Inspection of the Accomplishment Instructions of the service bulletin. If insufficient clearance exists, as specified in the service bulletin, prior to further flight, accomplish paragraphs (g)(1) and (g)(2) of this AD.

(1) Modify the cable penetration holes or replace the plate, as applicable, in accordance with Figure 7 of the service bulletin.

(2) Perform a detailed inspection of the engine thrust control cables in any area of the plate to detect wear, in accordance with Chapter 20–21–03 of the Boeing 747 Maintenance Manual. If any wear outside the criteria contained in the maintenance manual is found, prior to further flight, replace the cable with a new cable, in accordance with the procedures described in the Boeing 747 Maintenance Manual. If any wear within the criteria contained in the maintenance manual is found, no further action is required by this paragraph.

Alternative Methods of Compliance

(h) 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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Appendix 1. Thrust Control Cable Inspection Procedure

1. General

A. Clean the cables, if necessary, for the inspection, in accordance with Boeing 747 Maintenance Manual 12–21–05.

B. Use these procedures to verify the integrity of the thrust control cable system. The procedures must be performed along the entire cable run for each engine. To ensure verification of the portions of the cables which are in contact with pulleys and quadrants, the thrust control must be moved by operation of the thrust and/or the reverse thrust levers to expose those portions of the cables.

C. The first task is an inspection of the control cable wire rope. The second task is an inspection of the control cable fittings. The third task is an inspection of the pulleys.

Note: These three tasks may be performed concurrently at one location of the cable system on the airplane, if desired, for convenience.

2. Inspection of the Control Cable Wire Rope

A. Perform a detailed inspection to ensure that the cable does not contact parts other than pulleys, quadrants, cable seals, or grommets installed to control the cable routing. Look for evidence of contact with other parts. Correct the condition if evidence of contact is found.

B. Perform a detailed inspection of the cable runs to detect incorrect routing, kinks in the wire rope, or other damage. Replace the cable assembly if:

(1) One cable strand had worn wires where one wire cross section is decreased by more than 40 percent (see Figure 1),

(2) A kink is found, or

(3) Corrosion is found.

C. Perform a detailed inspection of the cable: To check for broken wires, rub a cloth along the length of the cable. The cloth catches on broken wires.

(1) Replace the 7x7 cable assembly if there are two or more broken wires in 12 continuous inches of cable or there are three or more broken wires anywhere in the total cable assembly.

(2) Replace the 7x19 cable assembly if there are four or more broken wires in 12 continuous inches of cable or there are six or more broken wires anywhere in the total cable assembly.

3. Inspection of the Control Cable Fittings

A. Perform a detailed inspection to ensure that the means of locking the joints are intact (wire locking, cotter pins, turnbuckle clips, etc.). Install any missing parts.

B. Perform a detailed inspection of the swaged portions of swaged end fitting to detect surface cracks or corrosion. Replace the cable assembly if cracks or corrosion are found.

C. Perform a detailed inspection of the unswaged portion of the end fitting. Replace the cable assembly if a crack is visible, if corrosion is present, or if the end fitting is bent more than 2 degrees.

D. Perform a detailed inspection of the turnbuckle. Replace the turnbuckle if a crack is visible or if corrosion is present.

4. Inspection of Pulleys

A. Perform a detailed inspection to ensure that pulleys are free to rotate. Replace pulleys which are not free to rotate.

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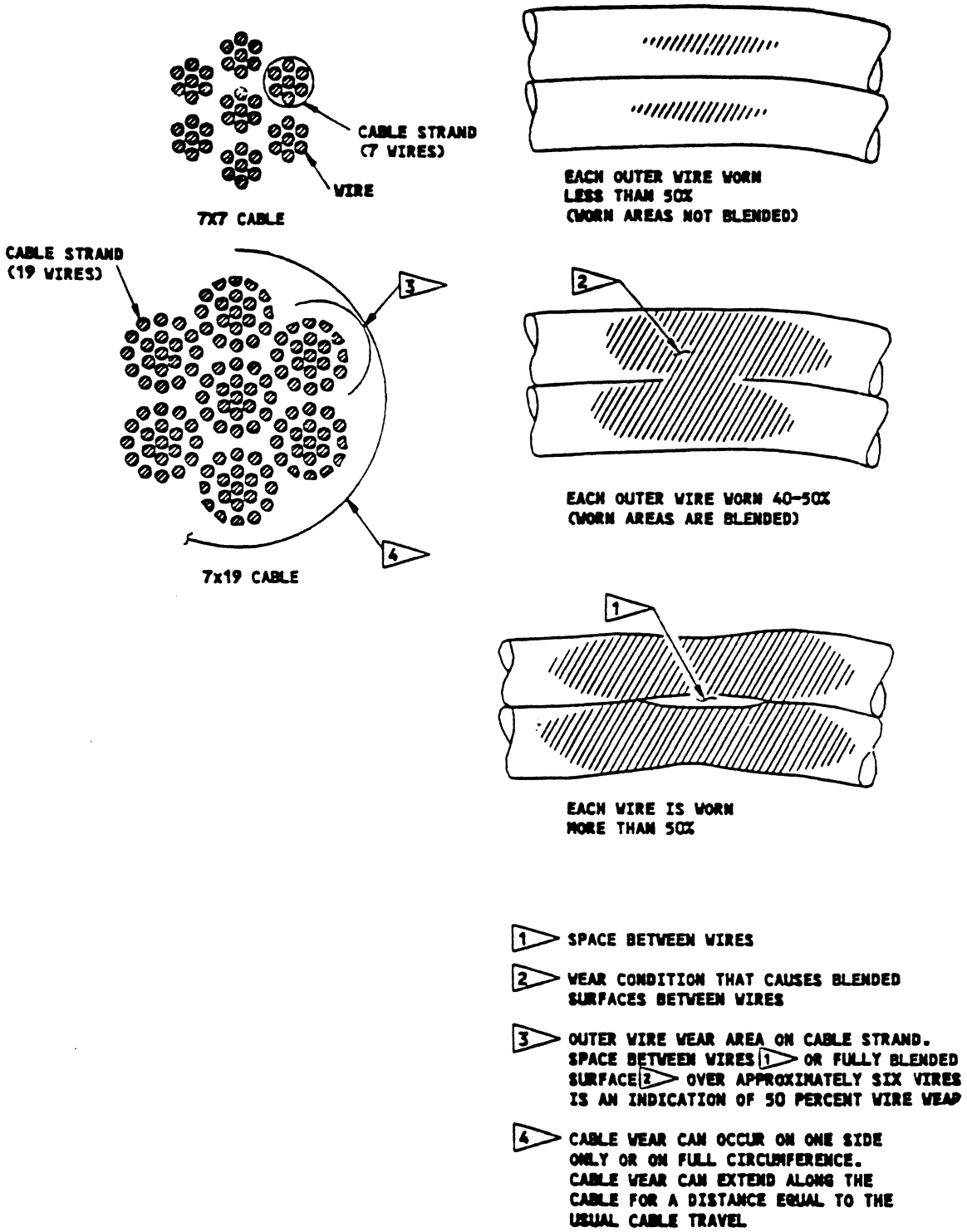

FIGURE 1

Issued in Renton, Washington, on September 27, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–25597 Filed 9–30–99; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 5, 25, 500, 510, 514, and 558

[Docket No. 99N–1415]

RIN 0910–AB49

Supplements and Other Changes to Approved New Animal Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations on supplements and other changes to an approved new animal drug application (NADA) or abbreviated new animal drug application (ANADA) to implement the manufacturing changes provision of the Food and Drug Administration Modernization Act of 1997 (the Modernization Act). This proposed rule would require manufacturers to validate the effect of any manufacturing change on the identity, strength, quality, purity, and potency of a new animal drug as those factors relate to the safety or effectiveness of the product. The proposal identifies changes requiring submission and approval of a supplement prior to the distribution of the new animal drug made using the change, changes requiring the submission of a supplement at least 30 days prior to the distribution of the new animal drug, changes requiring the submission of a supplement at the time of distribution, and changes to be described in an annual report.

DATES: Written comments by December 15, 1999.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn.: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Dennis M. Bensley, Jr., Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6956.

SUPPLEMENTARY INFORMATION:

I. Introduction

On November 21, 1997, the President signed the Modernization Act into law (Public Law 105–115). Section 116 of the Modernization Act amended the Federal Food, Drug, and Cosmetic Act (the act) by adding section 506A (21 U.S.C. 356a), which describes requirements and procedures for making and reporting manufacturing changes to approved NADA's and ANADA's, new drug applications (NDA's) and abbreviated new drug applications (ANDA's), and to license applications for biological products. This proposed rule sets forth regulations to implement section 506A of the act for NADA's and ANADA's. The Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) are issuing separate proposed regulations regarding manufacturing changes for NDA's and ANDA's and for licensed biological products.

Section 506A of the act makes no distinction between the requirements for reporting manufacturing changes for human drug and biological products regulated by CDER and CBER and for new animal drug products regulated by the Center for Veterinary Medicine (CVM). CVM is proposing this rule to harmonize the reporting requirements of manufacturing changes for new animal drug products with those reporting requirements for human drug and biological products.

The Modernization Act, section 116, becomes effective on the effective date of these final regulations or 24 months after the enactment of the Modernization Act (November 21, 1999), whichever occurs first. This proposed rule updates and will replace § 514.8 (21 CFR 514.8), which provides the current requirements for manufacturing changes for NADA's.

II. Background

A. CVM's Current Rule

CVM currently evaluates all manufacturing changes to approved NADA's under the regulations found in § 514.8. Manufacturing changes are currently submitted as permitted changes (§ 514.8(a)(5)), changes being effected (CBE's) (§ 514.8(d), or changes requiring approval prior to implementation (§ 514.8(a)(4)).

Under current § 514.8(a)(5), permitted changes may be put into effect without the approval of a supplemental application but must be reported in the next annual drug experience report (DER). Section 514.8(a)(5) lists the types of manufacturing changes that are considered permitted changes.

CBE's under current § 514.8(d) include manufacturing changes that would ''give increased assurance that the drug will have the characteristics of identity, strength, quality, and purity which it purports or is represented to possess.'' Such changes are to be placed into effect at the earliest possible time with concurrent submission of a supplemental application; hence such changes do not require CVM approval before implementation.

Changes requiring approval of a supplemental application prior to implementation are set out in current § 514.8(a)(4) of the regulations. Most manufacturing changes are currently reported in preapproval supplemental applications under § 514.8(a)(4).

B. Section 116 of The Modernization Act

Many of the concepts included in the Modernization Act were incorporated from earlier rulemaking and guidance documents issued by CDER and CBER. A discussion of CDER's earlier rulemaking, guidance documents, and their underlying rationale can be found in the preamble to CDER's proposed rulemaking to comply with section 506A of the act.

CDER had issued a series of guidance documents to ease preapproval requirements for certain manufacturing changes that are unlikely to have a detectable impact on a drug product's quality and performance as distinguished from those that could have a significant impact. These guidance documents were issued under a provision in current 21 CFR 314.70(a) that permits holders of an approved application to make changes to the application in accordance with a guideline, notice, or regulation published in the **Federal Register** that provides a less burdensome notification of the change.

As of this date, CDER has issued several guidances addressing the requirements relating to postapproval changes in manufacturing and controls. These are known as the SUPAC (Scale-Up and Postapproval Changes) documents. The first of these guidance documents was published in November 1995 and is entitled ''Immediate Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; *In Vitro* Dissolution Testing; *In Vivo* Bioequivalence Documentation'' (SUPAC–IR). This guidance provides recommendations to holders of approved drug applications who intend, during the postapproval period, to change: (1) The components or composition, (2) the site of manufacture, (3) the scale of manufacture, and/or (4)

the manufacturing (process and/or equipment) of an immediate release solid oral dosage form.

In May 1997 and August 1997, CDER issued two related guidances entitled ''Semisolid Dosage Forms Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; *In Vitro* Release Testing; *In Vivo* Bioequivalence Documentation'' (SUPAC–SS) and ''Modified Release Solid Oral Dosage Forms Scale-Up and Postapproval Changes: *In Vitro* Dissolution Testing; *In Vivo* Bioequivalence Documentation'' (SUPAC–MR). These two guidances cover the same general topics and use the same general approaches as SUPAC–IR. The current series of guidance documents relating to scale-up and postapproval changes focuses on changes to manufacturing and controls for drug products. Future guidances will consider changes in manufacturing and controls for the drug substance, product containers and closures, and other topics as well.

The underlying rationale of these guidances already completed or in preparation is that the identity, strength, quality, purity, and potency of an approved drug should remain unchanged in any important aspect as a result of any postapproval change in manufacturing and controls. This unchanged performance extends to changes that might affect in vivo bioavailability and relative bioavailability (bioequivalence).

CDER's guidance documents, described previously, originally applied only to drug products approved under sections 505 (new and abbreviated new drug applications) and 507 (antibiotic applications; revoked by the Modernization Act) of the act (21 U.S.C. 355 and 357). However, CVM adopted many of the concepts described in these guidance documents by permitting the reporting of minor manufacturing changes in a biennial supplement instead of in a preapproval supplement submitted in accordance with the current regulation (§ 514.8). The biennial supplement does not require CVM approval prior to the distribution of the drug product made using the changes.

CDER's and CBER's proposed rulemaking and supporting guidance documents allow for many moderate manufacturing changes to be reported as CBE's that are not provided for in CVM's current regulations (§ 514.8). CVM is proposing regulations that harmonize the reporting of manufacturing changes for new animal drug products with the reporting of manufacturing changes for human drug products, because: (1) The act makes no distinction between the requirements for the reporting of manufacturing changes for human drug products and for new animal drug products, (2) the act does not provide for the reporting of minor manufacturing changes in biennial supplements, (3) the proposed rulemaking allows for flexibility in reporting many moderate changes as CBE's, and (4) CVM and the animal drug industry can benefit from CDER's expertise and resources to issue specific guidances on manufacturing and controls changes used for drugs, generally.

CVM is currently collaborating with CDER on a number of guidance documents addressing manufacturing and controls changes, including the draft guidance document entitled ''Chemistry, Manufacturing and Control Changes to an Approved NADA or ANADA'' to be made available for comment along with this proposed rulemaking. On the effective date of these final regulations or on November 21, 1999, whichever occurs first, CVM's previous practices will be superseded by section 506A of the act and/or the final regulations and the reporting of minor manufacturing changes in biennial supplements will no longer be permitted. CVM proposes to adopt CDER's current guidance documents for manufacturing changes (SUPAC–IR, SUPAC–SS and SUPAC–MR). These documents will be updated to reflect changes resulting from the proposed rulemaking, and CVM intends to participate with CDER in the drafting of any guidance documents covering manufacturing changes. In addition, CVM will also issue guidance documents for specific new animal drug products such as Type A medicated articles.

III. Summary of the Legislation

Section 116 of the Modernization Act amended the act by adding section 506A, which provides requirements for making and reporting manufacturing changes to an approved application and for distributing a drug made with such changes. Section 506A of the act includes the following provisions:

1. A drug made with a manufacturing change, whether a major manufacturing change or otherwise, may be distributed only after the applicant validates the effects of the change on the identity, strength, quality, purity, and potency of the drug as these factors may relate to the safety and effectiveness of the drug (section 506A(a)(1) and (b) of the act). This section recognizes that additional testing, beyond testing to ensure that an approved specification is met, is required to ensure unchanged identity, strength, quality, purity, or potency as these factors may relate to the safety or effectiveness of the drug.

2. A drug made with a major manufacturing change may be distributed only after the applicant submits a supplemental application to FDA and the supplemental application is approved by the agency. The application is required to contain information that FDA deems appropriate and include the information developed by the applicant validating the effects of the change (section 506A(c)(1) of the act). The phrase ''validating the effects of the change,'' as used in this proposed rule, is not the same as ''validation'' required in FDA's current good manufacturing practice (CGMP) regulations (21 CFR parts 210 and 211).

3. A major manufacturing change is a manufacturing change determined by FDA to have substantial potential to adversely affect the identity, strength, quality, purity, or potency of the drug as these factors may relate to the safety or effectiveness of the drug. Such changes include: (1) A change made in the qualitative or quantitative formulation of the drug involved or in the specifications in the approved application or license unless exempted by regulation or guidance, (2) a change determined by FDA through regulation or guidance to require completion of an appropriate clinical study demonstrating equivalence of the drug to the drug manufactured without the change or a reference listed drug, and (3) other changes determined by regulation or guidance to have a substantial potential to adversely affect the safety or effectiveness of the drug (section 506A(c)(2) of the act).

4. FDA may establish categories of manufacturing changes, other than major manufacturing changes, and require submission of a supplemental application for drugs made with such manufacturing changes (section 506A(d)(1)(B) and (d)(1)(C) of the act). For changes, other than major changes, that require submission of a supplemental application, the applicant may begin distribution of the drug 30 days after FDA receives the supplemental application unless the agency notifies the applicant within the 30-day period that FDA review and prior approval of the application is required (section 506A(d)(3)(B)(i) of the act). FDA may also designate a category of manufacturing changes for which the applicant may begin distributing a drug made with such changes upon receipt by the agency of the supplemental application for the change (section 506A(d)(3)(B)(ii) of the act). If FDA fails

to approve a supplemental application, the agency may order the manufacturer to cease the distribution of drugs that have been made with the disapproved change (section 506A(d)(3)(B)(iii) of the act).

5. FDA may authorize applicants to distribute drugs without submitting a supplemental application (section 506A(d)(1)(A) of the act) and may establish categories of manufacturing changes that may be made without submitting a supplemental application (section 506A(d)(1)(C) of the act). The applicant is required to submit a report to FDA on such a change, and the report is required to contain information the agency deems to be appropriate and information developed by the applicant when validating the effects of the change. FDA may also specify the date on which the report is to be submitted (section 506A(d)(2)(A) of the act). If during a single year an applicant makes more than one manufacturing change subject to a reporting requirement, the act permits FDA to authorize the applicant to submit a single annual report containing the required information for all the changes made during the year (section 506A(d)(2)(B) of the act).

Section 506A of the act recognizes that the amount of testing and the data to be included in a submission and the appropriate method for reporting the data are related to the scope and the type of change being made. Four methods of reporting changes (i.e., supplements that require FDA review and prior approval, CBE's supplements with a 30-day wait, CBE's supplements with no wait, and annual reports) are discussed in section 506A of the act and in this proposal. The appropriate method for reporting any specific change depends on the potential for that change to impact the fundamental safety or effectiveness of the product by adversely affecting the basic aspects of the drug product—its identity, strength, quality, purity, and potency.

The main objective of a review of a supplemental application that documents postapproval changes to an NADA or ANADA is to ensure ''sameness'' or ''equivalence'' between the pre- and post-change product. ''Sameness or equivalence'' do not mean ''identical'' since certain manufacturing changes lead to differences. Such differences should not, however, affect the safety or effectiveness of the drug product. Also, a proposed manufacturing change should not be so extensive that a new drug product is created. If a manufacturing change does produce a fundamental alteration (i.e., a pharmaceutically inequivalent dose form), a new application may be required for the resulting product.

Generally, in the case of NADA products, the pre- and post-change drug product should be compared. In the case of ANADA products, the pre- and post-change drug products should be compared to the reference listed drug, typically the pioneer drug product. Confirmation of ''sameness'' or ''equivalence'' is particularly important when changes are made that involve the active pharmaceutical ingredient or affect critical manufacturing steps. Examples of such changes include, but are not limited to, components and overall composition of the formulation; manufacturing site, scale, equipment, process, or specifications; and analytical procedures.

Many factors should be considered in determining whether a change has a substantial, moderate, or minimal potential to have an adverse effect on the identity, strength, quality, purity, or potency of the product as they may relate to the safety or effectiveness of the product. Some types of manufacturing changes have a greater potential to cause unwanted or unexpected changes to the product that may be difficult to assess by merely testing to specifications. The type of product is also a factor to consider in determining the potential risk of a manufacturing change having an adverse effect on the product. Some products may be substantially affected by what appear to be small manufacturing changes.

Therefore, defining ''substantial,'' ''moderate,'' and ''minimal'' in the regulations with such specificity that they exhaustively describe all of the many individual changes that may occur is not feasible. FDA is planning, however, to provide greater detail in guidance about the types or categories of changes that the agency believes should be considered ''substantial,'' ''moderate,'' or ''minimal.''

Section 506A of the act provides FDA with considerable flexibility to establish required information and filing requirements for manufacturing changes. There is a corresponding need to retain such flexibility in the proposed regulations implementing section 506A of the act to ensure that the least burdensome means for reporting changes are available. FDA believes that such flexibility is necessary to be responsive to increasing knowledge of and experience with certain types of changes and to help ensure the effectiveness and safety of the products involved. For example, a change that may currently be considered to have a substantial potential to have an adverse effect on the safety or effectiveness of the product may, at a later date, based on new information or advances in technology, be determined to have a lesser potential to have such an adverse effect. Conversely, a change originally considered to have a moderate potential to have an adverse effect on the safety or effectiveness of the product may later, as a result of new information, be found to have an increased, substantial potential to adversely affect the product.

The agency believes it can more readily respond to knowledge gained from manufacturing experience, and advances in technology by issuing regulations that set out broad, general categories of manufacturing changes and by using guidance documents to provide FDA's current thinking on the specific changes that fall into those general categories. The proposed rule would, therefore, reduce the number of manufacturing changes specifically identified as being subject to supplements requiring or not requiring review and approval. The agency also understands that applicants expect some predictability on what type of reporting will be expected for specific changes. FDA intends to make available guidance documents to describe the agency's current interpretation of specific changes falling into the four filing categories and to modify the documents as needed to reflect changes based on new information. The use of guidance documents as provided for in section 506A of the act will allow FDA to more easily and quickly modify and update important information. Guidance documents will be developed according to the procedures set out in FDA's Good Guidance Practices as published in the **Federal Register** of February 27, 1997 (62 FR 8961 at 8967 to 8972). A notice of availability for a draft guidance entitled ''Chemistry, Manufacturing and Control Changes to an Approved NADA or ANADA'' is published elsewhere in this issue of the **Federal Register**. This guidance covers recommended reporting categories for various postapproval manufacturing changes. FDA has published guidances, including SUPAC guidances and CVM's ''Animal Drug Manufacturing Guidelines,'' that provide recommendations on both reporting categories and/or the type of information that should be developed by the applicant to validate the effect of the change on the identity, strength, quality, purity, or potency of a product as these factors may relate to the safety or effectiveness of the product. To the extent that the recommendations on reporting categories in this proposed guidance, when finalized, are

inconsistent with previously published guidances, such as the SUPAC's, the recommended reporting categories in such prior guidances will be superseded by this new guidance upon its publication in final form. FDA intends to update the prior published guidances to make them consistent with this guidance.

IV. Description of the Proposed Rule

A. Definitions

FDA has added a new paragraph to define terms and phrases as used in proposed § 514.8. Proposed § 514.8(a) would add definitions of ''minor changes and stability report (MCSR),'' ''specification,'' ''validate the effects of the change,'' 'listed drug,'' and ''the list.'' These definitions are necessary to implement the provisions of section 506A of the act.

FDA is proposing to define ''specification'' as the quality standard (i.e., tests, analytical procedures, and acceptance criteria) provided in an approved application to confirm the quality of drug substances, drug products, intermediates, raw materials, reagents, and other components including container closure systems, and in-process controls. FDA is proposing to define ''specification'' because section 506A of the act includes a change ''in the specifications in the approved application or license'' as a major change. To clarify the meaning of the term ''acceptance criteria'' as used in the definition of ''specification,'' FDA is including in the proposed definition of ''specification'' the statement that ''acceptance criteria'' refers to numerical limits, ranges, or other criteria for the tests described. To determine if a material being tested complies with a specification, there must be predetermined criteria. These criteria may include numerical limits or ranges (e.g., not more than 1 percent) or other criteria (e.g., white to off-white in color).

FDA is proposing to define the phrase ''validate the effects of the change'' as an assessment of the effect of a manufacturing change on the identity, strength, quality, purity, or potency of a drug as these factors relate to the safety or effectiveness of the drug. FDA is proposing to define this phrase because section 506A of the act includes a requirement that a drug made with a manufacturing change may only be distributed after the applicant validates the effects of the change. Validating the effects of the change is important in determining whether manufacturing changes alter the identity, strength, quality, purity, or potency of a drug product as these factors may relate to drug safety or effectiveness, and includes testing beyond that in an approved specification, such as redocumentation of the pharmaceutical equivalence or bioequivalence.

''Minor changes and stability report'' would mean a report that is submitted once each year within 60 days of the anniversary of the application's original approval or a mutually agreed upon date for minor manufacturing changes made according to proposed § 514.8(b)(4) or a statement that no changes were made, and updated stability data generated on commercial or production batches according to an approved stability protocol.

The MCSR is the annual report described in section 506A(d)(2)(B) of the act, and it is different and distinct from the annual report described and submitted in accordance with current § 510.300 (21 CFR 510.300) (i.e., periodic DER's). The MCSR is a type of ''annual'' report for manufacturing changes only. The MCSR would be submitted to and reviewed by CVM's Office of New Animal Drug Evaluation (ONADE) rather than by CVM's Office of Surveillance and Compliance (OSC). The MCSR must include minor manufacturing changes implemented over the past year and an update of ongoing stability data generated on production lots. Currently, ongoing stability data are submitted as part of DER's to OSC. CVM has decided that it is more efficient to allow the administrative review of information relating to manufacturing changes and stability to reside in one group. Information regarding labeling changes and product defects would continue to be submitted to CVM's OSC.

FDA is proposing to define ''listed drug'' and ''the list'' to clarify ''reference listed drug'' cited in proposed § 514.8(b)(2)(ii)(B).

B. Manufacturing Changes to an Approved Application

Proposed § 514.8(b) sets forth general requirements under which an applicant must notify FDA when making a change to an approved application and replaces current § 514.8(a). This paragraph states that an applicant must notify FDA about each change in each condition established in an approved application beyond the variations already provided for in the application, and that the notice is required to describe the change fully. It also states that the applicant must, depending on the type of change, notify FDA of the change in a supplement under proposed § 514.8(b)(2) or (b)(3) or by the inclusion of the information in an annual report (the MCSR) under proposed § 514.8(b)(4). Reference in current § 514.8(a)(1) to current regulations, § 510.300, has been deleted and, instead, proposed § 514.8(b)(1)(i) makes reference to annual reports described under proposed § 514.8(b)(4). Manufacturing changes and/or updated stability data generated according to an approved stability commitment would no longer be reported in periodic DER's (i.e., annual reports under current § 510.300) but be reported under proposed § 514.8(b)(4) in an MCSR. CVM intends to publish a final rule revising § 510.300, which will be renumbered as § 514.80. Since CVM expects to publish the final rule for § 514.80 (*Records and reports concerning experience with new animal drugs for which an approved application is in effect.* (56 FR 65581, December 17, 1991)) before the final rule for § 514.8, CVM will, if necessary, amend the rule for *Records and reports concerning experience with new animal drugs for which an approved application is in effect.* after the final rule for § 514.8 publishes.

Proposed § 514.8(b)(1)(ii) would require the holder of an approved application under section 512 of the act (21 U.S.C. 360b) to validate the effects of manufacturing changes on the identity, strength (e.g., assay and content uniformity), quality (e.g., physical, chemical, and biological properties), purity (e.g., impurities and degradation products) and potency (e.g., biological activity, bioavailability, and bioequivalence) of a drug as these factors may relate to the safety or effectiveness of the drug. These validation requirements must be met before a product made with a manufacturing change may be distributed. This amendment implements section 506A(a)(1) and (b) of the act.

Proposed § 514.8(b)(1)(iii) states that notwithstanding the requirements of § 514.8(b)(2) and (b)(3), an applicant must report a change provided for in those paragraphs in accordance with a regulation or guidance that provides for a less burdensome notification of the change. For example, a type of manufacturing change subject to review and approval by FDA under proposed § 514.8(b)(2) might be identified in regulation or guidance as a change that could be reported in a supplement not requiring review and approval or in an annual report. CDER used this provision to reduce the regulatory burden for submission of supplements for manufacturing changes that were not likely to adversely affect drug product quality or performance in the SUPAC guidance documents.

Proposed § 514.8(b)(1)(iv) requires the applicant to include in each supplemental application providing for a change under proposed § 514.8(b)(2) or (b)(3), a statement that a copy of the supplement has been provided to the appropriate FDA district office whose jurisdiction includes the facility where the manufacturing change is implemented.

Proposed § 514.8(b)(1)(v) would add a requirement that a list of all changes contained in the supplement or annual report must be included in the cover letter for the supplement or annual report. For many years, most supplements and annual reports have routinely included such cover letters. Including a list of all changes in the cover letters will enable FDA to more efficiently locate and evaluate changes in what are often substantial documents, thus facilitating FDA review of supplements and annual reports.

Proposed § 514.8(b)(2)(iii) describes the information that must be included in a supplement. References to regulations for categorical exclusion or an environmental assessment have been updated and included in § 514.8(b)(2)(iii)(K).

C. Changes Requiring Supplement Submission and Approval Prior to Distribution of the Product Made Using the Change (Major Change)

Certain drug manufacturing steps are so critical that changes in these steps must be subject to the submission of a supplement to FDA that is approved by FDA prior to distribution of the drug product made using the change. Current § 514.8(a)(4) sets forth changes for which such review and approval are required.

Proposed § 514.8(b)(2) would revise the current sections to implement section 506A of the act. Proposed § 514.8(b)(2)(i) implements section 506A(c)(2) of the act and would require a preapproval supplement to be submitted for any major change, i.e., any change in the product, production process, quality controls, equipment, or facilities that has a substantial potential to have an adverse effect on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product.

Also, there are times when manufacturing changes are demonstrated to have an adverse effect on the identity, strength, quality, purity, or potency of the drug product. In many cases the applicant chooses not to implement these manufacturing changes, but in other cases the applicant may still wish to do so. If an assessment by the sponsor shows that a manufacturing change has adversely affected the identity, strength, quality, purity, or potency of the drug product and the sponsor wants to make the change, the change should be filed in a supplement that requires review and approval by FDA before distribution of the product, regardless of whether the change is listed as an example of one that normally does not need FDA approval prior to distribution of the product made with the change. The applicant should submit this change in a supplement that requires review and approval with appropriate information to demonstrate that the manufacturing change has not altered the continued safety and effectiveness of the product. The agency will assess the effect of any adverse change in a drug product, as the change may relate to the safety or effectiveness of the product, during the review of the supplement that requires approval prior to distribution of the product.

Proposed § 514.8(b)(2)(ii) lists examples of those changes requiring submission and approval of a supplement prior to distribution, including those designated as major manufacturing changes in section 506A(c)(2) of the act, and changes to certain biotechnology products. These changes have a substantial potential to have an adverse effect on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product. The agency's continued review and approval of these changes prior to product distribution is necessary to protect the animals and the public from products for which safety or effectiveness may have been compromised.

FDA is proposing to describe additional specific examples of changes that have substantial, moderate, and minimal potential to adversely affect a product in guidance documents rather than enumerate them in the proposed regulations. As discussed previously, section 506A of the act expressly states that the agency, through guidance, may categorize the manufacturing changes. FDA anticipates that scientific advances and future experience may reduce the need for approval of supplements providing for certain changes, and the agency will respond to changed circumstances by revising the guidance documents. A notice of availability of a draft guidance document entitled ''Guidance for Industry: Chemistry, Manufacturing and Controls Changes to an Approved NADA or ANADA,'' that provides more detailed recommendations on how to report proposed changes, is being published elsewhere in this issue of the **Federal Register**, and the agency is soliciting comments on the draft guidance in addition to the proposed rule.

In regard to proposed § 514.8(b)(2)(ii)(B), section 506A of the act also states in part that ''* * * equivalence of the drug to the drug as manufactured without the change'' should be demonstrated. For those generic drug products for which, at the time of approval, a generic drug applicant was required to show equivalence between the proposed generic drug and a reference listed drug (typically the referenced pioneer drug product), a proposed manufacturing change should not significantly change the equivalence demonstrated at the time of approval. In addition, for the more significant manufacturing changes for generic drugs the approval of which relied on a demonstration of bioequivalence to a reference listed drug, the applicant is required to conduct a bioequivalence study comparing the drug product made with the change to the reference listed drug, typically the pioneer drug product.

Under proposed § 514.8 (b)(2)(ii)(G) changes to a product under an application that is subject to a validity assessment because of significant questions regarding the integrity of the data supporting the application require approval prior to distribution. Until questions about the integrity of the data in the application have been resolved, there are inadequate assurances that any change will not adversely affect the safety or effectiveness of the product. Moreover, a change to a product cannot be validated, as required under 506A(b) of the act, until the integrity of the underlying data in such an application is validated. Consequently, there is a significant potential that the change will have an adverse effect on the identity, strength, quality, purity, or potency of the product. After a validity assessment has been completed, and data integrity questions resolved, the holder of an approved application may submit supplements for manufacturing changes as otherwise provided in § 514.8.

Current § 514.8(a)(4)(iii), (a)(4)(iv), and (a)(4)(v) regarding general manufacturing and control changes requiring approval prior to distribution are not included in proposed § 514.8(b)(2), because some of these changes would fall into the proposed major manufacturing change category while others would fall into other proposed categories depending on whether the change is considered to have a substantial, moderate, or minimal potential to adversely affect the

identity, strength, quality, purity, or potency of the drug as they may relate to the safety or effectiveness of the drug. FDA plans to provide recommendations on how to submit the supplements in guidance documents, including the draft guidance document mentioned previously. Current § 514.8(a)(4)(v) relating to identification of distributors has been updated and reproposed as § 514.8(c)(4).

Proposed § 514.8(b)(2)(iii) states that the applicant must obtain approval of a supplement from FDA before distributing a product using a change under § 514.8(b)(2), and it specifies information to be included in the supplement.

Proposed § 514.8(b)(2)(iv) permits a request for an expedited review of a supplement for public health reasons or if a delay in making the change described in the supplement would impose an extraordinary hardship on the applicant. FDA is including this provision for expedited review for extraordinary hardship reasons but wishes to clarify that these requests should focus on manufacturing changes made necessary by catastrophic events (e.g., fire) or by events that could not be reasonably foreseen and for which the applicant could not plan. Requests for expedited review will be assessed on a case-by-case basis. All requests may not be granted.

Under proposed § 514.8(b)(2)(v), an applicant may submit one or more protocols describing specific tests, validation studies, and acceptable limits to be achieved to demonstrate the lack of an adverse effect for specified types of manufacturing changes on the identity, strength, quality, purity, or potency of the drug as these factors may relate to the safety or effectiveness of the drug. Such protocols, or changes to a protocol, would be submitted as a supplement requiring approval from FDA prior to distribution. If approved, the use of such a protocol in making the specified changes may justify a reduced reporting category for the change because of the reduced risk of an adverse effect.

Generally, when considering a change in the manufacture of a product, the manufacturer will prepare a protocol, often called a ''comparability protocol,'' identifying tests to be performed in evaluating the change and its effect on the product and defining the criteria against which the impact of the change will be evaluated. By providing FDA an opportunity to review and approve the comparability protocol before it is used by the applicant to evaluate a change, FDA can have a greater assurance that the change is being properly evaluated and there is, therefore, less potential for the change to have an adverse effect on the safety or effectiveness of the product.

D. Changes Requiring Supplement Submission at Least 30 Days Prior to Distribution of the Drug Product Made Using the Change (Moderate Changes)

Current § 514.8(d)(3) provides for manufacturing changes that give an increased assurance that the drug will have the characteristics of identity, strength, quality, and purity that it purports or is represented to possess to be placed into effect at the earliest possible time. Proposed § 514.8(b)(3) implements section 506A(d)(1)(B) and (d)(3) of the act and provides that products made using the changes listed under this section may only be distributed not sooner than 30 days after receipt of a supplement by FDA. FDA recognizes that animal and the public health can be adequately protected without requiring approval of certain manufacturing changes prior to distribution of the product made with the change. FDA continues to believe that it is important that such changes be documented and validated so that there is a mechanism for assessing the consequences of the change and that the agency approve such changes. The requirement to submit a supplement 30 days before distribution of the product balances FDA's need to review applications to protect against the distribution of unsafe or ineffective products and the need to make improved products available.

Proposed § 514.8(b)(3)(i) would require that a supplement be submitted for any change in the product, production process, quality controls, equipment, or facilities that has a moderate potential to have an adverse effect on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product. Proposed § 514.8(b)(3)(iii) states that a supplement submitted under § 514.8(b)(3)(i) is required to give a full explanation of the basis for the change and identify the date on which the change is to be made, and that the supplement must be labeled ''Supplement—Changes Being Effected in 30 Days.''

Proposed § 514.8(b)(3)(ii) describes the types of changes that require submission of a supplement 30 days before distribution.

Proposed § 514.8(b)(3)(iv) states that distribution of a product made using a change listed under this section may not begin until 30 days after receipt of a supplement by FDA. This section would also require that the same information listed in proposed § 514.8(b)(2)(iii), discussed previously, must be contained in the supplement required under proposed § 514.8(b)(3).

According to proposed § 514.8(b)(3)(v), during the 30-day period following receipt of the supplement, FDA would perform a preliminary review to determine whether the supplement is complete and whether the type of change is appropriate for review as a supplement under proposed § 514.8(b)(3). If the proposed change is determined to be a major change that should appropriately be submitted under proposed § 514.8(b)(2), the agency would inform the applicant and the applicant would be required to receive FDA's approval before a product produced with the change could be distributed. If FDA determines that the change is properly submitted as a supplement under § 514.8(b)(3)(i), but the required information is incomplete, the applicant would be required to supply the missing information and wait until FDA has determined that the supplement is in compliance before distributing the product.

Under proposed § 514.8(b)(3)(vii), if FDA disapproves a supplemental application under this section, the agency may order the manufacturer to cease distribution of the drug products made with the manufacturing change. This amendment would implement section 506A(d)(3)(B)(iii) of the act.

E. Changes That May Be Implemented When FDA Receives a Supplement (Moderate Changes)

Section 506A(d)(3)(B)(ii) of the act gives FDA authority to designate a category of changes for which the holder of an approved application making such change may begin distribution of the drug upon receipt by FDA of a supplemental application for the change. FDA recognizes that animals and the public can be adequately protected without requiring approval of certain manufacturing changes prior to distribution of the product made with the change. FDA continues to believe that it is important that such changes be documented and validated so that there is a mechanism for assessing the consequences of the change and that the agency approve such changes. However, based on FDA's experience, certain changes may be implemented when FDA receives the supplement, rather than delaying distribution for 30 days because, in general, these changes provide the same or increased assurance that the product will have the characteristics of identity, strength,

quality, purity, or potency that it purports or is represented to have. Submission of a supplement gives FDA ready access to information regarding such changes. The requirement for approval of such supplements allows FDA to protect against the distribution of unsafe or ineffective products while allowing products that are likely to be improved to be available more quickly. Examples of such changes are listed in proposed § 514.8(b)(3)(vi). The supplement submitted under this paragraph is required to give a full explanation of the basis for the change and the supplement must be labeled ''Supplement—Changes Being Effected.''

Under proposed § 514.8(b)(3)(vii), if FDA disapproves a supplemental application under this section, the agency may order the manufacturer to cease distribution of the drug products made with the manufacturing change.

Current § 514.8(d) describes the types of changes that can be placed into effect at the earliest possible time. Such changes are being described in proposed § 514.8(b)(3)(vi) and (c)(3).

F. Changes and Updated Stability Data to Be Described and Submitted in an Annual Report (Minor Changes)

Minor manufacturing changes are currently submitted in an annual report under § 510.300(b)(6) as referenced in current § 514.8(a)(5) or in a biennial supplement. Proposed § 514.8(b)(4) would provide that changes to the product, production process, quality controls, equipment, or facilities that have a minimal potential to have an adverse effect on the identity, strength, quality, purity, or potency as these factors may relate to the safety or effectiveness of the product be documented by the applicant in the next annual report, i.e., ''Minor Changes and Stability Report,'' as described under proposed § 514.8(b)(4). FDA recognizes that there are manufacturing changes that have a minimal potential to have an adverse affect on a product's safety or effectiveness. FDA believes that agency approval of these changes prior to product distribution is unnecessary and is proposing in § 514.8(b)(4) that such changes would not be required to be approved by the agency. FDA continues to believe that it is important that such changes be documented and validated so that FDA can assess the consequences of the change. FDA can effectively assess compliance with this section and CGMP requirements for changes that have a minimal potential to adversely affect the product's safety or effectiveness by having ready access to information regarding such changes through submission of an annual report and by inspection.

Section 506A(d)(1)(C) of the act authorizes FDA to establish reporting categories (i.e., annual report) of manufacturing changes (i.e., minor changes) that may be made without submitting a supplemental application. Section 506A(d)(2)(A) of the act permits minor changes to be reported separately or in an annual report. Section 506A of the act has no provisions for reporting minor manufacturing changes in biennial supplements as permitted by CVM's pilot program. Therefore, all minor manufacturing changes described in regulations or guidance should be submitted in an MCSR to the application annually. The MCSR will be reviewed by the appropriate CVM office that reviews manufacturing supplements. No manufacturing changes or updated stability data are to be reported in the periodic DER that is submitted to CVM's OSC. But reports of manufacturing defects must continue to be submitted to OSC. The MCSR must be submitted each year within 60 days of the anniversary of approval of the application or mutually agreed upon date. Proposed § 514.8(b)(4)(ii) lists examples of changes that can be reported in the MCSR.

Proposed § 514.8(b)(4)(iii) states that the MCSR must list all products to which minor changes were made.

Proposed § 514.8(b)(4) replaces current § 514.8(a)(5).

G. Labeling and Other Changes Requiring Submission and Approval of a Supplement Prior to Distribution of the Product Made Using the Change (Major Changes)

Labeling changes addressed in current § 514.8(a) and (b) are newly addressed by proposed § 514.8(c). Proposed § 514.8(c)(1) describes when an applicant must notify FDA that the applicant is making such a change to an approved application. This section states that an applicant must notify FDA about each change in each condition established in an approved application beyond the variations already provided for in the application, and that the notice is required to describe the change fully.

Proposed § 514.8(c)(2) updates current § 514.8(a)(3), (a)(4)(i) and (a)(4)(ii) regarding labeling changes and addition of intended use requiring preapproval supplements. Labeling and other changes requiring submission of a supplemental application are described in proposed § 514.8(c)(2)(i).

Proposed § 514.8(c)(2)(ii) requires an applicant to obtain approval of a supplement by FDA before distributing a product subject to a change listed under § 514.8(c)(2)(i), and specifies information to be included in the supplement.

Current § 514.8(a)(3) regarding mailing or promotional pieces for a prescription drug has been updated and is included under proposed § 514.8(c)(2). Current § 514.8(a)(4)(i) and (a)(4)(ii) regarding revisions in labeling and addition of claim, respectively, have been updated and included under proposed § 514.8(c)(2)(i)(A) and (c)(2)(i)(B).

H. Labeling Changes To Be Placed Into Effect Prior to Receipt of a Written Notice of Approval of a Supplemental Application

Proposed § 514.8(c)(3) updates and redesignates current § 514.8(d) regarding labeling changes to be placed into effect prior to receipt of a written notice of approval of a supplemental application.

Proposed § 514.8(c)(3)(i) requires labeling changes that increase the assurance of product safety, such as additional warnings, contraindications, or side effects or deletions of false, misleading, or unsupportive statements; and any other changes as directed by FDA to be placed into effect immediately. These changes, proposed § 514.8(c)(3)(i)(A) and (c)(3)(i)(B), are listed in current § 514.8(d)(1) and (d)(2).

Proposed § 514.8(c)(3)(ii) permits labeling changes to the style and format that do not decrease the safety of product approved in supplemental applications to be placed into effect prior to written notice of approval from FDA of a supplemental application.

Proposed § 514.8(c)(3)(iii) updates current § 514.8(e) and describes what must be included in a supplement submitted under § 514.8(c)(3). FDA will not take action against products or sponsors solely because a change in labeling described in § 514.8(c)(3) is implemented prior to FDA receipt and approval of a supplement if the information listed in § 514.8(c)(3)(iii) has been submitted to the agency.

Proposed § 514.8(c)(4) would require applicants to notify CVM of additional designated distributors under proposed § 514.80(a)(2), (b)(3), and (b)(5)(iii) (*Records and reports concerning experience with new animal drugs for which an approved application is in effect.*—as noted in section IV.B of this document, CVM expects to publish the final rule for § 514.80 before the final rule for this document). This notification will be accompanied by a Form FDA 2301, submitted to DER, and reported at the time of initial product distribution by the new distributor. This type of change is not considered a

manufacturing change, rather a type of labeling change to be reported to the Division of Epidemiology and Surveillance in the OSC, CVM.

In addition to section 506A of the act, other sections of the act authorize FDA to propose § 514.8. Section 501 of the act (21 U.S.C. 351) prohibits the manufacture, processing, packing, or holding of drugs that do not conform to CGMP; the use of an unsafe new animal drug under the meaning of section 512 of the act; the use of unsafe color additives in or on a drug under section 721 of the act (21 U.S.C. 379e); and the distribution of a drug that differs in the strength, purity, or quality that it purports or is represented to possess. Section 502 of the act (21 U.S.C. 352) prohibits false or misleading labeling of drugs, drugs that lack adequate directions for use and adequate warnings, and the distribution of drugs that are dangerous to health when used in the manner suggested in the labeling. Under section 512 of the act, FDA will approve an application for a new intended use of a new animal drug if, among other things, the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug are adequate to preserve its identity, strength, quality, and purity. Section 701 of the act (21 U.S.C. 371) authorizes FDA to issue regulations for the efficient enforcement of the act.

I. Other Information.

Proposed § 514.8(d) regarding patent information is included to comply with section 512(c)(3) of the act. Proposed § 514.8(e) regarding claimed exclusivity is included to comply with section 512(c)(2)(F) of the act. Proposed § 514.8(f) regarding good laboratory practice for nonclinical laboratory studies is redesignated as current § 514.8(l).

J. Sections Proposed for Removal

The agency is proposing that a number of paragraphs be removed after reevaluation of the regulations covering changes to an approved application because the agency has determined that these paragraphs are no longer relevant to current practices. These regulations are described in the next two paragraphs.

FDA has determined that the regulations covering special circumstances of NADA's effective prior to October 10, 1962, are no longer needed. Thus FDA is proposing to eliminate current § 514.8(g), (k), and (j).

Current § 514.8(h) stating that nothing in § 514.8 limits the Secretary of Health and Human Services's authority to suspend or withdraw approval of a new animal drug application is adequately addressed in section 512(c)(1)(F) of the act and need not be addressed in the proposed regulations. Similarly, FDA is removing current § 514.8(i) that provides for a deferral of final action on supplemental applications as described under current § 514.8(d), (e), and (g).

K. Section 514.106 Approval of Supplemental Applications

This proposal would modify § 514.106(b) regarding the administrative categorization of supplemental applications to provide for proper references to proposed § 514.8.

V. Conforming Amendments

A number of sections in the regulations covering new animal drugs are affected by these proposed changes. Conforming changes are being proposed in §§ 5.83, 25.33, 500.25, 510.300, 514.106, and 558.5 because of the reorganization of the existing information or introduction of new requirements.

VI. Environmental Impact

The agency has determined under 21 CFR 25.24(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs. The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. The Office of Management and Budget (OMB) has determinied that this proposed rule is a significant regulatory action subject to review under the Executive Order.

The agency is proposing to amend current § 514.8 to implement section 116 of the Modernization Act. This section establishes reporting procedures and requirements for making major and other manufacturing changes to an approved NADA or ANADA. The intent of section 506A of the act and this proposed rule is to permit sponsors to use a less burdensome notification procedure for some types of changes, while also clarifying the regulations and harmonizing them, where possible, with CDER's and CBER's regulations. Downgrading the level of agency review for some of these supplements will lead to compliance cost savings due to the resulting improvement in manufacturing efficiencies.

The agency has not estimated the value of the expected improvements in manufacturing efficiencies due to the myriad of factors affecting the production schedules of new animal drugs. FDA believes, however, that these changes will result in shorter average lag times between the decision to make certain minor changes to the manufacturing process for a new animal drug and the time at which that change can be implemented. A report by the Eastern Research Group, an FDA contractor, on the effects of the human drug scale-up and postapproval change guidance for immediate release solid oral dosage form (SUPAC–IR), concluded that this type of supplement change can result in significant net savings to industry. In particular, the report found that companies gain greater control over their production resources and ''shorter waiting times for changes that can now be filed as Changes Being Effected (CBE's) or annual reports.''

The proposed rule contains four reporting categories for supplemental chemistry, manufacturing and control (CMC) changes, whereas the current regulation § 514.8 contains three. The first category concerns those changes requiring approval prior to implementation and defines what is included in a ''major'' change. These requirements are very similar to those in the existing regulation, but clarify some of the existing language. The second category is a new ''30-day changes being effected,'' or 30-day CBE category. The purpose of this new category is to provide for a less burdensome method of reporting some ''moderate'' CMC changes that previously were reported as major changes requiring approval before implementation. The firm submitting the supplement will be able to implement the change more quickly

as it will no longer require agency approval before implementation.

The third category concerns those supplement changes that can be effected upon the agency's receipt of submission of the supplemental application. The current regulation concerning this reporting category contained language that allowed for the change ''at the earliest possible time,'' while the act specifically dictates the change be allowed at the time of agency receipt of the supplement. The fourth category concerns the minor manufacturing changes and updated stability data to be submitted in an MCSR. This annual MCSR replaces the current regulation that also requires an annual report of these changes. Nevertheless, those firms currently reporting these CMC changes in the biennial supplement described previously in this document, will incur the additional burden of an extra report every other year.

Based on prior years' submissions, the agency estimates that it will receive about 906 CMC supplements. According to estimates from agency reviewers, about 755 of these would have required preapproval under the current regulation. Under the proposed rule, the number requiring preapproval is estimated at 154. The difference of 601 supplements represents the approximate number of additional changes that can be made without agency approval. Companies submitting these supplements will have the opportunity to make quicker changes and realize increased manufacturing efficiencies.

Further savings are expected from another provision of the rule that concerns labeling supplements. Currently, labeling supplements are required to include nine copies of the labeling in the submission. The proposed rule would lower this requirement to two copies, providing further small savings for industry. Although the proposal also reorganizes the rules for labeling supplements, the agency does not expect these changes to alter the number of labeling supplements submitted annually.

The creation of the MCSR may provide additional opportunity for savings because it may include minor manufacturing changes that were previously submitted as CBE's or other supplement types that require a higher level of review. Under the proposal, each firm will be able to accumulate and submit them together each year, rather than individually.

A. Regulatory Flexibility Analysis

The Regulatory Flexibility Act requires agencies to analyze regulatory options to minimize any significant impact on small entities. The proposed rule implements section 506A of the act. The intent of the rule is to clarify the regulations for submitting supplemental applications for new animal drugs, harmonize the regulations with those for CDER and CBER, and lessen the compliance burden for some supplements by reducing the level of agency review necessary before implementation of certain changes. The effects of the proposed rule will be spread across all firms that submit supplements, regardless of their size. The Small Business Administration defines small businesses as businesses with fewer than 750 employees. Because these are the firms that are most likely to be submitting reports of minor changes as prior approval supplements, even though not required to do so by current regulations, rather than as biennial supplements as allowed under CVM's pilot project, they are even more likely to realize a benefit from this regulation than the larger industry members that participated in CVM's pilot project. At worst, a few small firms participating in CVM's pilot project may have to submit an annual report rather than a biennial supplement. Because the burden of submitting one additional report every other year will not impose a significant cost on small businesses, the agency certifies that the rule will not have a significant effect on a substantial number of small entities.

B. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation) in any one year. Because the agency estimates that the proposed rule will not result in expenditures of funds by State, local, and tribal governments or the private sector in excess of $100 million or more in any one year, but will result in only insignificant expenditures by the industry, and in fact should provide a net savings, it is not required to perform a cost/benefit analysis according to the Unfunded Mandates Reform Act.

VIII. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Supplements and Other Changes to Approved New Animal Drug Applications.

Description: As directed by the Modernization Act, FDA is proposing regulations to describe reporting procedures and requirements for making major and other manufacturing changes to an approved NADA. The proposed regulations also describe reporting procedures and requirements for making labeling changes to an approved NADA. Under proposed § 514.8(b)(2) and (c)(2), the agency will continue to require an approved supplemental application prior to distribution of a product made with a major manufacturing or labeling change to an approved NADA. Major manufacturing changes are those determined to have substantial potential to adversely affect the identity, strength, quality, purity, or potency of the drug. For moderate manufacturing changes, as defined in proposed § 514.8(b)(3), sponsors would be required to submit a supplemental application at least 30 days prior to distribution of the product made using the change. Under proposed § 514.8(b)(4), sponsors would not be required to submit supplemental applications for minor manufacturing changes, but would describe these changes in annual reports. Additionally, under proposed § 514.8(c)(3), certain labeling changes would require supplemental applications, but would be placed into effect immediately.

Under current regulations, CVM evaluates all manufacturing and labeling changes to approved NADA's whether they are submitted as permitted changes, CBE's, or those requiring approval prior to implementation. CVM provided greater flexibility to the

current regulations by permitting the reporting of minor manufacturing changes in a biennial supplement, as discussed earlier in this document. Changes mandated by the Modernization Act will supersede this practice, replacing the biennial supplement with an annual report, the MCSR.

The proposed rule is expected to lessen paperwork burden by requiring: (1) Fewer copies of labels for labeling changes, (2) fewer submissions because certain changes that are submitted under the current rule as individual CBE's or other supplement types may now be accumulated and submitted together once a year in the MCSR, and (3) agency approval of fewer types of changes.

Listed in Table 1 of this document is an estimate of the burden placed on industry for the various types of submissions discussed in the proposed regulation. FDA based the number of respondents upon the total number of potential sponsors. The number of total annual responses was derived from agency reviewers' estimates based upon prior years' submissions. The number of responses per respondent is an estimate that the agency arrived at by dividing the number of total responses the agency expects to receive by the total number of potential responses. Changes under § 514.8(b)(2) through (b)(4) and (c)(2) through (c)(3) are submitted on FDA Form 356V (OMB approval number 0910–0032). Labeling changes under § 514.8(c)(4) are made on FDA Form 2301 (OMB approval number 0910–0019).

Description of Respondents: Sponsors of new animal drug applications.

In compliance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this proposed rule to OMB for review. Interested persons are requested to send comments regarding this information collection by November 1, 1999, to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	No. of Responses per Respondents	Total Annual Responses	Hours per Response	Total
514.8(b)(2)(iii)	190	0.81	154	100	15,400
514.8(b)(2)(v)	190	0.59	112	80	8,960
514.8(b)(3)(i)	190	2.64	502	60	30,120
514.8(b)(3)(vi)	190	1.32	250	60	15,000
514.8(b)(4)	190	5.17	982	24	23,568
514.8(c)(2)	190	0.26	50	20	1,000
514.8(c)(3)	190	0.26	50	60	3,000
514.8(c)(4)	190	0.39	74	3	222
Total			2,174		97,270

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

IX. Comments

Interested persons may, on or before December 15, 1999, submit to the Dockets Management Branch (address above) written comments regarding this proposed rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

21 CFR Part 25

Environmental impact statements, Foreign relations, Reporting and recordkeeping requirements.

21 CFR Part 500

Animal drugs, Animal feeds, Cancer, Labeling, Packaging and containers, Polichlorinated biphenyls (PCB's).

21 CFR Part 510

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

21 CFR Part 514

Administrative practice and procedure, Animal drugs, Confidential business information, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegate to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 5, 25, 500, 510, 514, and 558 be amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; 15 U.S.C. 1451–1461; 21 U.S.C. 41–50, 61–63, 141–149, 321–394, 467f, 679(b), 801–886, 1031–1309; 35 U.S.C. 156; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–l; 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11921, 41 FR 24294, 3 CFR, 1977 Comp., p. 124–131; E.O. 12591, 52 FR 13414, 3 CFR, 1988 Comp., p. 220–223.

2. Section 5.83 is amended by revising paragraph (c) to read as follows:

§ 5.83 Approval of new animal drug applications, medicated feed mill license applications and their supplements.

* * * * *

(c) The Director, Division of Manufacturing Technologies, Office of New Animal Drug Evaluation, CVM, is authorized to perform all of the functions of the Commissioner of Food and Drugs with regard to the approval of supplemental applications that are described by § 514.8(b)(2) and (b)(3) of this chapter.

* * * * *

PART 25—ENVIRONMENTAL IMPACT CONSIDERATIONS

3. The authority citation for 21 CFR part 25 continues to read as follows:

Authority: 21 U.S.C. 321–393; 42 U.S.C. 262, 263b–264; 42 U.S.C. 4321, 4332; 40 CFR parts 1500–1508; E.O. 11514, 35 FR 4247, 3 CFR, 1971 Comp., p. 531–533 as amended by

E.O. 11991, 42 FR 26967, 3 CFR, 1978 Comp., p. 123–124 and E.O. 12114, 44 FR 1957, 3 CFR, 1980 Comp., p. 356–360.

§ 25.33 [Amended]

4. Section 25.33 *Animal drugs* is amended in paragraph (a)(4) by removing ''514.8(a)(5), (a)(6), or (d)'' and by adding in its place ''514.8(b)(3), (b)(4), or (c)(3)''.

PART 500—GENERAL

5. The authority citation for 21 CFR part 500 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 342, 343, 348, 351, 352, 353, 360b, 371.

§ 500.25 [Amended]

6. Section 500.25 *Anthelmintic drugs for use in animals* is amended in the first sentence of paragraph (c) by removing ''514.8(d) and (e)'' and by adding in its place ''514.8(c)(3)''.

PART 510—NEW ANIMAL DRUGS

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

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

§ 510.300 [Amended]

8. Section 510.300 *Records and reports concerning experience with new animal drugs for which an approved application is in effect* is amended by removing paragraph (a)(6).

PART 514—NEW ANIMAL DRUG APPLICATIONS

9. The authority citation for 21 CFR part 514 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 356a, 360b, 371, 379e, 381.

10. Section 514.8 is revised to read as follows:

§ 514.8 Supplements and other changes to an approved application.

(a) *Definitions.* (1) The definitions and interpretations contained in section 201 of the Federal Food, Drug, and Cosmetic Act (the act) apply to those terms when used in this part.

(2) The following definitions of terms apply to this part:

(i) *Listed drug* means a new animal drug product that has an effective approval under section 512 of the act, which has not been withdrawn or suspended under section 512 of the act, and which has not been withdrawn from sale for what the Food and Drug Administration (FDA) has determined are reasons for safety or effectiveness. Listed drug status is evidenced by the new animal drug product's identification as a new animal drug with an effective approval in the current edition of FDA's ''FDA Approved Animal Drug Products'' (the list) or any current supplement thereto, as a new animal drug with an effective approval. A new animal drug product is deemed to be a listed drug on the date of effective approval of the application or abbreviated application for that new animal drug product.

(ii) *Minor changes and stability report* means an annual report that is submitted to the new animal drug application or abbreviated new animal drug application once each year within 60 days of the anniversary of the application's original approval or a mutually agreed upon date. The report must include minor manufacturing and controls changes made according to § 514.8(b)(4) or state that no changes were made; and update stability data generated on commercial or production batches according to the approved stability protocol/commitment.

(iii) *Specification* means the quality standard (i.e., tests, analytical procedures, and acceptance criteria) provided in an approved new animal drug application or abbreviated new animal drug application to confirm the quality of drug substances, drug products, intermediates, raw materials, reagents, and other components including container closure systems, and in-process controls. For the purpose of this definition, *acceptance criteria* means numerical limits, ranges, or other criteria for the tests described.

(iv) *Validate the effects of the change* means to assess the effect of a manufacturing change on the identity, strength, quality, purity, or potency of a new animal drug as these factors relate to the safety or effectiveness of the new animal drug.

(v) *The list* means the list of new animal drug products with effective approvals published in the current edition of FDA's publication ''FDA Approved Animal Drug Products'' and any current supplement to the publication.

(b) *Manufacturing changes to an approved application*—(1) *General provisions.* (i) The applicant must notify FDA about each change in each condition established in an approved application beyond the variations already provided for in the application. The notice is required to describe the change fully. Depending on the type of change, the applicant must notify FDA about it in a supplement under paragraph (b)(2) or (b)(3) of this section or include the information in the annual report to the application described in paragraph (b)(4) of this section.

(ii) The holder of an approved application under section 512 of the act must validate the effect of the change on the identity, strength, quality, purity, or potency of the new animal drug as these factors may relate to the safety or effectiveness of the new animal drug before distributing a drug made with a manufacturing change.

(iii) Notwithstanding the requirements of paragraphs (b)(2) and (b)(3) of this section, an applicant must make a change provided for in those paragraphs in accordance with a regulation or guidance that provides for a less burdensome notification of the change (for example, by submission of a supplement that does not require approval prior to distribution of the product or by notification in the next annual report described in paragraph (b)(4) of this section).

(iv) The applicant must include in each supplemental application providing for a change under paragraph (b)(2) or (b)(3) of this section, a statement certifying that a copy of the supplement has been provided to the appropriate FDA district office.

(v) The cover letter for a supplement or annual report described in paragraph (b)(4) of this section must include a list of all changes contained in the supplement or annual report.

(2) *Changes requiring submission and approval of a supplement prior to distribution of the product made using the change (major changes).* (i) A supplement must be submitted for any change in the product, production process, quality controls, equipment, or facilities that has a substantial potential to have an adverse effect on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product.

(ii) These changes include, but are not limited to:

(A) Except as provided in paragraphs (b)(3) and (b)(4) of this section, changes in the qualitative or quantitative formulation of the new animal drug, including inactive ingredients, or other specifications as provided in the approved application;

(B) Changes requiring completion of appropriate animal studies to demonstrate the equivalence of the drug to the new animal drug as manufactured without the change or to the reference listed drug;

(C) Changes that may affect product sterility assurance, such as changes in product or component sterilization method(s) or an addition, deletion, or substitution of steps in an aseptic processing operation;

(D) Changes in the synthesis or manufacture of the new animal drug substance that may affect the impurity

profile and/or the physical, chemical, or biological properties of the drug substance;

(E) Changes in a container closure system that controls drug delivery or that may affect the impurity profile of the new animal drug product;

(F) Changes solely affecting a natural product, a recombinant DNA-derived protein/polypeptide product, or a complex or conjugate of a new animal drug with a monoclonal antibody for the following:

(*1*) Changes in the virus or adventitious agent removal or inactivation method(s);

(*2*) Changes in the source material or cell line; and

(*3*) Establishment of a new master cell bank or seed; and

(G) Changes to a product under an application that is subject to a validity assessment because of significant questions regarding the integrity of the data supporting the application.

(iii) The applicant must obtain approval of a supplement from FDA prior to distribution of a product made using a change under paragraph (b)(2) of this section. Except for submissions under paragraph (b)(2)(v) of this section, the following must be contained in the supplement:

(A) A completed Form FDA 356V;

(B) A detailed description of the proposed change;

(C) The product(s) involved;

(D) The manufacturing site(s) or area(s) affected;

(E) A description of the methods used and studies performed to evaluate the effect of the change on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product (validation);

(F) The data derived from such studies;

(G) Appropriate documentation (for example, updated master batch records, specification sheets) including previously approved documentation (with the changes highlighted) or references to previously approved documentation;

(H) For a natural product, a recombinant DNA-derived protein/polypeptide product, or a complex or conjugate of a drug with a monoclonal antibody, relevant validation protocols must be provided in addition to the requirements in paragraphs (b)(2)(iii)(E) and (b)(2)(iii)(F) of this section;

(I) For sterilization process and test methodologies, relevant validation protocols must be provided in addition to the requirements in paragraphs (b)(2)(iii)(E) and (b)(2)(iii)(F) of this section;

(J) A reference list of relevant standard operating procedures (SOP's) when applicable; and

(K) A claim for categorical exclusion under § 25.30 or § 25.33 of this chapter or an environmental assessment under § 25.40 of this chapter.

(iv) An applicant may ask FDA to expedite its review of a supplement for public health reasons or if a delay in making the change described in it would impose an extraordinary hardship on the applicant. Such a supplement and its mailing cover should be plainly marked: ''Prior Approval Supplement—Expedited Review Requested.''

(v) An applicant may submit one or more protocols describing the specific tests and validation studies and acceptable limits to be achieved to demonstrate the lack of adverse effect for specified types of manufacturing changes on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product. Any such protocols, or change to a protocol, must be submitted as a supplement requiring approval from FDA prior to distribution of the product. The supplement, if approved, may result in the proposed change subsequently falling within a reduced reporting category because the use of the protocol for that type of change reduces the potential risk of an adverse effect.

(3) *Changes requiring submission of a supplement at least 30 days prior to distribution of the product made using the change (moderate changes).* (i) A supplement must be submitted for any change in the product, production process, quality controls, equipment, or facilities that has a moderate potential to have an adverse effect on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product.

(ii) These changes include, but are not limited to:

(A) A change in the container closure system that does not affect the quality of the final new animal drug product; and

(B) Changes solely affecting a natural product, a recombinant DNA-derived protein/polypeptide product or a complex or conjugate of a new animal drug with a monoclonal antibody, including:

(*1*) An increase or decrease in production scale during finishing steps that involves new or different equipment; and

(*2*) Replacement of equipment with that of similar, but not identical, design and operating principle that does not affect the process methodology or process operating parameters.

(iii) A supplement submitted under paragraph (b)(3)(i) of this section is required to give a full explanation of the basis for the change and identify the date on which the change is to be made. The supplement must be labeled ''Supplement—Changes Being Effected in 30 Days.''

(iv) Pending approval of the supplement by FDA and except as provided in paragraph (b)(3)(vi) of this section, distribution of the product made using the moderate change under paragraph (b)(3) of this section may begin not less than 30 days after receipt of the supplement by FDA. The supplement must contain the information listed in paragraphs (b)(2)(iii)(A) through (b)(2)(iii)(K) of this section.

(v) The applicant must not distribute the product made using the change if within 30 days following FDA's receipt of the supplement, FDA informs the applicant that either:

(A) The change requires approval prior to distribution of the product in accordance with paragraph (b)(2) of this section; or

(B) Any of the information required under paragraph (b)(3)(iv) of this section is missing. The applicant shall not distribute the product until FDA determines that compliance with this section is achieved.

(vi) The agency may designate a category of changes for the purpose of providing that, in the case of a change in such category, the holder of an approved application may commence distribution of the drug product involved upon receipt by the agency of a supplement for the change. The information listed under paragraph (b)(2)(iii) of this section must be contained in the supplement. The supplement must be labeled ''Supplement—Changes Being Effected.'' These changes include, but are not limited to:

(A) Addition to a specification or changes in the methods or controls to provide increased assurance that the new animal drug will have the characteristics of identity, strength, quality, purity, or potency that it purports or is represented to possess; and

(B) A change in the size and/or shape of a container for a nonsterile drug product, except for solid dosage forms, without a change in the labeled amount of product from one container closure system to another;

(vii) If the agency disapproves the supplemental application submitted under paragraph (b)(3) of this section, it

may order the manufacturer to cease distribution of the drug products made with the manufacturing change.

(4) *Changes and updated stability data to be described and submitted in an annual report (minor changes).* (i) Changes in the product, production process, quality controls, equipment, or facilities that have a minimal potential to have an adverse effect on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product must be documented by the applicant in the annual report to the application in accordance with paragraph (a)(2)(ii) of this section. The report shall be labeled ''Minor Changes and Stability Report.''

(ii) These changes include but are not limited to:

(A) Any change made to comply with an official compendium that is consistent with FDA requirements and provides increased assurance that the new animal drug will have the characteristics of identity, strength, quality, purity, or potency that it purports or is represented to possess;

(B) The deletion or reduction of an ingredient intended to affect only the color of the product;

(C) Replacement of equipment with that of the same design and operating principles except for equipment used with a natural product, a recombinant DNA-derived protein/polypeptide product, or a complex or conjugate of a new animal drug with a monoclonal antibody;

(D) A change in the size and/or shape of a container containing the same number of dosage units for a nonsterile solid dosage form, without a change from one container closure system to another;

(E) A change within the container closure system for a nonsterile new animal drug product, based upon showing of equivalency to the approved system under a protocol approved in the application or published in an official compendium;

(F) An extension of an expiration dating period based upon full shelf-life data on full production batches obtained from a protocol approved in the application;

(G) The addition, deletion, or revision of an alternate analytical procedure that provides the same or increased assurance of the identity, strength, quality, purity, or potency of the material being tested as the analytical procedure described in the approved application; and

(H) The addition by embossing, debossing, or engraving of a code imprint to a solid oral dosage form drug product other than a modified release dosage form, or a minor change in an existing code imprint.

(iii) For changes under this category, the applicant is required to submit in the annual report a list of all products involved; and

(A) A statement by the holder of the approved application that the effects of the change have been validated;

(B) A full description of the manufacturing and controls changes, including the manufacturing site(s) or area(s) involved;

(C) The date each change was made;

(D) Cross reference to relevant validation protocols and/or SOP's;

(E) Relevant data from studies and tests performed to evaluate the effect of the change on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product (validation);

(F) Appropriate documentation (for example, updated master batch records, specification sheets, etc.) including previously approved documentation (with the changes highlighted) or references to previously approved documentation; and

(G) Updated stability data generated on commercial or production batches according to an approved stability protocol.

(c) *Labeling and other changes to an approved application*—(1) *General provisions.* The applicant must notify FDA about each change in each condition established in an approved application beyond the variations already provided for in the application. The notice is required to describe the change fully.

(2) *Labeling changes requiring the submission and approval of a supplement prior to distribution of the product made using the change (major changes).* (i) Addition of intended uses, changes to labeling, and prescription new animal drug mailing/promotional pieces require a supplement. These changes include, but are not limited to:

(A) Revision in labeling, such as updating information pertaining to effects, dosages, side effects, contraindications, which includes information headed ''side effects,'' ''warnings,'' ''precautions,'' and ''contraindications,'' except ones described in (c)(3) of this section;

(B) Addition of intended use;

(C) If it is a prescription new animal drug, any mailing or promotional piece used after the drug is placed on the market is labeling requiring a supplemental application, unless:

(*1*) Such labeling furnishing directions, warnings, and information for use of the new animal drug are the same in language and emphasis as labeling approved or permitted; and

(*2*) Any other such labeling are consistent with and not contrary to such approved or permitted labeling.

(*3*) Prescription drug labeling not requiring an approved supplemental application is submitted in accordance with § 514.80(b)(3)(ii).[1]

(D) Any other changes in labeling, except ones described in paragraph (c)(3) of this section.

(ii) The applicant must obtain approval of the supplement from FDA prior to distribution of the product. The supplement must contain the following:

(A) A completed Form FDA 356V;

(B) A detailed description of the proposed change;

(C) The product(s) involved;

(D) The manufacturing site(s) or area(s) affected;

(E) The data derived from studies;

(F) A claim for categorical exclusion under § 25.30 or § 25.33 of this chapter or an environmental assessment under § 25.40 of this chapter; and

(G) Any other information as directed by FDA.

(3) *Labeling changes to be placed into effect prior to receipt of a written notice of approval of a supplemental application.* (i) Labeling changes of the following kinds that increase the assurance of product safety proposed in supplemental applications must be placed into effect immediately:

(A) The addition to package labeling, promotional labeling, or prescription new animal drug advertising of additional warning, contraindication, side effect, and precaution information;

(B) The deletion from package labeling, promotional labeling, or drug advertising of false, misleading, or unsupported intended uses or claims for effectiveness; and

(C) Any other changes as directed by FDA.

(ii) Labeling changes (for example, design and style) that do not decrease safety of product use proposed in supplemental applications may be placed into effect prior to written notice of approval from FDA of a supplemental application.

(iii) A supplement submitted under paragraph (c)(3) of this section must include the following information:

(A) A full explanation of the basis for the changes, the date on which such changes are being effected, and plainly marked on the mailing cover and on the supplement, ''Supplement—Changes Being Effected'';

[1] § 514.80 was proposed at 56 FR 65581, December 17, 1991.

(B) Two sets of printed copies of any revised labeling to be placed in use, identified with the new animal drug application number; and

(C) A statement by the applicant that all promotional labeling and all new animal drug advertising will promptly be revised consistent with the changes made in the labeling on or within the new animal drug package no later than upon approval of the supplemental application.

(iv) If the supplemental application is not approved, FDA may order the manufacturer to cease distribution of the drug under the proposed labeling.

(4) *Changes providing for additional distributors to be reported under Records and reports concerning experience with new animal drugs for which an approved application is in effect (§ 514.80)*[2]. Supplemental applications as described under paragraph (c)(2) of this section will not be required for an additional distributor to distribute a drug that is the subject of an approved new animal drug application if the conditions described under § 514.80(a)(2), (b)(3), and (b)(5)(iii) are met.

(d) *Patent information*. The applicant shall comply with the patent information requirements under section 512(c)(3) of the act.

(e) *Claimed exclusivity*. If an applicant claims exclusivity under section 512(c)(2)(F) of the act upon approval of a supplemental application for a change in its previously approved new animal drug product, the applicant shall include such a statement.

(f) *Good laboratory practice for nonclinical laboratory studies*. A supplemental application that contains nonclinical laboratory studies shall include, with respect to each nonclinical study, either a statement that the study was conducted in compliance with the requirements set forth in part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a brief statement of the reason for the noncompliance.

11. Section 514.106 is amended by removing paragraph (b)(1)(xiv) and by revising paragraphs (b)(1)(vi) and (b)(1)(xiii) to read as follows:

§ 514.106 Approval of supplemental applications.

* * * * *

(b) * * *

(1) * * *

(vi) A change in promotional material for a prescription new animal drug not exempted by § 514.8(c)(2)(i)(C)(*3*).

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[2] See footnote 1.

(xiii) A change permitted in advance of approval as described under § 514.8(b)(3).

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PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.5 [Amended]

13. Section 558.5 *New animal drug requirements for liquid Type B feeds* is amended in paragraph (e) by removing ''514.8(d) and (e)'' and by adding in its place ''514.8(c)(3)''.

Dated: June 23, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–25493 Filed 9–30–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. 99N-2099]

General Hospital and Personal Use Devices; Classification of the Subcutaneous, Implanted, Intravascular Infusion Port and Catheter and the Percutaneous, Implanted, Long-term Intravascular Catheter

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to classify the subcutaneous, implanted, intravascular (IV) infusion port and catheter, and the percutaneous, implanted, long-term catheter intended for repeated vascular access into class II (special controls). The agency is also publishing the recommendations of FDA's General Hospital and Personal Use Devices Panel (the panel) regarding the classification of these devices. After considering public comments on the proposed classification, FDA will publish a final regulation classifying these devices. This action is being taken to establish sufficient regulatory controls that will provide reasonable assurance of the safety and effectiveness of these devices.

DATES: Written comments by December 30, 1999. See section IX of this document for the proposed effective date of a final rule based on this document.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia M. Cricenti, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1287.

SUPPLEMENTARY INFORMATION:

I. Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et. seq.*), as amended by the Medical Device Amendments of 1976 (the 1976 amendments) (Public Law 94–295), the Safe Medical Devices Act of 1990 (the SMDA) (Public Law 101–629), and the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Public Law 105–115) established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval). Under the 1976 amendments, class II devices were defined as those devices for which there is insufficient information to show that general controls themselves will ensure safety and effectiveness, but for which there is sufficient information to establish performance standards to provide such assurance.

The SMDA broadened the definition of class II devices to mean those devices for which there is insufficient information to show that general controls themselves will assure safety and effectiveness, but for which there is sufficient information to establish special controls to provide such assurance. Special controls may include performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and any other appropriate actions the agency deems necessary (section 513(a)(1)(B) of the act).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendment devices, are classified after FDA has met the following three requirements: (1)

FDA has received a recommendation from a device classification panel (an FDA advisory committee); (2) FDA has published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) FDA has published a final regulation classifying the device. FDA has classified most preamendment devices under these procedures. Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendment devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until FDA issues an order finding the device to be substantially equivalent, under section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the regulations. A preamendment device that has been classified into class III may be marketed, by means of premarket notification procedures, without submission of a premarket approval application until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

In 1980, when other general hospital and personal use devices were classified (45 FR 69678, October 21, 1980), FDA was not aware that two vascular access devices intended for repeated vascular access, the subcutaneous, implanted, IV infusion port and catheter and the percutaneous, implanted, long-term IV catheter were preamendments devices, and inadvertently omitted classifying them.

II. Device Identifications

FDA is proposing the following device identifications based on the panel's recommendations (Ref. 1) and the agency's review:

(1) A subcutaneous, implanted, intravascular infusion port and catheter is a device that consists of a subcutaneous, implanted reservoir that connects to a long-term intravascular catheter. The device allows for repeated access to the vascular system for the infusion of fluids and medications and the sampling of blood. The device consists of a portal body which houses a resealable septum with an outlet made of metal, plastic, or a combination of these materials and a long-term intravascular catheter that is either preattached to the port or attached to the port at the time of device placement. The device is available in various profiles and sizes and can be of a single or multiple lumen design.

(2) A percutaneous, implanted, long-term intravascular catheter is a device that consists of a slender tube and any necessary connecting fittings, such as luer hubs, and accessories that facilitate the placement of the device, such as a stylet or guide wire. The device allows for repeated access to the vascular system for long-term use of 30 days or more for administration of fluids, medications, and nutrients; the sampling of blood; and the monitoring of blood pressure and temperature. The device may be made of metal, rubber, plastic, composite materials, or any combination of these materials and may be of single or multiple lumen design.

III. Recommendations of the Panel

During a public meeting held on March 11, 1996, the panel unanimously recommended that the subcutaneous, implanted, IV infusion port and catheter and the percutaneous, implanted, long-term IV catheter be classified into class II (special controls) (Ref. 1). The panel also recommended that two existing FDA guidance documents, ''Guidance on 510(k) Submissions for Implanted Infusion Ports'' (Ref. 2) and ''Guidance Premarket Notification [510(k)] Submission for Short-Term and Long-Term Intravascular Catheters'' (Ref. 3), and prescription use of the devices by practitioners licensed by law to use the devices (§ 801.109 (21 CFR 801.109)) be the special controls for the devices.

IV. Summary of the Reasons for the Recommendations

The panel concluded that the safety and effectiveness of the subcutaneous, implanted, IV infusion port and catheter and the percutaneous, implanted, long-term IV catheter could be reasonably assured by special controls in addition to general controls. The panel also believed that sufficient information exists to establish special controls to provide such assurance, specifically the existing premarket notification guidances and prescription use labeling of the devices.

V. Risks to Health

After considering the panel's deliberations, as well as the published literature and medical device reports, FDA has evaluated the risks to health associated with the use of the subcutaneous, implanted, IV infusion port and catheter and the percutaneous, implanted, long-term IV catheter. FDA now believes the following are risks to health associated with the use of the devices:

A. Infection

Infection is the most significant complication associated with the use of venous access devices. Infection occurs in 5 to 30 percent of the patients implanted with the device, depending on the patient's diagnosis, the type of device used, and the criteria used to establish the presence of an infection (Refs. 4 through 7 and 13 through 24).

B. Occlusion

Occlusion may result from clot formation inside the lumen of the catheter, precipitate formation inside the port or catheter from incompatible drugs, or from catheter tip placement against a vein wall or valve. An occluded catheter lumen may lead to infection, thromboembolism, and propagation of the clot, which may cause venous thrombosis. Proper flushing techniques can prevent some causes of occlusion, and thrombolytic therapy can successfully clear most catheter occlusions (Refs. 11 through 13 and 17 through 24).

C. Thrombophlebitis

Thrombophlebitis occurs in 12.5 to 23 percent of patients implanted with the devices (Refs. 5 through 11 and 20 through 23). The incidence varies with the patient population.

D. Pneumothorax

Pneumothorax is the presence of air within the thoracic cavity. The incidence, secondary to procedural or device-related complications, is believed to be up to 5 percent, depending on the manner in which the venous system is accessed (Refs. 8 through 12 and 19 through 24).

E. Other Risks to Health

Less frequent complications associated with the use of vascular access devices include the following: Catheter malposition; migration and inadequate anchoring; hemorrhage; vessel trauma, including puncture, laceration and erosion of vessel and the skin; catheter pinch-off (compression of the catheter between the clavicle and the first rib); and drug extravasation (leakage) (Refs. 4 through 24).

VI. Summary of Data Upon Which the Recommendation is Based

In addition to the potential risks of the subcutaneous and percutaneous implanted vascular access systems described in section V of this document, there is reasonable knowledge of the benefits of the devices. Specifically,

these long-term implanted devices provide convenient, reliable access to the vascular system while requiring less maintenance than alternative vascular access devices, and they improve the quality of life of patients (Refs. 8 through 11, 18 through 20, and 24).

Based on the available information, FDA believes that existing premarket notification guidance documents are adequate special controls capable of providing reasonable assurance of the safety and effectiveness of the subcutaneous, implanted, IV infusion port and catheter and the percutaneous, implanted, long-term IV catheter with regard to the identified risks to health of these devices. The panel also recommended including the prescription statement (§ 801.109) as a special control. Because the prescription statement is already required by § 801.109, FDA believes it is unnecessary to list prescription labeling as a separate special control for these devices.

VII. Special Controls

In addition to general controls, FDA agrees with the panel that the identified premarket notification guidance documents ''Guidance on 510(k) Submissions for Implanted Infusion Ports'' (Ref. 2) and ''Guidance on 510(k) Submission for Short-Term and Long-Term Intravascular Catheters'' (Ref. 3) are appropriate special controls to address the risks to health described in section V of this document. The premarket notification guidance documents address the following: (1) Practitioner labeling, (2) patient labeling, (3) biocompatibility testing, (4) mechanical testing, (5) clinical data requirement, and (6) sterilization procedures.

In order to receive these guidance documents via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800-899-0381 or 301-827-0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number followed by the pound sign (#). For ''Guidance on 510(k) Submissions for Implanted Infusion Ports,'' the document number is 392. For ''Guidance on Premarket Notification [510(k)] Submission for Short-Term and Long-Term Intravascular Catheters,'' the document number is 824. Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidances may also do so using the World Wide Web (WWW). The CDRH home page may be accessed at ''http://www.fda.gov/cdrh''.

A. Practitioner Labeling

The practitioner labeling section of the premarket notification guidance documents can help control the risks of infection; occlusion; thrombophlebitis; pneumothorax; catheter malposition, migration and improper/or inadequate anchoring; catheter pinch-off; drug extravasation; and septum leakage by having the manufacturer provide information on the following: (1) Indications for use, including patient and device selection; (2) contraindications for use in patients with known or suspected infections, allergies, and intolerance to implant materials; (3) warnings and precautions; (4) identification, prevention, and treatment of complications; (5) directions for use, including preparation of the patient, preparation of the device, site selection, implant procedure, postoperative care, and different use applications (bolus infusion, continuous infusion, blood sampling, and monitoring of blood pressure and temperature).

B. Patient Labeling

The patient labeling section of the premarket notification guidance documents can help control the risks of infection; occlusion; thrombophlebitis; pneumothorax; catheter malposition, migration and improper anchoring; catheter pinch-off; drug extravasation; septum leakage; vessel trauma, including puncture, laceration and erosion of vessel; and erosion of the skin by having the manufacturer provide prospective patients information on the following: (1) Device description and use; (2) implantation procedure; (3) care of the implant site; and (4) minimization, recognition, and treatment of complications.

C. Biocompatibility Testing

Adherence to the biocompatibility testing section of the premarket notification guidance documents can control the risk of adverse tissue reaction by having the manufacturer demonstrate that the patient contacting materials of the subcutaneous, implanted, IV infusion port and catheter, and the percutaneous, implanted, long-term IV catheter are safe for long-term implantation.

D. Mechanical Testing

Adherence to the mechanical testing section of the premarket guidance documents can help control the risk of erosion of the blood vessel and the skin; catheter occlusion and migration; leaking catheter to catheter and/or catheter to port connections; and septum and port leakage.

E. Clinical Data Requirements

For subcutaeous, implanted, IV infusion port and catheters and percutaneous, implanted, long-term IV catheters that appear to be significantly different from devices already on the market, the clinical data section of the premarket guidance documents can help control the risks to health associated with the use of the devices by assuring that these devices are safe and effective for their intended uses.

F. Sterilization Procedures and Labeling

Adherence to sterilization procedures and labeling section of the premarket notification guidances can help control the risk of infection by guarding against the implantation of an unsterile device and providing information on the proper maintenance of an implanted device.

VIII. Proposed Classification

FDA concurs with the panel's recommendations that the subcutaneous, implanted, IV infusion port and catheter and the percutaneous, implanted, long-term IV intended for repeated vascular access should be classified into class II (special controls). FDA believes that the special controls described in section VII of this document, in addition to general controls, would provide reasonable assurance of the safety and effectiveness of the devices, and there is sufficient information to establish special controls to provide such assurance.

IX. Effective Date

FDA proposes that any final rule that may issue based on this proposal become effective 30 days after its publication in the **Federal Register.**

X. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4)). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is

necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. As unclassified devices, these devices are already subject to premarket notification and the general labeling provisions of the act. FDA, therefore, believes that classification in class II with premarket notification guidance and labeling guidance as special controls will impose no significant economic impact on any small entities. The Commissioner therefore certifies that this proposed rule, if issued, will not have a significant economic impact on a substantial number of small entities. In addition, this proposed rule will not impose costs of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement or analysis under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

XII. Submission of Comments

Interested persons may, on or before December 30, 1999, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

XIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday:

1. General Hospital and Personal Use Devices Panel, thirtieth meeting, transcript, March 11, 1996.

2. ''Guidance on 510(k) Submissions for Implanted Infusion Ports,'' FDA, October 1990.

3. ''Guidance Premarket Notification [510(k)] Submission for Short-Term and Long-Term Intravascular Catheters,'' FDA, March 1995.

4. Abi-Nader, J., ''Peripherally Inserted Central Venous Catheters in Critical Care Patients,'' *Heart & Lung*, 22:428–433, 1993.

5. Aitken, D., and J. Minton, ''The 'Pinch-Off Sign': A Warning of Impending Problems With Permanent Subclavian Catheters,'' *American Journal of Surgery*, 148:633–636, 1984.

6. Broviac, J.W., J. J. Cole, and B. A. Scribner, ''A Silicone Rubber Atrial Catheter for Prolonged Parenteral Alimentation,'' *Surgery, Gynecology and Obstetrics*, 136:602–606, 1973.

7. Brown, J., ''Peripherally Inserted Central Catheters—Use in Home Care,'' *Journal of Intravenous Nursing*, 12:144–150, 1989.

8. Camp-Sorrell, D., ''Implantable Ports,'' *Journal of Intravenous Nursing*, 15:262–273, 1992.

9. Chathas, M. K., J. B. Paton, and D. E. Fisher, ''Percutaneous Central Venous Catherization,'' *American Journal of Diseases of Children, 144: 1246–1250, 1990.*

10. Girvan, D. P., L. L. deVeber, M. J. Inwood, and E. A. Clegg, ''Subcutaneous Infusion Ports in the Pediatric Patient with Hemophilia,'' *Journal of Pediatric Surgery*, 29:1220–1223, 1994.

11. Harvey, M. P., R. J. Trent, D. E. Joshua, G. Ramsey-Stewart, D.W. Storey, and M. Kronenberg, ''Complications Associated with Indwelling Venous Hickman Catheters in Patients with Hematological Disorders,'' *Australian and New Zealand Journal of Medicine*, 16:211–215, 1986.

12. Hickman, R. O., C. D. Buckner, and R. A. Clift, ''A Modified Right Atrial Catheter for Access to the Venous System in Marrow Transplant Recipients,'' *Surgery, Gynecology and Obstetrics*, 148:871–875, 1979.

13. Hoppe, B., ''Central Venous Catheter-related Infections: Pathogenesis, Predictors, and Prevention,'' *Heart & Lung*, 24:333–339, 1995.

14. International Standards Organization (ISO) 1055-1, Sterile, Single Use Intravascular Catheter, Part 2: Central Venous Catheters.

15. Kahn, M. L., R. Barboza, G. A. Kling, and J. E. Heisel, ''Initial Experience with Percutaneous Placement of the PAS Port Implantable Venous Access Device,'' *Journal of Vascular and Interventional Radiology*, 3:459–461, 1992.

16. Laffer, U., M. During, H. R. Bloch, and J. Landmann, ''Surgical Experiences with 191 Implanted Venous Port-a-Cath Systems,'' *Cancer Research*, 121:189–197, 1991.

17. Lawson, M., ''Partial Occlusion of Indwelling Central Venous Catheters,'' *Journal of Intravenous Nursing*, 14:157–159, 1991.

18. Lokich, J. J., A. Bothe, P. Benotti, and C. Moore, ''Complications and Management of Implanted Venous Access Catheters,'' *Journal of Clinical Oncology*, 3:710–717, 1985.

19. McKee, J., ''Future Dimensions in Vascular Access,'' *Journal of Intravenous Nursing*, 14:387–393, 1991.

20. Merrell, S. W., B. G. Peatross, M. D. Grossman, J. J. Sullivan, and W. G. Harker, ''Peripherally Inserted Central Venous Catheter: Low-risk Alternatives for Ongoing Venous Access,'' *Western Journal of Medicine*, 160:25–30, 1994.

21. Morris, P., R. Buller, S. Kendall, and B. Anderson, ''A Peripherally Implanted Permanent Central Venous Access Device,'' *Obstetrics & Gynecology*, 78:1138–1142, 1991.

22. Reed, W. P., K. A. Newman, and J. C. Wade, ''Choosing an Appropriate Implantable Device for Long-Term Venous Access,'' *European Journal of Cancer Clinical Oncology*, 25:1383–1391, 1989.

23. Ryder, M. A., ''Peripherally Inserted Central Venous Catheters,'' *Nursing Clinics of North America*, 28:937–971, 1993.

24. Scott, W. L., ''Complications Associated with Central Venous Catheters,'' *Chest*, 94:1221–1224, 1988.

List of Subjects in 21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, FDA proposes to amend part 880 to read as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

1. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 880.5965 is added to subpart F to read as follows:

§ 880.5965 Subcutaneous, implanted, intravascular infusion port and catheter.

(a) *Identification*. A subcutaneous, implanted, intravascular infusion port and catheter is a device that consists of a subcutaneous, implanted reservoir that connects to a long-term intravascular catheter. The device allows for repeated access to the vascular system for the infusion of fluids and medications and the sampling of blood. The device consists of a portal body with a resealable septum and outlet made of metal, plastic, or combination of these materials and a long-term intravascular catheter is either preattached to the port or attached to the port at the time of device placement. The device is available in various profiles and sizes and can be of a single or multiple lumen design.

(b) *Classification*. Class II (special controls) Guidance Document: ''Guidance on 510(k) Submissions for Implanted Infusion Ports.''

3. Section 880.5970 is added to subpart F to read as follows:

§ 880.5970 Percutaneous, implanted, long-term intravascular catheter.

(a) *Identification*. A percutaneous, implanted, long-term intravascular catheter is a device that consists of a

slender tube and any necessary connecting fittings, such as luer hubs, and accessories that facilitate the placement of the device. The device allows for repeated access to the vascular system for long-term use of 30 days or more, and it is intended for administration of fluids, medications, and nutrients; the sampling of blood; and monitoring blood pressure and temperature. The device may be constructed of metal, rubber, plastic, composite materials, or any combination of these materials and may be of single or multiple lumen design.

(b) *Classification*. Class II (special controls) Guidance Document: ''Guidance on Premarket Notification [510(k)] Submission for Short-Term and Long-Term Intravascular Catheters.''

Dated: September 24, 1999.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 99–25554 Filed 9–30–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC56

Producer-Operated Outer Continental Shelf Pipelines That Cross Directly into State Waters

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would clarify some unresolved regulatory issues involving the 1996 memorandum of understanding on Outer Continental Shelf pipelines between the Departments of the Interior and Transportation. It would primarily address producer-operated pipelines that do not connect to a transporting operator's pipeline on the OCS before crossing into State waters. It is complementary to the final rule published on August 17, 1998, that addressed producer-operated oil or gas pipelines that connect to transporting operators' pipelines on the Outer Continental Shelf. The proposed rule also would set up procedures for producer and transportation pipeline operators to get permission to operate under either MMS or Department of Transportation regulations governing pipeline design, construction, operation, and maintenance according to their operating circumstances.

DATES: MMS will consider all comments we receive by November 30, 1999. We will begin reviewing comments then and may not fully consider comments we receive after November 30, 1999.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Mail Stop 4020; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team.

Mail or hand-carry comments with respect to the information collection burden of the proposed rule to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Desk Officer for the Department of the Interior (OMB control number 1010–NEW); 725 17th Street, N.W., Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Carl W. Anderson, Operations Analysis Branch, at (703) 787–1608; e-mail carl.anderson@mms.gov.

SUPPLEMENTARY INFORMATION:

Background

MMS, through delegations from the Secretary of the Interior, has authority to issue and enforce rules to promote safe operations, environmental protection, and resource conservation on the Outer Continental Shelf (OCS). (The Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*) defines the OCS). Under this authority, MMS regulates pipeline transportation of mineral production and rights-of-way for pipelines and associated facilities. MMS approves all OCS pipeline applications, regardless of whether a pipeline is built and operated under Department of the Interior (DOI) or Department of Transportation (DOT) regulatory requirements. MMS also has sole authority to grant rights-of-way for OCS pipelines. MMS administers the following laws as they relate to OCS pipelines:

(1) the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) for oil and gas production measurement, and

(2) the Federal Water Pollution Control Act, as amended by the Oil Pollution Act and implemented under Executive Order (E.O.) 12777. (Under a February 3, 1994, Memorandum of Understanding (MOU) to better define their responsibilities under the Oil Pollution Act, DOI, DOT, and the U.S. Environmental Protection Agency divided their responsibilities for oil spill prevention and response according to the definition of ''coastline'' in the Submerged Lands Act, 43 U.S.C. 1301(c) (59 FR 9494–9495).) Nothing in this rule will affect MMS's authority under either FOGRMA or the Oil Pollution Act.

The May 6, 1976, Memorandum of Understanding

A May 6, 1976, MOU between DOI and DOT, MMS regulated oil and gas pipelines located upstream of the ''outlet flange'' of each facility where produced hydrocarbons were first separated, dehydrated, or otherwise processed. A result of this arrangement was that downstream (generally shoreward) of the first production platform where processing takes place, DOT-regulated pipelines crossed MMS-regulated facilities. Because of incompatible regulatory requirements, this arrangement was not satisfactory for either agency.

The December 10, 1996, Memorandum of Understanding

In the summer of 1993, MMS and DOT's Research and Special Programs Administration (RSPA) renewed their negotiations that resulted in the MOU of December 1996. In May 1995, MMS and RSPA published a **Federal Register** Notice proposing to revise the 1976 MOU and scheduling a public meeting on the proposal (60 FR 27546–27552). Under the MOU, as proposed in the joint notice:

> The DOI area of responsibility will extend from producing wells to 50 meters (164 feet) downstream from the base of the departing pipeline riser on the last OCS production or processing facility. * * * Additionally, DOI will have responsibility for the following pipelines:
>
> a. That portion of a pipeline otherwise subject to DOT responsibility that crosses an OCS production or processing facility from 50 meters upstream of the base of the incoming riser to 50 meters downstream of the base of the [departing] riser. * * *

Succeeding paragraphs described various other arrangements involving the 50-meter regulatory boundary. The notice included an illustrated appendix to assist readers in interpreting various situations under which either DOI or DOT regulatory responsibility would apply.

Commenters on the May 1995 notice found the proposed 50-meter regulatory boundary to be unsatisfactory for two reasons. First, the boundary was not tied to an identifiable valve or other device that could isolate any pipeline segment under consideration. Second, the boundary was submerged and inaccessible to both operators and the regulatory agencies.

MMS and RSPA soon agreed to ask a joint industry workgroup representing OCS oil and natural gas producers and transmission pipeline operators to recommend a solution for defining regulatory boundaries.

In May 1996, the joint industry workgroup, led by the American Petroleum Institute (API), proposed that the agencies rely upon individual operators of production and transportation facilities to agree upon the boundaries of their facilities. This was based on the reasoning that producers and transporters can best make these decisions because of their knowledge of the operating characteristics peculiar to each facility. MMS and RSPA agreed with the industry proposal.

Section I, ''Purpose,'' of the resulting MOU of December 10, 1996, concludes: ''This MOU puts, to the greatest extent practicable, OCS production pipelines under DOI responsibility and OCS transportation pipelines under DOT responsibility.'' Thus, MMS will have primary regulatory responsibility for producer-operated facilities and pipelines on the OCS, while RSPA will have primary regulatory responsibility for transporter-operated pipelines and associated pumping or compressor facilities. Producing operators are companies that extract and process hydrocarbons on the OCS. Transporting operators are companies that transport those hydrocarbons from the OCS. (There are about 130 designated operators of producer-operated pipelines and 75 operators of transportation pipelines on the OCS.) MMS and RSPA published the 1996 MOU in a **Federal Register** notice on February 14, 1997 (62 FR 7037–7039).

The 1996 MOU redefines the DOI–DOT regulatory boundary from the OCS facility where hydrocarbons are *first* separated, dehydrated, or processed to the point at which operating responsibility for the pipeline transfers from a producing operator to a transporting operator. Although the MOU does not address the question of producer-operated pipelines that cross the Federal/State boundary without first connecting to a transportation pipeline, it states that the two departments intend to put producer-operated pipelines under DOI regulation and transporter-operated lines under DOT regulation. Moreover, the MOU includes the flexibility to cover situations that do not correspond to the general definition of the regulatory boundary as ''the point at which operating responsibility transfers from a producing operator to a transporting operator.'' Paragraph 7 under ''Joint Responsibilities'' in the MOU provides: ''DOI and DOT may, through their enforcement agencies and in consultation with the affected parties, agree to exceptions to this MOU on a facility-by-facility or area-by-area basis. Operators may also petition DOI and DOT for exceptions to this MOU.''

The Purpose of This Rule

The rule would amend 30 CFR Part 250, Subpart J—Pipelines and Pipeline Rights-of-Way, § 250.1000, ''General Requirements,'' and § 250.1001, ''Definitions.'' It has three purposes:

1. To address questions about producer-operated pipelines that cross the Federal/State boundary (the ''OCS/State boundary'') without first connecting to a transporting operator's facility on the OCS.
2. To clarify the status of producer-operated pipelines connecting production facilities on the OCS.
3. To set up a procedure that OCS operators can use to petition to have their pipelines regulated as either DOI or DOT facilities.

We published our first Notice of Proposed Rulemaking (NPR) to implement the December 1996 MOU on October 2, 1997 (62 FR 51614–51618). In response to the NPR, we received comments from Chevron U.S.A. Production Company and Chevron Pipe Line Company. They stated that the proposed rule did not appear to allow OCS producer-operated pipelines to remain under DOT regulatory responsibility. This was because both the 1996 MOU and the NPR:

1. Described boundaries in terms of points on pipelines where operating responsibility transfers from a producing operator to a transporting operator.
2. Did not address the producer-operated pipelines that cross the OCS/State boundary into State waters without first connecting to a transporter-operated facility.
3. Did not address producer lines that flow from wells in State waters to production platforms on the Federal OCS.

Regulating Producer-Operated Pipelines

Valves are the principal means of isolating one segment of a pipeline from another. Thus, a valve location is the best place to establish a regulatory boundary for a pipeline that crosses two jurisdictions. By contrast, a purely geographic boundary—such as the OCS/State boundary—does not allow for the isolation of conditions from one side of the boundary to the other and is therefore not as desirable as a valve for establishing a regulatory boundary. Still, in many cases it is unavoidable that a geographic boundary will serve as the regulatory boundary.

Concerning producer-operated pipelines that cross into State waters without first connecting to a transporting operator's facility, we have determined for this proposal that pipeline segments upstream (generally seaward) of the last valve on the last OCS production facility should be operated under DOI regulatory responsibility. DOI's regulatory responsibility would include the last valve on the last production facility and any related safety equipment, such as pressure safety-high and pressure safety-low (PSHL) sensors. Under this new interpretation, DOT would have regulatory responsibility for the pipeline segments shoreward of the last valve. For all of these downstream pipeline segments, DOT would have authority to inspect upstream safety equipment (including valves, over-pressure protection devices, cathodic protection equipment, and pigging devices, etc.) that may serve to protect the integrity of the DOT-regulated pipeline segments.

For any OCS pipeline segment that DOT has determined to be ''DOT non-jurisdictional,'' the OCS portion of the pipeline would be subject to MMS regulation, and the portion of the pipeline that lies in State waters would be under State jurisdiction.

If a producer-operated pipeline has a subsea valve located on the OCS and shoreward of the last OCS production facility, the operator may choose that valve as the boundary between DOI and DOT regulatory responsibility.

Under this proposed rule, producer pipelines upstream (generally seaward) of the last valve on the OCS and any related safety equipment, such as PSHL sensors, would be regulated under DOI (MMS) regulations consistent with the MOU. Paragraph (c)(6) under § 250.1000 in the proposed rule addresses producer-operated pipelines that cross directly into State waters without first connecting to a transporter-operated pipeline.

Without this revision, all such pipelines would remain subject to DOT regulations for design, construction, operation, and maintenance. This includes about 35 producers in Gulf of Mexico (GOM) OCS waters and 10 producers in California OCS waters. This would be contrary to the intent of the API-industry agreement and the MOU, which is for DOI to regulate producer-operated pipelines and DOT to regulate transporter-operated pipelines.

Several pipeline operators have expressed confusion because MMS and RSPA did not apply the policies of the MOU to all pipelines in their previous rulemakings. DOT-regulated pipelines are still crossing MMS-regulated production facilities, causing regulatory and jurisdictional confusion. (This

proposal will reduce but not eliminate these situations.) Currently, about 215 of the approximately 375 pipelines crossing the Federal/State boundary are not being regulated according to the intent of the MOU.

An important principle of the industry agreement leading to the MOU was to allow, to the extent permissible, the operators to decide the regulatory boundaries on or near their facilities. Therefore, under the proposed rule, producer and transportation pipeline operators may petition, in writing, the Regional Supervisor for permission to operate under either MMS or DOT regulations governing pipeline design, construction, operation, and maintenance according to the operating characteristics of their pipelines. In considering these petitions, the Regional Supervisor will consult with the Regional Director of RSPA's Office of Pipeline Safety (OPS) and the affected parties. We have added paragraph (c)(12) to § 250.1000 to respond to the concerns raised by Chevron. It would allow producing operators who have been operating under DOT regulations to ask, in writing, the MMS Regional Supervisor for permission to continue operating under DOT regulations governing pipeline design, construction, operation, and maintenance. The Regional Supervisor will decide on a case-by-case basis whether to grant the operator's request.

Similarly, we have added paragraph (c)(13) to § 250.1000 to allow transportation pipeline operators to ask, in writing, the MMS Regional Supervisor for permission to operate under MMS regulations governing pipeline design, construction, operation, and maintenance. In considering these petitions, the Regional Supervisor will consult with the OPS Regional Director.

With further regard to the matter of producer-operated pipelines that cross the Federal/State boundary without first connecting to a transportation pipeline, we have revised the definition for ''DOI pipelines'' recently added to § 250.1001 in the final rule published on August 17, 1998 (63 FR 43876-43881). We also have added a definition for ''DOT pipelines.''

Procedural Matters

Public Comment

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 may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the 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.

Regulatory Planning and Review (E.O. 12866)

This is not a significant rule under E.O. 12866 and does not require review by the Office of Management and Budget (OMB). An analysis of the rule indicates that the direct costs to industry for the entire rule total approximately $167,000 for the first year, and that for succeeding years, the maximum cost of the rule to industry in any given year would not likely exceed $53,800.

Regulatory Flexibility Act

DOI has determined that this rule will not have a significant economic effect on a substantial number of small entities. While this rule will affect a substantial number of small entities, the economic effects of the rule will not be significant.

The regulated community for this proposal consists of 35 producer-pipeline operators in the GOM and 8 producer-pipeline operators in the Pacific OCS. Of these operators, 15 are considered to be ''small.'' Of the small operators to be affected by the proposed rule, almost all are represented by Standard Industrial Classification code 1311 (crude petroleum and natural gas producers).

DOI's analysis of the economic impacts indicates that direct costs to industry for the entire rule total approximately $167,000 for the first year, and in succeeding years, the maximum cost of the rule to industry in any given year would not likely exceed $53,800. These annual costs would not persist for long, because all pipelines converted to MMS regulation eventually would come into compliance with MMS safety valve requirements. There are up to 150 designated operators of leases and 75 operators of transportation pipelines on the OCS (both large and small operators), and the economic impacts on the oil and gas production and transportation companies directly affected will be minor. Not all operators affected will be small businesses, but much of their modification costs may be paid to offshore service contractors who may be classified as small businesses. Perhaps two or three operators may eventually be required to install new automatic shutdown valves as a result of becoming subject to MMS regulation. These few operators will sustain the greatest economic impact from this rule.

To the extent that this rule might eventually cause some of the relatively larger OCS operators to make modifications to their pipelines, it may have a minor beneficial effect of increasing demand for the services and equipment of smaller service companies and manufacturers. This rule will not impose any new restrictions on small pipeline service companies or manufacturers, nor will it cause their business practices to change.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. Based on our economic analysis, this rule:

a. Does not have an annual effect on the economy of $100 million or more. As indicated in our cost analysis, direct costs to industry for the entire proposed rule total approximately $167,000 for the first year. In succeeding years, the cost of the rule to industry would not likely exceed $53,800 in any given year. The proposed rule will have a minor economic effect on the offshore oil and gas and transmission pipeline industries.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

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 (UMRA) of 1995

This rule does not contain any unfunded mandates to State, local, or tribal governments, nor would it impose significant regulatory costs on the

private sector. Anticipated costs to the private sector will be far below the $100 million threshold for any year that was established by UMRA.

Takings (E.O. 12630)

DOI certifies that this rule does not represent a governmental action capable of interference with constitutionally protected property rights.

Federalism (E.O. 12612)

As required by E.O. 12612, the rule does not have significant Federalism effects. The proposed rule does not change the role or responsibilities of Federal, State, and local governmental entities. The rule does not relate to the structure and role of States and will not have direct, substantive, or significant effects on States.

Civil Justice Reform (E.O. 12988)

DOI has certified to OMB that this regulation meets the applicable civil justice reform standards provided in sections 3(a) and 3(b)(2) of E.O. 12988.

Paperwork Reduction Act (PRA) of 1995

This proposed rule involves information collection that we have submitted to OMB for review and approval under section 3507(d) of the PRA. As part of our continuing effort to reduce paperwork and respondent burdens, MMS invites the public and other Federal agencies to comment on any aspect of the reporting burden in this proposed rule. Submit your comments to the Office of Information and Regulatory Affairs, OMB; Attention: Desk Officer for the Department of the Interior (OMB control number 1010–New); Washington, D.C. 20503. Send a copy of your comments to the Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. You may obtain a copy of the supporting statement for the collection of information by contacting the Bureau's Information Collection Clearance Officer at (202) 208–7744.

The Act provides that 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 up to 60 days to approve or disapprove this collection of information but may respond after 30 days from receipt of our request. Therefore, your comments are best assured of being considered by OMB if OMB receives them by November 1, 1999. However, MMS will consider all comments received during the comment period for this notice of proposed rulemaking.

The title of this collection of information is ''Further Implementation of Memorandum of Understanding Between the Departments of the Interior and Transportation.''

The following are new information collection activities in the proposed rule and estimated burden hours:

(1) In § 250.1000(c)(8), operators may request MMS recognize valves landward of the last production facility but still located on the OCS as the point where MMS regulatory authority begins. We estimate possibly one, maybe two, such request(s) each year with an estimated burden of one-half hour per request for a total annual burden of 1 hour.

(2) In § 250.1000(c)(12), producing operators operating pipelines under DOT regulatory authority may petition MMS to continue to operate under DOT upstream of the last valve on the last production facility. In the first year, nearly all producer-pipeline operators would decide whether to automatically convert to DOI regulation or apply to remain under DOT regulation. We estimate that not more than 10 one-time requests to remain under DOT regulation, with an estimated average burden of 40 hours per request. Annualized over a 3-year period, this would result in 135 annual burden hours. We anticipate that in following years, not more than two operators a year would petition to change their regulatory status.

(3) In § 250.1000(c)(13), transportation pipeline operators operating pipelines under DOT regulatory authority may also petition OPS and MMS to operate under MMS regulations governing pipeline design, construction, operation, and maintenance. Although we have allowed for this possibility in the proposed rule, we expect these would be rare. We estimate the burden would be 40 hours per request.

The total public reporting burden for this information collection requirement is estimated to be 176 annual burden hours. This includes the time for reviewing instructions, searching existing data sources, and gathering the data. The proposed rule requires no recordkeeping burdens. At $35 per hour, the annual paperwork ''hour'' burden would be $6,160.

The requirement to respond is mandatory in some cases and required to obtain or retain a benefit in others. MMS uses the information to determine the demarcation where pipelines are subject to MMS design, construction, operation, and maintenance requirements, as distinguished from similar OPS requirements.

Converting to DOI regulation could also result in the installation of as many as three automatic shutdown valves, either in the first year or in subsequent years. In these instances, operators would be subject to the regulatory and paperwork requirements in 30 CFR 250, subpart J, on Pipelines and Pipeline Rights-of-Way. The information collection requirements in this subpart have already been approved by OMB under OMB control number 1010–0050.

We will summarize written responses to this notice and address them in the final rule. All comments will become a matter of public record.

1. We specifically solicit comments on the following questions:

(a) Is the proposed collection of information necessary for the proper performance of MMS's functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

2. In addition, the PRA requires agencies to estimate the paperwork ''non-hour cost'' burden to respondents or record keepers resulting from the collection of information. We have not identified any such burdens in addition to the ''hour'' burden cost. We solicit your comments if there are any that you do not consider as part of your usual and customary business practices.

National Environmental Policy Act

Under 516 DM 6, Appendix 10.4, ''issuance and/or modification of regulations'' is considered a categorically excluded action causing no significant effects on the environment and, therefore, does not require preparation of an environmental assessment or impact statement. DOI completed a Categorical Exclusion Review (CER) for this action on March 26, 1999, and concluded: ''The proposed rulemaking does not represent an exception to the established criteria for categorical exclusion. Therefore, preparation of an environmental document will not be required, and further documentation of this CER is not required.''

Clarity of this regulation

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed 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 interfere 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 this preamble helpful in understanding the rule? What else can we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, N.W., Washington, D.C. 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: September 21, 1999.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the MMS proposes to amend 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331, *et seq.*

2. In § 250.1000, paragraphs (c)(6) through (c)(13) are added as follows:

§ 250.1000 General requirements.

* * * * *

(c) * * *

(6) Any producer operating a pipeline that crosses into State waters without first connecting to a transporting operator's pipeline on the OCS must comply with this subpart. Compliance must extend from the point where hydrocarbons are first produced, through and including the last valve and associated safety equipment (e.g., pressure safety sensors) on the last production facility on the OCS.

(7) Any producer operating a pipeline that connects facilities on the OCS must comply with this subpart.

(8) Any operator of a pipeline that has a valve on the OCS downstream (generally landward) of the last production facility may ask in writing that the MMS Regional Supervisor recognize that valve as the point to which MMS will exercise its regulatory authority.

(9) A producer pipeline segment is not subject to MMS regulations for design, construction, operation, and maintenance if:

(i) It is downstream (generally shoreward) of the last valve and associated safety equipment on the last production facility on the OCS; and

(ii) It is subject to regulation under 49 CFR parts 192 and 195.

(10) DOT may inspect all upstream safety equipment (including valves, over-pressure protection devices, cathodic protection equipment, and pigging devices, etc.) that serve to protect the integrity of DOT-regulated pipeline segments.

(11) OCS pipeline segments not subject to DOT regulation under 49 CFR parts 192 and 195 are subject to all MMS regulations.

(12) A producer may request that its pipeline operate under DOT regulations governing pipeline design, construction, operation, and maintenance.

(i) The operator's request must be in the form of a written petition to the MMS Regional Supervisor that states the justification for the pipeline to operate under DOT regulation.

(ii) The Regional Supervisor will decide, on a case-by-case basis, whether to grant the operator's request. In considering each petition, the Regional Supervisor will consult with the Office of Pipeline Safety (OPS) Regional Director.

(13) A transporter who operates a pipeline regulated by DOT may request to operate under MMS regulations governing pipeline design, construction, operation, and maintenance.

(i) The operator's request must be in the form a written petition to the OPS Regional Director and the MMS Regional Supervisor.

(ii) The MMS Regional Supervisor and the OPS Regional Director will decide how to act on this petition.

* * * * *

3. In § 250.1001, the definition for the term ''DOI pipelines'' is revised and the definitions for the terms ''DOT pipelines,'' and ''Production facility'' are added in alphabetical order as follows:

§ 250.1001 Definitions.

* * * * *

DOI pipelines include:

(1) Producer-operated pipelines extending upstream (generally seaward) from each point on the OCS at which operating responsibility transfers from a producing operator to a transporting operator;

(2) Producer-operated pipelines extending upstream (generally seaward) of the last valve (including associated safety equipment) on the last production facility on the OCS that do not connect to a transporter-operated pipeline on the OCS before crossing into State waters;

(3) Producer-operated pipelines connecting production facilities on the OCS;

(4) Transporter-operated pipelines that DOI and DOT have agreed are to be regulated as DOI pipelines; and

(5) All OCS pipelines not subject to regulation under 49 CFR parts 192 and 195.

DOT pipelines include:

(1) Transporter-operated pipelines under DOT requirements governing design, construction, maintenance, and operation; or

(2) Producer-operated pipelines that DOI and DOT have agreed are to be regulated under DOT requirements governing design, construction, maintenance, and operation.

* * * * *

Production facilities means OCS facilities that receive hydrocarbon production either directly from wells or from other facilities that produce hydrocarbons from wells. They may include processing equipment for treating the production or separating it into its various liquid and gaseous components before transporting it to shore.

* * * * *

[FR Doc. 99–25498 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AJ73

Board of Veterans' Appeals: Rules of Practice—Notice of Appeal in Simultaneously Contested Claim

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend a Board of Veterans' Appeals (Board) Rule of Practice, pertaining to a type of notice given in simultaneously contested claim appeals, to eliminate an inconsistency between that Rule of Practice and other Board Regulations.

DATES: Comments must be received on or before November 30, 1999.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AJ73.'' All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 565–5978.

SUPPLEMENTARY INFORMATION: Initial decisions on claims for veterans' benefits are made at VA field offices throughout the nation. Claimants may appeal those decisions to the Board.

Most of the proceedings before the Board involve only one party, a claimant for VA benefits who is dissatisfied with the VA field office decision in his or her case. However, there are a few multiparty proceedings before the Board known as ''simultaneously contested claims.'' These contested claims arise out of situations where ''the allowance of one claim results in the disallowance of another claim involving the same benefit or the allowance of one claim results in the payment of a lesser benefit to another claimant.'' 38 CFR 20.3(o). Typical examples might be cases in which two different parties are each seeking recognition as the beneficiary of the same life insurance proceeds or status recognition as a veteran's lawful spouse in order to qualify for a variety of survivor's benefits.

38 U.S.C. 7105A(b) provides that when one contesting party files his or her ''formal appeal,'' the ''substance'' of the formal appeal will be communicated to the other contesting parties who then have 30 days to file an answering brief or argument.

This statutory provision is currently implemented in two regulations. The first, 38 CFR 19.102, describes VA's duties to furnish other contesting parties with the content of the ''Substantive Appeal'' (the regulatory equivalent of the statutory ''formal appeal'') ''to the extent that it contains information which could directly affect the payment or potential payment of the benefit which is the subject of the contested claim.'' The second, a Rule of Practice at 38 CFR 20.502 that tells other contesting parties how long they have to respond, incorrectly indicates that the responding contesting parties are given copies of the Substantive Appeal, rather than its relevant substance. In this document, VA proposes to revise § 20.502 to make it consistent with § 19.102. The presumption concerning the date of furnishing this information has also been modified to remove its tie to mailing, inasmuch as neither 38 U.S.C. 7105A(b) nor 38 CFR 19.102 limits the means of delivery to mailing.

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612, inasmuch as this rule applies to individual claimants for veterans' benefits and does not affect such entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

There is no Catalog of Federal Domestic Assistance number for this final rule.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans, Authority delegations (Government agencies).

Approved: September 22, 1999

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 20 as follows:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a).

2. Section 20.502 is revised to read as follows:

§ 20.502 Rule 502. Time limit for response to appeal by another contesting party in a simultaneously contested claim.

A party to a simultaneously contested claim may file a brief or argument in answer to a Substantive Appeal filed by another contesting party. Any such brief or argument must be filed with the agency of original jurisdiction within 30 days from the date the content of the Substantive Appeal is furnished as provided in § 19.102 of this chapter. Such content will be presumed to have been furnished on the date of the letter which accompanies the content.

(Authority: 38 U.S.C. 7105A(b))

[FR Doc. 99–25602 Filed 9–30–99; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6450–4]

Assessment of Visibility Impairment at the Grand Canyon National Park:

Advance Notice of Proposed Rulemaking; Extension of Public Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking; extension of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for an advance notice of proposed rulemaking, published June 17, 1999 (64 FR 32458), regarding visibility impairment at the Grand Canyon National Park (GCNP) and the possibility that the Mohave Generating Station (MGS) in Laughlin, Nevada may contribute to that impairment. In the June 17 notice, EPA requests information that it should consider in determining whether visibility problems at the GCNP can be reasonably attributed to MGS, and if so, what, if any, pollution control requirements should be applied.

The public comment period for the advance notice of proposed rulemaking was originally due to expire on August 16, 1999. On August 6, 1999, at the request of Southern California Edison Company, EPA published a notice extending the public comment period for 30 days (64 FR 42891). On September 14, 1999, at the request of the Grand Canyon Trust, EPA published a notice extending the public comment period for an additional 15 days (64 FR 49756). At the request of both Southern California Edison and the Grand Canyon Trust, EPA is now extending the public comment period for an additional 21 days.

DATES: The comment period on the advance notice of proposed rulemaking is extended until October 21, 1999.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: EPA Region IX, 75 Hawthorne Street (AIR2), San Francisco, CA 94105, Attn: Regina Spindler.

FOR FURTHER INFORMATION CONTACT: Regina Spindler (415) 744–1251, Planning Office (AIR2), Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Dated: September 24, 1999.

Felicia Marcus,

Regional Administrator, Region 9.

[FR Doc. 99–25564 Filed 9–30–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122, 123, 124, 130, and 131

[FRL–6446–8]

Proposed Revisions to the Water Quality Planning and Management Regulation, and Revisions to the National Pollutant Discharge Elimination System Program and Federal Antidegradation Policy in Support of Proposed Revisions to the Water Quality Planning and Management Regulation

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On August 23, 1999, EPA issued two proposed rules to revise, clarify and strengthen the current regulatory requirements for identifying impaired waters and establishing Total Maximum Daily Loads (TMDLs) under the Clean Water Act: revisions to the Water Quality Planning and Management Regulation (64 FR 46012); and revisions to the National Pollutant Discharge Elimination System (NPDES) Program and Federal Antidegradation Policy (64 FR 46058) in support of the revisions at (64 FR 46012). These proposed regulatory revisions address issues of fundamental importance to cleaning up our Nation's polluted waters. Listing impaired and threatened waters and establishing TMDLs are fundamental tools for identifying remaining sources of water pollution and achieving water quality goals. Clean-up plans developed consistent with these regulatory proposals will help to restore the health of thousands of miles of river and shoreline and make millions of lake acres safe for their designated uses.

EPA sought comment on both sets of proposed rules by October 22, 1999. It is EPA's intent to provide the public and all stakeholders an adequate period of time to fully analyze the issues and prepare comprehensive comments. Therefore, we are extending the comment period an additional 60 days for a total comment period of 120 days.

DATES: Comments on these proposals must be submitted on or before December 22, 1999. Comments provided electronically will be considered timely if they are submitted by 11:59 P.M. (Eastern time) December 22, 1999.

ADDRESSES: Send written comments on the Proposed Revisions to the Water Quality Planning and Management Regulation to the Comment Clerk for the TMDL Program Rule, Water Docket (W–98–31), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Send written comments on the Revisions to the NPDES Program and Federal Antidegradation Policy in Support of Proposed Revisions to the Water Quality Planning and Management Regulation to the Comment Clerk, Water Docket (W–99–04), Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

EPA requests that commenters submit any references cited in their comments. EPA also requests that commenters submit an original and 3 copies of their written comments and enclosures. Commenters that want receipt of their comments acknowledged should include a self-addressed, stamped envelope. All comments must be postmarked or delivered by hand. No facsimiles (faxes) will be accepted.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: ow-docket@epa.gov. Electronic comments must be submitted as an ASCII or WordPerfect file avoiding the use of special characters and any form on encryption. Electronic comments must be identified by the appropriate docket number (W–98–31 for the TMDL rule and W–99–04 for the NPDES Program/Federal Antidegradation Policy rule), and may be filed online at many Federal Depository Libraries. No confidential business information (CBI) should be sent via e-mail.

A copy of the supporting documents cited in the proposals are available for review at EPA's Water Docket; Room EB–57 (East Tower Basement), 401 M Street, SW, Washington, DC 20460. For access to docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m. for an appointment. An electronic version of the TMDL proposal is available via the Internet at: <http://www.epa.gov/OWOW/tmdl/index.html>.

FOR FURTHER INFORMATION CONTACT: Hazel Groman, US EPA, Office of Wetlands, Oceans and Watersheds (4503F), 401 M. St., SW, Washington, DC 20640, (202) 260–4078 for the TMDL rule. Kim Kramer, Office of Wastewater Management, 401 M. St., SW, Washington, DC 20640, Mail Code 4203, e-mail: Kramer.Kim@epa.gov, telephone: (202) 260–8541 for information regarding the NPDES provisions, or Susan Gilbertson, Office of Science and Technology, 401 M. St., SW, Washington, DC 20640, Mail Code 4305, e-mail: Gilbertson.Sue@epa.gov, telephone (202) 260–7301 for information regarding the water quality standards provisions.

Dated: September 24, 1999.

Dana D. Minerva,

Acting Assistant Administrator for Water.

[FR Doc. 99–25307 Filed 9–28–99; 2:26 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 197

RIN 2060–AE30

[FRL–6450–2]

Opportunity To Present Oral Testimony on Environmental Radiation Protection Standards for Yucca Mountain, Nevada; Notice of Public Hearings

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of public hearings.

SUMMARY: The Environmental Protection Agency (EPA) will conduct public hearings to receive comments on its proposed radiation protection standards for Yucca Mountain, Nevada, in Washington, DC; Amargosa Valley, NV; Las Vegas, NV; and Kansas City, MO in October.

The proposed standards were published in the **Federal Register** on August 27, 1999. The 90-day public comment period closes November 26.

DATES: The schedule for the hearings is as follows: Washington, DC, October 13, 1999, from 9:00 a.m. to 5:00 p.m.; Amargosa Valley, NV, October 19, 1999, beginning at 12:00 Noon; Las Vegas, NV, October 20, 1999, from 12:00 p.m. to

9:00 p.m. and October 21, 1999 from 9:00 a.m. to 12:00 Noon; and Kansas City, MO, October 27, 1999, from 12:00 Noon to 9:00 p.m. Specific locations for each city are detailed in the next section **ADDRESSES.** Procedures for pre-registering for and testifying at these public hearings are detailed in the ''Hearings Procedures'' subsection of the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: EPA's public hearings to receive comments on the Agency's proposed radiation protection standards for Yucca Mountain, Nevada will be held on October 13, 1999, at the Ronald Reagan Building (Federal Triangle Metro Stop), International Trade Center, Hemisphere B Meeting Room, 1300 Pennsylvania Avenue, NW, Washington, DC; on October 19, 1999, at the Amargosa Valley Community Center, 821 East Farm Road, Amargosa Valley, NV; on October 20 and 21, 1999 at the Las Vegas Conference Suites and Services, Room 111, 101 Convention Center Drive, Las Vegas, NV; and on October 27, 1999, at the Kansas City Convention Center, Conference Center—Room 4201, 14th Street between Wyandotte and Central, Kansas City, MO.

EPA's official docket for this rule, including technical support documents and other documents and materials relevant to this rule, are filed in Docket No. A–95–12 of the Air Docket, located in Room M–1500 (first floor in Waterside Mall near the Washington Information Center), U.S. EPA, 401 M Street, SW, Washington, DC 20460–0001. EPA has also established ''Information Files'' for this rule at two locations in Nevada: the Government Publications Section of the Dickinson Library at the University of Nevada-Las Vegas, 4504 Maryland Parkway, Las Vegas, NV, and the Public Library in Amargosa Valley, NV.

As provided in EPA's regulations at 40 CFR Part 2, and in accordance with normal Air docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Rafaela Ferguson, Office of Radiation and Indoor Air, (202) 564–9362 or call EPA's 24-hour toll-free Yucca Mountain Information Line, 1–800–331–9477.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy is developing a potential geologic repository at Yucca Mountain, Nevada, for disposal of spent nuclear fuel and high-level radioactive waste. As mandated by the Energy Policy Act of 1992, the Environmental Protection Agency (EPA) has developed site-specific public health and safety standards for the potential repository at Yucca Mountain, Nevada. On August 27, 1999, EPA published the proposed radiation protection standards for Yucca Mountain, Nevada in the **Federal Register** at 64 FR 46976–47016. Simultaneously, a 90-day public comment period on the Agency's proposed rule began. The public comment period closes November 26, 1999. Once EPA's standards are finalized, the Nuclear Regulatory Commission is responsible for implementing those standards.

Hearings Procedures

Persons wishing to testify at the public hearings are requested to pre-register by calling EPA's toll-free Yucca Mountain Information Line at 1–800–331–9477 between the hours of 12:00 Noon and 7:00 p.m. Eastern Standard Time (EST) with the following information: Name/Organizational Affiliation (if any)/hearing date, location, time(s) available to testify, and a daytime telephone number. In order to obtain a scheduled speaking time, requests must be received by EPA no later than 7:00 p.m. EST October 12, 1999 for the hearings in Washington, DC; October 18, 1999 for the hearings in Amargosa Valley and Las Vegas, NV; and October 22, 1999, for the hearings in Kansas City, MO. Speakers not registered in advance may register at the door. Individuals testifying on their own behalf will be allowed 5 minutes. One individual may testify as the official representative or spokesperson on behalf of groups and organizations and will be allocated ten minutes for an oral presentation. Time allowed is exclusive of any time consumed by questions from the government panel and answers to these questions. Testimony from individuals and representatives of organizations is limited to one hearing location. Substitutions will not be permitted for any pre-registered person. Registrants will not be permitted to yield their time to other individuals or groups, nor will hearing time be used to ''read into the record'' testimony from individuals not present at the hearings. In the event any person wishes to enter comments for the record, but either cannot or does not appear personally at the hearings, written comments will be accepted by EPA during the hearings. These written comments will be considered to the same extent as oral testimony and will be included as part of the official hearings transcripts. The hearing transcript will constitute the official record of the hearings. Written comments submitted outside of the public hearings must be received by EPA Docket No. A–95–12 in Washington, DC by November 26, 1999. All comments received by EPA, whether written or oral, will be given equal consideration in development of the final rule.

Dated: September 27, 1999.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 99–25566 Filed 9–30–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 092799E]

Groundfish Fisheries of the Gulf of Alaska and the Bering Sea/Aleutian Islands Area

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

ACTION: Notice of intent; scoping meetings; request for comments.

SUMMARY: NMFS announces its intention to prepare a programmatic supplemental environmental impact statement (SEIS) on Federal groundfish fishery management in the Exclusive Economic Zone (EEZ) waters off Alaska. The scope of the analysis will include all activities addressing the conduct of groundfish fisheries authorized and managed under two of the North Pacific Fishery Management Council's fishery management plans (FMPs): Groundfish of the Gulf of Alaska (GOA), and amendments thereto; and Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI), and amendments thereto.

NMFS will hold scoping meetings to receive public input on the structure of the alternatives and the range of issues to be covered in the programmatic SEIS. NMFS is accepting written comments on the same topics.

DATES: Written comments will be accepted through November 15, 1999 (see ADDRESSES). See SUPPLEMENTARY INFORMATION, Public Involvement for meeting dates.

ADDRESSES: Written comments and requests to be included on a mailing list of persons interested in the programmatic SEIS should be sent to Lori Gravel, Sustainable Fisheries Division, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802. Comments may also be hand-

delivered to Room 457–1 Federal Office Building, 907 West 9th Street, Juneau, AK. See **SUPPLEMENTARY INFORMATION**, Public Involvement for meeting locations.

FOR FURTHER INFORMATION CONTACT: Steve Davis, NMFS, (907) 271-3523.

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act, the United States has exclusive fishery management authority over all living marine resources found within the EEZ, except marine mammals and birds. The management of these marine resources is vested in the Secretary of Commerce (Secretary). Eight Regional Fishery Management Councils prepare FMPs for approval and implementation by the Secretary. The North Pacific Fishery Management Council has the responsibility to prepare FMPs for the fishery resources that require conservation and management in the EEZ off Alaska. The North Pacific Fishery Management Council consists of Federal and state officials having authority for fishery management, and of private persons nominated by the governors of the States of Alaska, Oregon, and Washington, and appointed by the Secretary.

The National Environmental Policy Act (NEPA) requires preparation of environmental impact statements (EISs) for major Federal actions significantly impacting the quality of the human environment. 40 CFR 1502.9(c) states: ''Agencies shall prepare supplements to either draft or final environmental impact statements if: (i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.''

The Council prepared, and the Secretary approved, the Fishery Management Plan for Gulf of Alaska Groundfish in 1978 and the Fishery Management Plan for Groundfish Fishery of the Bering Sea and Aleutian Islands Area in 1981. EISs were prepared for those FMPs and were filed in 1978 and 1981, respectively. Both FMPs have been amended numerous times. NEPA environmental documents (categorical exclusion, environmental assessments, or EISs) have been prepared for each FMP amendment and regulatory amendment. Additionally, NMFS prepared and issued an SEIS for the groundfish fisheries authorized under both FMPs in December 1998. In July 1999, the U.S. District Court, Western District of Washington at Seattle (NO. C98–0492Z) ruled in *Greenpeace* v. *NMFS* that the 1998 SEIS was legally inadequate, and remanded the document to NMFS for further action consistent with the requirements of NEPA.

In this document, NMFS announces its intent to prepare a programmatic SEIS that defines the Federal action under review as, among other things, all activities authorized and managed under the FMPs and all amendments thereto, and that addresses the conduct of the GOA and BSAI groundfish fisheries and the FMPs as a whole. NMFS will present in the SEIS an overview and an assessment of all impacts (including environmental, biological, and socio-economic) that result from directed and incidental groundfish harvest regulations affecting amount of harvest, location of harvest, time of harvest, method of harvest, distribution of harvest among fishermen, use of the harvest, and methods used to monitor harvest and the fisheries. Also, NMFS will identify and evaluate the significant changes that have occurred in the GOA and BSAI groundfish fisheries, including significant cumulative effects of environmental and management changes in the groundfish fisheries since the issuance of the 1978 and 1981 EISs. Further, NMFS will also analyze the impacts (including environmental, biological and socio-economic) resulting from the current fishery management regime, and reasonable alternatives to the current management regime. The Responsible Program Manager for this SEIS is Steven Pennoyer, Alaska Regional Administrator, NMFS.

Alternatives

The SEIS will consider a range of alternative harvest management regimes, incorporating variations on various elements of the FMPs. It will not consider detailed alternatives for every aspect of the FMPs. A principal objective, therefore, of the scoping and public input processes is to identify a reasonable set of programmatic management alternatives that, with adequate analysis, will sharply define critical issues and provide a clear basis for choice among the alternatives.

Management of the GOA and the BSAI groundfish fisheries pursuant to the FMPs involves decision making that can result in changes to the harvest management strategy. Accordingly, in the programmatic SEIS, NMFS will consider a full range of management alternatives, including the No Action alternative (i.e., the management regime currently in place would continue to apply), and evaluate their potential environmental impacts (including biological and socio-economic). Through this scoping process, NMFS requests public input on the management alternatives that should be considered in this programmatic SEIS. Prior to the scoping meetings, NMFS will publish in the **Federal Register** draft alternatives to be developed further at the public scoping meetings and in the programmatic SEIS.

Issues

The environmental consequences section of the EIS will display the impacts of groundfish harvest accruing with present management regulations and under a range of representative alternative management regulations on North Pacific and Bering Sea ecosystem issues. These issues include: (1) Marine habitat, (2) major species of fish, (3) major species and groups of invertebrates, (4) marine mammals, (5) seabirds, and (6) cumulative and synergistic impacts on species across the foodweb. In addition, the environmental consequences section will contain summary, interpretation, and predictions for socio-economic issues associated with conduct of those fisheries on the following groups of individuals: (1) Those who participate in harvesting the groundfish resources and other living marine resources, (2) those who process and market the fish and fishery products, (3) those who are involved in allied support industries, (4) those who consume fishery products, (5) those who rely on living marine resources in the management area either for subsistence needs or for recreational benefits, (6) those who benefit from non-consumptive uses of living marine resources, (7) those involved in managing and monitoring fisheries, and (8) fishing communities.

Consultations

Pursuant to section 7(a)(2) of the Endangered Species Act (ESA), consultations for listed species and critical habitat affected by these fisheries have been or will be initiated and will be prepared in parallel with development of the programmatic SEIS. These consultations will be conducted in accordance with the ESA and implementing regulations, 50 CFR 402 *et seq.*, and will analyze the individual and cumulative impacts of activities relating to the groundfish fisheries authorized and managed under the FMPs, and amendments thereto, to determine whether the cumulative impacts of the groundfish fisheries are likely to jeopardize the continued existence of listed species, including Steller sea lions, or adversely modify

critical habitat. Results from these consultations will be incorporated into the SEIS to the maximum extent practicable. The schedule for completion of consultation will correspond generally to the schedule for the issuance of the programmatic SEIS as the information, evaluations, and conclusions that are required for both documents will be similar in many respects.

Public Involvement

Scoping for the programmatic SEIS begins with publication of this notice. An informational presentation of the project will be made during the Council's October meeting (Seattle, WA, Seattle Airport, Doubletree Hotel, October 10 through 18, 1999.) Subsequent scoping meetings will be held in Anchorage, Juneau, Kodiak, and Seattle at the following times and locations:

1. Juneau—November 8, 1999, 1–3 p.m., Juneau Federal Building, Room 445, 709 West 9th Street, Juneau, AK.

2. Anchorage—November 9, 1999, 1–3 p.m., Anchorage Federal Building, Room 135, 222 West Seventh Avenue, Anchorage, AK.

3. Kodiak—November 10, 1999, 1–3 p.m., Kodiak Inn, 236 West Rezanof Drive, Kodiak, AK.

4. Seattle-November 12, 1–3 p.m., Alaska Fisheries Science Center, 7600 Sand Point Way NE, Building 4, Room 2039, Seattle, WA.

Special Accommodations

Theses meetings are physically accessible to people with disabilities, Reqests for sign language interpretation or other auxiliary aids should be directed to Rebecca Campbell (907) 586–7228 at least 5 days before the meeting dates.

Dated: September 27, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–25573 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 190
Friday, October 1, 1999

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

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Public Meeting on U.S. Participation in the 16th Annual Meeting of the International Consultative Group on Food Irradiation

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of meeting.

SUMMARY: FAS is informing the public of a meeting to be held Thursday, October 7, 1999, at the U.S. Department of Agriculture (USDA) in Washington, DC. The purpose of this meeting is to solicit public comment on U.S. participation in the 16th annual meeting of the International Consultative Group on Food Irradiation (ICGFI), October 25–27, 1999, in Antalya, Turkey, including the continued U.S. participation, future activities (Plan of Work), U.S. level of contributions (funding), and ICGFI's role. It is also to seek public input in identifying any new issues of concern that should be considered.

Representatives from past delegations will also be present to apprise the public of the background of ICGFI, its mandate, past contributions and to respond to questions. ICGFI was established under the joint aegis of the Food and Agriculture Organization of the United Nations (FAO), the International Atomic Energy Agency (IAEA) and the World Health Organization (WHO).

The functions of ICGFI are:

1. To evaluate global developments in the field of food irradiation;

2. To provide a focal point of advice on the application of food irradiation to Member States and the three Organizations; and

3. To furnish information, as required, through the Organizations, to the Joint FAO/IAEA/WHO Expert Committee on the Wholesomeness of Irradiated Food and the Codex Alimentarius Commission.

DATES: The public meeting date is Thursday, October 7, 1999, 9 a.m. to 11 a.m., Washington, DC in Room 5066 South Building. Written comments should be submitted by October 5, 1999.

FOR FURTHER INFORMATION CONTACT: Foreign Agricultural Service, International Trade Policy, Food Safety and Technical Services Division, Room 5545, South Building, 1400 Independence Avenue, SW, Washington, DC 20250, (202) 720–1301; or e-mail ofsts@fas.usda.gov.

SUPPLEMENTARY INFORMATION:

Topics to be Discussed at the Public Meeting Include the Following

Should the United States continue to participate in ICGFI?

What are the benefits to the U.S. taxpayer? Industry? Government?

What are the drawbacks or costs we should consider?

Should the United States continue to support ICGFI financially?

If the answer is yes, how should ICGFI be funded?

Should the United States Government continue to contribute to ICGFI?

If yes, should we continue at the same level, increase, or decrease our contributions?

Should contributions continue to come only from the Government, or should industry contribute as well (or in place of)?

Should the proposed ''Programme of Work and Budget for 2000'' be approved?

Programme of Work	Estimated Budget (US$)
1. International Trade:	
(a) Food Irradiation Process Control School (FIPCOS) for Operators of Irradiation Facilities and Food Inspectors	35,000
(b) Seminar on Trade Opportunities for Irradiated Foods for Asia and the Pacific	25,000
(c) Workshop on Facilitating Trade in Irradiated Food with the European Union	20,000
2. Legislation:	
(a) Amendments to Codex General Standard for Irradiated Foods (through the Codex Committee on Food Additives and Contaminants)	5,000
(b) Proposed Amendment to the Labeling Provisions on Irradiated Foods (through the Codex Committee on Food Labelling)	3,000
(c) Publication of revised ICGFI Codes of Good Irradiation Practices (GIP)	(1)
3. Information Transfer:	
(a) Publication of Brochure on Application of ''High-Dose Irradiation of Food''	(1)
(b) Publication of Education Materials on Food Irradiation	5,000
4. Database:	
(a) Revise database on list of clearance of irradiated food	(2)
(b) Update current database: national regulations, food irradiation facilities, authorized packaging, materials, trainees, etc.	(2)
5. Administration:	
(a) One professional staff (part-time)	45,000
(b) One support staff	60,000
(c) Travel	10,000
(d) Miscellaneous (telephone, shipping, etc.)	5,000
Total (cash)	213,000

[1] In-kind.
[2] No-cost.

Are there any other topics we think ICGFI should address?

Background Information on ICGFI

What is ICGFI?

An independent body composed of government-designated experts on food irradiation.

How was ICGFI formed?

In 1982, the Directors General of FAO, IAEA and WHO invited Member States to consider forming a consultative group to focus in international co-operation in food irradiation. Upon receipt of a favorable response from 44 Member States, those present at a meeting in 1983 drafted a Declaration establishing the International Consultative Group on Food Irradiation (ICGFI). ICGFI, composed of experts or other participants designated by each government, was established in 1984 for an initial period of 5 years.

How is ICGFI organized?

FAO, IAEA and WHO, through the Joint FAO/IAEA Division of Nuclear Techniques in Food and Agriculture based at the IAEA, Vienna, serve as ICGFI's Secretariat.

What are the functions of ICGFI?

1. to evaluate global developments in the field of food irradiation;

2. to provide a focal point of advice on the application of food irradiation to Member States and the three Organizations; and

3. to furnish information, as required, through the Organizations, to the Joint FAO/IAEA/WHO Expert Committee on the Wholesomeness of Irradiated Food and the Codex Alimentarius Commission.

Who determines the priorities?

ICGFI funds and operates its own programs, focusing on developing policy guidelines related to the safety assurance of the process, legislation, public information, economic feasibility, food safety, and international trade.

How does ICGFI acquire funding?

Member State governments pledge, or arrange for participants to pledge to make voluntary contributions in cash or in kind, for carrying out the activities of the Consultative Group. The Consultative Group may accept voluntary contributions in cash or in kind from Non-Member State governments and from organizations whose objectives are consistent with those of the Consultative Group.

What are the guidelines for donations to ICGFI?

1. IAEA rules govern the acceptance of gifts of services, equipment, facilities and money.

2. Voluntary contributions may be offered to the Agency by: United Nations Member State governments, intergovernmental organizations and non-governmental sources.

3. Contributions may not exceed US $100,000 or its equivalent per year.

How much does the United States contribute?

Various Departments and Agencies have together contributed $30,000 per year to ICGFI.

How frequently does ICGFI meet?

ICGFI convenes annual meetings to develop technical recommendations and to consider its program of work and budget. At the 10th Annual Meeting held at WHO Headquarters in Geneva from November 2–4, 1993, the group's experts recommended that the ICGFI mandate be extended for a further 5 years until May 1999.

How much longer does ICGFI's mandate last?

Many of the activities set out for ICGFI in the original mandate have been accomplished. However, a Task Force identified six areas of activity in which further work is needed. In October 1998 at the 15th Annual Meeting, the mandate of the ICGFI was extended to another 3 years, *i.e.* May 1999 to May 2002. The ICGFI program will be co-ordinated by a Management Committee and will be refocused, putting emphasis on international trade, information exchange, high dose irradiation and seminars/training.

What kind of training is ICGFI involved with?

An example is the FAO/IAEA/WHO International Conference on Irradiation to Ensure the Safety and Quality of Food, in Antalya, Turkey, October 19–22, 1999. This Conference will review achievements on food irradiation during the 20th century and examine the role of irradiation to ensure the safety and quality of food in trade. Irradiation is increasingly accepted and applied as a sanitary and phytosanitary treatment of food in trade. Currently, some 50 countries have approved one or more irradiated food items or classes of food for consumption and over 30 countries are actually applying the technology in practice. The number of irradiation facilities available for treating food has increased in recent years with many more under construction or planned. Consumers are getting accurate information and are beginning to appreciate the benefit of irradiated food.

Who belongs to ICGFI?

The group is currently composed of the following 47 Member States, more than half of which are developing countries:

Argentina, Australia, Bangladesh, Belgium, Brazil, Bulgaria, Canada, Chile, People's Republic of China, Costa Rica, Cote D'Ivoire, Croatia, Cuba, Czech Republic, Ecuador, Egypt, France, Germany, Ghana, Greece, Hungary, India, Indonesia, Iraq, Israel, Italy, Republic of Korea, Malaysia, Mexico, Morocco, Netherlands, New Zealand, Pakistan, Peru, Philippines, Poland, Portugal, South Africa, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, USA, Vietnam, and Yugoslavia.

Do only government representatives attend ICGFI meetings?

Meetings are attended by designated experts from ICGFI member governments, and representatives of other interested governments, international organizations and non-governmental organizations are invited by ICGFI to attend as observers.

Where is the Secretariat located?

Food & Environmental Protection Section, Joint FAO/IAEA Division of Nuclear Techniques in Food and Agriculture, International Atomic Energy Agency, Wagramerstrasse 5, P.O. Box 100, A–1400 Vienna, Austria. Phone: (43–1) 2600 extension 21638 or 21639; Facsimile: (43–1) 26007; e-mail: Official.Mail@iaea.org

How does ICGFI communicate with all the countries?

There is an ICGFI National Contact Point for each Member State.

What are the responsibilities of ICGFI Contact Points?

1. Distribution within the country of documents, working papers and other information material emanating from ICGFI or its Secretariat;

2. Co-ordinating the preparation for transmission to the Secretariat of technical comments/ information requested;

3. Taking follow-up action on particular matters, in collaboration with the expert(s) attending the particular ICGFI meeting;

4. Providing information, as available, to the Secretariat on the status of food irradiation technology, its regulatory control and other related topics of interest to ICGFI; and

5. Ensuring that information made available by the ICGFI Secretariat is disseminated to the interested national entities/individuals.

Public Meeting: The public meeting will take place at the US Department of Agriculture, 1400 Independence Ave. SW, Washington, DC, Room 5066 South Building. To accommodate all public forum participants, we request that individuals planning to attend should so inform the Department in advance by contacting: Foreign Agricultural Service, International Trade Policy, Food Safety and Technical Services Division, Room 5545, South Building, 1400

Independence Avenue, SW, Washington, DC, 20250, (202) 720–1301; or e-mail ofsts@fas.usda.gov. Please indicate the organization represented, if any, including the names and titles of individuals attending.

Written Comments: Those persons wishing to submit written comments should provide five (5) typed copies to Foreign Agricultural Service, International Trade Policy, Food Safety and Technical Services Division, Room 5545, South Building, 1400 Independence Avenue, SW, Washington, DC. If the submission contains business confidential information, five copies of a confidential version must also be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, any submissions containing business confidential information must be clearly marked ''Confidential'' at the top and bottom of the cover page (or letter) and of each succeeding page of the submission. The version that doe not contain confidential information should also be clearly marked, at the top and bottom of each page, ''public version'' or ''nonconfidential''. Written comments submitted in connection with this request, except for information deemed ''business confidential'' by FAS will be available for public inspection in the USDA Reading Room, Room 1141, USDA South Building, 1400 Independence Avenue, SW, Washington, DC. Normal Reading Room hours are from 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Please call (202) 690–2817 to assure that assistance will be available in the Reading Room.

Dated: September 27, 1999.

Timothy J. Galvin,

Administrator, Foreign Agricultural Service.

[FR Doc. 99–25484 Filed 9–28–99; 9:51 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Forest Service Stewardship Programs Demographics

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to seek approval for a collection of demographic information on non-industrial private forest owners, who participate in the following two Forest Service State and Private Forestry programs: the Forest Stewardship Program and the Stewardship Incentive Program. This demographic information will help ensure that these agency programs serve eligible landowners without regard to race, ethnicity, gender, or disability status.

DATES: Comments must be received in writing on or before November 30, 1999.

ADDRESSES: All comments should be addressed to: Stewardship Coordinator, Cooperative Forestry Staff, Mail Stop 1123, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090.

Comments also may be submitted via facsimile to (202) 205–1271 or by email to: cf/wo@fs.fed.us.

The public may inspect comments received at the Office of the Director, Cooperative Forestry Staff, Forest Service, USDA, 201 14th Street, SW, Washington, D.C. Visitors are urged to call ahead to facilitate entrance into the building.

FOR FURTHER INFORMATION CONTACT: Susan Stein, Cooperative Forestry Staff, at (202) 205–0837.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

The following describes the new information collection:

Title: Stewardship Incentive Program Participant Demographics.

OMB Number: New.

Expiration Date of Approval: New.

Type of request: This is a new information collection that has not received approval from the Office of Management and Budget.

Abstract: The Cooperative Forestry Assistance Act (16 U.S.C., 21 03B) authorizes the Forest Service to provide technical and financial assistance to non-industrial private forest (NIPF) owners under the Forest Stewardship and Stewardship Incentive Programs.

The Forest Stewardship Program is the program that helps NIPF landowners prepare the forest stewardship plans for their land. Landowners need a completed forest stewardship plan to become eligible to receive cost-share dollars under the Stewardship Incentive Program.

The Stewardship Incentive Program is the program that assists NIPF owners with up to 75 percent of the funding on a cost-share basis to implement forest stewardship plan practices. Both programs are administered cooperatively with State forestry agencies.

Under this information collection, participants, enrolled in either of these programs, will be asked by their State forestry or State natural resource agency to voluntarily complete a Stewardship Program Participant Demographics Form. Program participants will answer questions that include their race, their ethnicity, their gender, and whether or not they have a disability.

The data collected will help the Forest Service evaluate the effectiveness of its outreach efforts to involve representative segments of society in Forest Stewardship Program and Stewardship Incentive Program.

The data in this information collection are not available from other sources.

Estimate of burden: 5 minutes.

Type of respondents: Non-industrial private forest owners.

Estimated number of respondents: 18,500.

Estimated number of responses per respondent: 1.

Estimated total annual burden on respondents: 1,542 hours.

Comment is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the stated purpose or the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: September 13, 1999.

Larry Payne,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. 99–25629 Filed 9–30–99; 8:45 am]

BILLING CODE 3410–11–U

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Public Perceptions of Pacific Northwest National Forest System Land Management Practices

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to establish a new information collection. This information will help the Forest Service learn more about the people who live in western Washington, western Oregon, and northern California and who visit the National Forests.

DATES: Comments must be received in writing on or before November 30, 1999.

ADDRESSES: All comments should be addressed to: Linda Kruger, Research Social Scientist, Seattle Forestry Sciences Laboratory, Forest Service, USDA, 4043 Roosevelt Way NE, Seattle, WA 98105.

Comments also may be submitted via facsimile to (206) 553–7709 or by email to lkruger/r6pnw__seattle@fs.fed.us.

The public may inspect comments received at the Office of the Director, Seattle Forestry Sciences Laboratory, Forest Service, USDA, 4043 Roosevelt Way NE, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Linda Kruger, Seattle Forestry Sciences Laboratory, at (206) 553–7817.

SUPPLEMENTARY INFORMATION:

Background

In 1994, the Forest Service adopted the Northwest Forest Plan in response to perceptions the public had that Forest Service land management practices on National Forests in western Washington, western Oregon and northern California might have negative impacts on timber resources and threatened and endangered species, such as the northern spotted owl.

The Northwest Forest Plan includes new guidelines, such as whether or not to harvest trees, and if trees are harvested, the geographic location from which they may be harvested, as well as the methods that may be used to harvest them.

Forest Service personnel now need a better understanding as to whether or not the new guidelines meet the natural resource management expectations of the public.

Description of Information Collection

The following describes the new information collection:

Title: Public Perceptions of New Approaches to Forest Management.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: The following describes a new collection requirement and has not received approval by the Office of Management and Budget.

Abstract: The data from this information collection will help the Forest Service gain a better understanding of the western Washington, western Oregon, and northern California residents' perceptions of the agency's land management practices on the National Forests in these areas, such as how the agency decides where timber harvests will occur and how the agency manages the harvests.

The Forest Service Pacific Northwest Research Station People and Natural Resources Program has entered into a cooperative agreement with the University of Oregon to facilitate this collection of information. University of Oregon staff, in collaboration with Forest Service Pacific Northwest Research Station staff, will write the survey, administer the survey, and analyze the survey results.

Residents in western Washington, western Oregon, and northern California will be asked to view photographs of forests that have been harvested using a variety of harvesting methods; residents also will view photographs of forests that have not been harvested. Interviewers will explain why certain areas were chosen for timber harvesting and the reasons for the specific harvesting method. The residents will indicate their level of approval or disapproval for each photograph, in addition to their perceptions of how a particular harvesting method or lack of harvesting affected the scenic beauty of the area, the wildlife habitat, or the water quality.

Residents will be asked which of the National Forest resources are most important to them: the recreational facilities, the potential economic opportunities, or the aesthetic qualities. Residents also will be asked to respond to questions about their ethnic background, their economic status, their age, their educational level, the type of residence in which they live, and how long they have lived in the Pacific Northwest.

Data gathered in this information collection is not available from other sources.

Estimate of Burden: 20 minutes.

Type of Respondents: Respondents will include people who live in rural and urban settings in western Oregon, western Washington, and northern California, and members of organizations interested in management of the National Forests in western Oregon, western Washington and northern California.

Estimated Number of Respondents: 1700.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 567 hours.

Comment is Invited

The agency invites comments on: (a) whether the proposed collection of information is necessary for the stated purposes or the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) the accuracy of this agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity or the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice, including name and address when provided, will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: September 23, 1999.

Robert Lewis, Jr.,

Deputy Chief for Research & Development.

[FR DOC 99–25630 Filed 9–30–99; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation for the Los Angeles Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces the designation of the California Department of Food and Agriculture (California) to provide official services under the United States Grain Standards Act, as amended (Act) in the Los Angeles area.

EFFECTIVE DATES: October 1, 1999.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, S.W., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, at 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the August 13, 1999, **Federal Register** (64 FR 156), GIPSA announced that Los Angeles Grain Inspection Service, Inc. (Los Angeles) asked GIPSA to cancel their designation August 27, 1999. GIPSA asked persons interested in providing official services in the geographic area formerly assigned to Los Angeles to submit an application for designation. Applications were due by September 13, 1999. California applied for designation to provide official services in the entire Los Angeles area.

Since California was the only applicant, GIPSA did not ask for comments.

GIPSA evaluated all available information regarding the designation criteria in section 7(f)(l)(A) of the Act and, according to section 7(f)(l)(B), determined that California is able to provide official services in the geographic area for which they applied.

California is designated to provide official services in the geographic area specified in the August 13, 1999, **Federal Register**, effective October 1, 1999, and ending January 31, 2000, concurrently with the end of California's present designation.

Interested persons may obtain official services by calling California at 916–654–0743.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: September 23, 1999.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 99–25361 Filed 9–30–99; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Lincoln (NE), Memphis (TN), Omaha (NE), Jamestown (ND), Sioux City (IA), and Fort Dodge (IA) Areas and Request for Comments on the Official Agencies Serving These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end in April and June 2000. GIPSA is asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. GIPSA is also asking for comments on the services provided by these currently designated agencies:

Lincoln Inspection Service, Inc. (Lincoln);
Memphis Grain Inspection Service (Memphis);
Omaha Grain Inspection Service, Inc. (Omaha);
Grain Inspection, Inc. (Jamestown);
Sioux City Inspection and Weighing Service Company (Sioux City); and
A. V. Tischer and Son, Inc. (Tischer).

DATES: Applications and comments must be postmarked or sent by telecopier (FAX) on or before October 30, 1999.

ADDRESSES: Applications and comments must be submitted to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW, Washington, DC 20250–3604. Applications and comments may be submitted by FAX on 202–690–2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications and comments will be made available for public inspection at this address located at 1400 Independence Avenue, SW, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, at 202–720–8525.

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this Action.

Section 7(f)(1) of the United States Grain Standards Act, as amended (Act), authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act.

1. Current Designations Being Announced for Renewal

Official agency	Main office	Designation start	Designation end
Lincoln	Lincoln, NE	5/1/1997	4/30/2000
Memphis	Memphis, TN	5/1/1997	4/30/2000
Omaha	Omaha, NE	5/1/1997	4/30/2000
Jamestown	Jamestown, ND	7/1/1997	6/30/2000
Sioux City	Sioux City, IA	7/1/1997	6/30/2000
Tischer	Fort Dodge, IA	7/1/1997	6/30/2000

a. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Iowa and Nebraska, is assigned to Lincoln.

Bounded on the North (in Nebraska) by the northern York, Seward, and Lancaster County lines; the northern Cass County line east to the Missouri River; the Missouri River south to U.S. Route 34; (in Iowa) U.S. Route 34 east to Interstate 29;

Bounded on the East by Interstate 29 south to the Fremont County line; the northern Fremont and Page County lines; the eastern Page County line south to the Iowa-Missouri State line; the Iowa-Missouri State line west to the Missouri River; the Missouri River south-southeast to the Nebraska-Kansas State line;

Bounded on the South by the Nebraska-Kansas State line west to County Road 1 mile west of U.S. Route 81; and

Bounded on the West (in Nebraska) by County Road 1 mile west of U.S. Route 81 north to State Highway 8; State Highway 8 east to U.S. Route 81; U.S. Route 81 north to the Thayer County line; the northern Thayer County line east; the western Saline County line; the southern and western York County lines.

Lincoln's assigned geographic area does not include the following grain elevators inside Lincoln's area which have been and will continue to be serviced by the following

official agency: Omaha Grain Inspection Service, Inc.: Goode Seed & Grain, McPaul, Fremont County, Iowa; and Lincoln Grain, Murray, Cass County, Nebraska.

b. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Arkansas, Tennessee, and Texas, is assigned to Memphis.

The entire State of Arkansas.

Carroll, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Lauderdale, Madison, McNairy, Shelby, and Tipton Counties, Tennessee.

Bowie and Cass Counties, Texas.

The following grain elevators, located outside of the above contiguous geographic area, are part of this geographic area assignment: Continental Grain Co., Tiptonville, Lake County, Tennessee (located inside Cairo Grain Inspection Agency, Inc.'s, area).

c. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Iowa and Nebraska, is assigned to Omaha.

Bounded on the North by Nebraska State Route 91 from the western Washington County line east to U.S. Route 30; U.S. Route 30 east to the Missouri River; the Missouri River north to Iowa State Route 175; Iowa State Route 175 east to Iowa State Route 37; Iowa State Route 37 southeast to the eastern Monona County line;

Bounded on the East by the eastern Monona County line; the southern Monona County line west to Iowa State Route 183; Iowa State Route 183 south to the Pottawattamie County line; the northern and eastern Pottawattamie County lines; the southern Pottawattamie County line west to M47; M47 south to Iowa State Route 48; Iowa State Route 48 south to the Montgomery County line;

Bounded on the South by the southern Montgomery County line; the southern Mills County line west to Interstate 29; Interstate 29 north to U.S. Route 34; U.S. Route 34 west to the Missouri River; the Missouri River north to the Sarpy County line (in Nebraska); the southern Sarpy County line; the southern Saunders County line west to U.S. Route 77; and

Bounded on the West by U.S. Route 77 north to the Platte River; the Platte River southeast to the Douglas County line; the northern Douglas County line east; the western Washington County line northwest to Nebraska State Route 91.

The following grain elevators, located outside of the above contiguous geographic area, are part of this geographic area assignment: T&K Evans, Elliot, Montgomery County, Iowa; Hemphill Feed & Grain, and Hansen Feed & Grain, both in Griswold, Cass County, Iowa (located inside Central Iowa Grain Inspection Service, Inc.'s, area); Farmers Coop Business Assn., Rising City, Butler County, Nebraska; Farmers Coop Business Assn. (2 elevators), Shelby, Polk County, Nebraska (located inside Fremont Grain Inspection Department, Inc.'s, area); and Goode Seed & Grain, McPaul, Fremont County, Iowa; Lincoln Grain, Murray, Cass County, Nebraska (located inside Lincoln Inspection Service, Inc.'s, area).

Omaha's assigned geographic area does not include the following grain elevators inside Omaha's area which have been and will continue to be serviced by the following official agency: Fremont Grain Inspection Department, Inc.: Farmers Cooperative, and Krumel Grain and Storage, both in Wahoo, Saunders County, Nebraska.

d. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of North Dakota, is assigned to Jamestown.

Bounded on the North by Interstate 94 east to U.S. Route 85; U.S. Route 85 north to State Route 200; State Route 200 east to U.S. Route 83; U.S. Route 83 southeast to State Route 41; State Route 41 north to State Route 200; State Route 200 east to State Route 3; State Route 3 north to U.S. Route 52; U.S. Route 52 southeast to State Route 15; State Route 15 east to U.S. Route 281; U.S. Route 281 south to Foster County; the northern Foster County line; the northern Griggs County line east to State Route 32;

Bounded on the East by State Route 32 south to State Route 45; State Route 45 south to State Route 200; State Route 200 west to State Route 1; State Route 1 south to the Soo Railroad line; the Soo Railroad line southeast to Interstate 94; Interstate 94 west to State Route 1; State Route 1 south to the Dickey County line;

Bounded on the South by the southern Dickey County line west to U.S. Route 281; U.S. Route 281 north to the Lamoure County line; the southern Lamoure County line; the southern Logan County line west to State Route 13; State Route 13 west to U.S. Route 83; U.S. Route 83 south to the Emmons County line; the southern Emmons County line; the southern Sioux County line west State Route 49; State Route 49 north to State Route 21; State Route 21 west to the Burlington-Northern (BN) line; the Burlington-Northern (BN) line northwest to State Route 22; State Route 22 south to U.S. Route 12; U.S. Route 12 west-northwest to the North Dakota State line; and

Bounded on the West by the western North Dakota State line north to Interstate 94.

The following grain elevators, located outside of the above contiguous geographic area, are part of this geographic area assignment: Farmers Coop Elevator, Fessenden, Farmers Union Elevator, and Manfred Grain, both in Manfred, all in Wells County (located inside Grand Forks Grain Inspection Department, Inc.'s, area); and Norway Spur, and Oakes Grain, both in Oakes, Dickey County (located inside North Dakota Grain Inspection Service, Inc.'s, area).

Jamestown's assigned geographic area does not include the following grain elevators inside Jamestown's area which have been and will continue to be serviced by the following official agency: Minot Grain Inspection, Inc.: Benson Quinn Company, Underwood; and Missouri Valley Grain Company, Washburn, all in McLean County.

e. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Iowa, Nebraska, and South Dakota, is assigned to Sioux City.

In Iowa:

Bounded on the North by the northern Iowa State line from the Big Sioux River east to U.S. Route 59;

Bounded on the East by U.S. Route 59 south to B24; B24 east to the eastern O'Brien County line; the O'Brien County line south; the northern Buena Vista County line east to U.S. Route 71; U.S. Route 71 south to the southern Sac County line;

Bounded on the South by the Sac and Ida County lines; the eastern Monona County line south to State Route 37; State Route 37 west to State Route 175; State Route 175 west to the Missouri River; and

Bounded on the West by the Missouri River north to the Big Sioux River; the Big Sioux River north to the northern Iowa State line.

In Nebraska:

Cedar, Dakota, Dixon, Pierce (north of U.S. Route 20), and Thurston Counties.

In South Dakota:

Bounded on the North by State Route 44 (U.S. 18) east to State Route 11; State Route 11 south to A54B; A54B east to the Big Sioux River;

Bounded on the East by the Big Sioux River; and

Bounded on the South and West by the Missouri River.

f. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Iowa, is assigned to Tischer.

Bounded on the North by Iowa-Minnesota State line from U.S. Route 71 east to U.S. Route 169;

Bounded on the East by U.S. Route 169 south to State Route 9; State Route 9 west to U.S. Route 169; U.S. Route 169 south to the northern Humboldt County line; the Humboldt County line east to State Route 17; State Route 17 south to C54; C54 east to U.S. Route 69; U.S. Route 69 south to the northern Hamilton County line; the Hamilton County line west to R38; R38 south to U.S. Route 20; U.S. Route 20 west to the eastern and southern Webster County lines to U.S. Route 169; U.S. Route 169 south to E18; E18 west to the eastern Greene County line; the Greene County line south to U.S. Route 30;

Bounded on the South by U.S. Route 30 west to E53; E53 west to N44; N44 north to U.S. Route 30; U.S. Route 30 west to U.S. Route 71; and

Bounded on the West by U.S. Route 71 north to the Iowa-Minnesota State line.

The following grain elevators, located outside of the above contiguous geographic area, are part of this geographic area assignment: Farmers Co-op Elevator, Boxholm, Boone County (located inside Central Iowa Grain Inspection Service, Inc.'s, area); and West Bend Elevator Co., Algona, Kossuth County; Stateline Coop., Burt, Kossuth County; Gold-Eagle, Goldfield, Wright County; and Farmers Co-op Elevator, Holmes, Wright County (located inside D. R. Schaal Agency's area).

2. Opportunity for Designation.

Interested persons, including Lincoln, Memphis, Omaha, Jamestown, Sioux City, and Tischer, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

DESIGNATION TERMS

Lincoln, Memphis, and Omaha	05/01/2000–03/31/2003
Jamestown, Sioux City, and Tischer	07/01/2000–03/31/2003

3. Request for Comments

GIPSA also is publishing this notice to provide interested persons the opportunity to present comments on the Lincoln, Memphis, Omaha, Jamestown, Sioux City, and Tischer official agencies. Commenters are encouraged to submit pertinent data concerning the Lincoln, Memphis, Omaha, Jamestown, Sioux City, and Tischer official agencies including information on the timeliness, cost, quality, and scope of services provided. All comments must be submitted to the Compliance Division at the above address.

Applications, comments, and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: September 22, 1999.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 99–25360 Filed 9–30–99; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Extend and Revise a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request an extension for and revision to a currently approved information collection, the Agricultural Surveys Program.

DATES: Comments on this notice must be received by December 6, 1999 to be assured for consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4117 South Building, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Surveys Program.

OMB Number: 0535–0213.

Expiration Date of Approval: November 30, 2000.

Type of Request: Intent to extend and revise a currently approved information collection.

Abstract: The National Agricultural Statistics Service is responsible for collecting and issuing state and national estimates of crop and livestock production, grain stocks, farm numbers, land values, on-farm pesticide usage, and pest crop management practices.

The Agricultural Surveys Program contains a series of surveys that obtains basic agricultural data from farmers and ranchers throughout the Nation for preparing agricultural estimates and forecasts of crop acreages, yield, and production; stocks of grains and soybeans; hog and pig numbers; sheep inventory and lamb crop; cattle inventory; and cattle on feed. Grazing fees, land values, pesticide usage, and pest management practices data are also collected.

Uses of the statistical information are extensive and varied. Producers, farm organizations, agribusinesses, state and national farm policy makers, and government agencies are important users of these statistics. Agricultural statistics are used to plan and administer other related Federal and state programs in such areas as consumer protection, conservation, foreign trade, education and recreation.

One important part of this program, the Quarterly Hog Survey, is being revised to discontinue collecting and publishing the market hog inventory by weight groups. Currently, the Quarterly Hog Survey collects information on the inventory of total hogs, breeding hogs, market hogs by weight groups, (under 60 pounds, 60 to 119 pounds, 120–179 pounds, and over 180 pounds); monthly and quarterly sows farrowing and pig crops; and sows farrowing intentions for the coming 6 months in 3-month intervals.

Hog producers have requested that NASS discontinue asking the questions on market hogs by weight groups since it is difficult for them to accurately provide the information. Responses to the weight group questions are often the producers' best estimates since their record keeping systems generally do not readily provide the information. Plans are for the Quarterly Hog Survey to continue to provide information on total market hogs, and monthly and quarterly pig crops. Data users can utilize monthly pig crop data in lieu of marketing hog weight group data to get an indication of hog supplies coming to market over the next six months. Publication of the market hog weight groups will be discontinued starting with the June 23, 2000 Hog Report.

A second revision to the program is the addition of questions regarding sheep and goat losses to predators and non-predators, methods being used to reduce these losses, and the cost of these preventative measures. These additional questions will be asked only in January 2000. Aggregated totals will be provided to the USDA's Animal and Plant Health Inspection Service action agency, Wildlife Services. These data will be used by Wildlife Services to help identify the causes of livestock losses.

The third revision is the addition of three questions to the Fall Area and January Cattle Surveys and one question to the January Sheep and Goat Survey. These questions will be asked annually in selected states. The cattle questions will provide additional detail regarding the expected calf crop and animal slaughter practices. The additional goat question will help differentiate the breeding goals of Angora goat producers between meat and wool production.

The Agricultural Surveys Program has approval from OMB for a 3-year period. NASS intends to request that the program be approved for another 3 years.

These data are collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Farms.

Estimated Number of Respondents: 547,000.

Estimated Total Annual Burden on Respondents: 139,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the 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, such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4162 South Building, Washington, D.C. 20250–2000. 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.

Signed at Washington, D.C., September 13, 1999.

Rich Allen,

Associate Administrator, National Agricultural Statistics Service.

[FR Doc. 99–25515 Filed 9–30–99; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's intention to request an extension for a currently approved information collection in support of the Business and Industry Guaranteed Loan Program.

DATES: Comments on this notice must be received by November 30, 1999, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Rick Bonnet, Senior Commercial Loan Specialist, Business Programs Processing Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3221, 1400 Independence Avenue SW, Washington, DC 20250–3221, Telephone (202) 720–1804, E-mail ''rbonnet@rurdev.usda.gov''.

SUPPLEMENTARY INFORMATION:

Title: Guaranteed Loanmaking—Business and Industry Loans.

OMB Number: 0570–0017.

Expiration Date of Approval: September 30, 1999.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: The purpose of the program is to improve, develop, or finance businesses, industries, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved through bolstering the existing private credit structure through the guaranteeing of quality loans made by lending institutions, thereby providing lasting community benefits. This subpart contains requirements applicable to Business and Industry Loan Program loans administered by the Agency.

Information being collected from lenders on guaranteed loan borrowers is typically collected by lenders. There are no new data collection requirements contained in the renewal notice. In contrast to the burden package approved in 1996, the estimates no longer include burden hours for customary and usual business practices. However, the total burden hours are higher because of a significant increase in the program funding level.

Estimate of Burden: Public reporting for this collection of information is estimated to average 3.4 hours per response.

Respondent: Business or other for-profit; State, Local or Tribal Government.

Estimated Number of Respondents: 6,350.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 6,350.

Estimated Total Annual Burden on Respondents: 21,385 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of RBS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW, Washington, DC 20250–0742. 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: September 15, 1999.

William F. Hagy III,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 99–25552 Filed 9–30–99; 8:45 am]

BILLING CODE 3410–XY–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete a commodity previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 1, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION:

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodity to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity deleted from the Procurement List.

The following commodity has been proposed for deletion from the Procurement List: Cover Assembly, Generator 2805–00–356–1985.

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–25579 Filed 9–30–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities and services previously furnished by such agencies.

EFFECTIVE DATE: November 1, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 2, and 23, August 6, 13, and 20, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 35987, 39968, 42902, 44197, 44198 and 45506) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

3 Pack Nylon Scouring Pad
M.R. 568

''Welcome Aboard'' Baby Gift Bag
M.R. 19525

Services

Commissary Shelf Stocking, Custodial and Warehousing, Fort Knox, Kentucky

Cutting and Assembly of FTESFB System for F–15 1560–01–458–2610 (#3 Fuel Tank), 1560–01–458–6193 (Left Auxiliary Fuel Tank), Robins Air Force Base, Georgia

Switchboard Operation Department of Veterans Affairs New Jersey Health Care System 151 Knollcroft Road Lyons, New Jersey

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities and services.

3. The action may result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities and services are hereby deleted from the Procurement List:

Commodities

Ladder, Extension (Wood) 5440–00–242–1000

Stepladder 5440–00–531–2589

Ammonia Inhalant Solution, Aromatic 6505–00–106–0875

Brush, Floor Sweeping 7920–00–292–2362 7920–00–292–2363 7920–00–292–2365

Brush, Scrub 7920–00–951–8795

Brush, Wire, Scratch 7920–00–269–0933

Brush, Wire, Stainless Steel 7920–00–958–1157

Services

Administrative Services Social Security Administration Oxmoor South Industrial Park Birmingham, Alabama

Commissary Shelf Stocking & Custodial Fort Devens, Massachusetts

Janitorial/Custodial Fort Ritchie, Maryland

Janitorial/Custodial U.S. Federal Building and Courthouse 301 South Park Avenue Helena, Montana

Janitorial/Custodial Allison Park U.S. Army Reserve Center #2 Buildings 1 and 5 Allison Park, Pennsylvania

Janitorial/Custodial, Federal Center Buildings 603, 604, 605, 606, 607, 608, 608A, 609, 610, 611, 612, 613, 613A, 615, 616, 617, 618, 619, 620, 621 and 624 Walla Walla, Washington

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–25580 Filed 9–30–99; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the West Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 5:00 p.m. on October 21, 1999, at the State Capitol Building, Governor's Conference Room (Office of the Secretary of State—Room 157), 1900 Kanawha Boulevard East, Charleston, West Virginia 25305. The Committee will review developments since its two community forums and discuss its future report to the Commission. In preparation for its next forum in Charleston, the Committee will hear from invited guests on civil rights topics, including police-community relations, State and local assistance to persons with disabilities, and religion in public schools.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gregory T. Hinton, 304–367–4244, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 22, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–25523 Filed 9–30–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Census 2000 Accuracy and Coverage Evaluation, Housing Unit and Person Interview Activities.

Form Number(s): D–1301, D–1301(S), D–1301PR, D–1303, D–1303PR, D–1340, D–1340PR, D–1360, D–1360PR, D–1309(L), D–1309(L)(S), D–1309(L)PR, D–31(A.C.E.), D–31(A.C.E.)PR.

Agency Approval Number: Not available.

Type of Request: New collection.

Burden: 103,162 hours.

Number of Respondents: 315,000.

Avg Hours Per Response: 7 minutes.

Needs and Uses: The Census Bureau requests approval from the Office of Management and Budget for clearance of the forms to be used in connection with the housing unit and person interview activities of the Census 2000 Accuracy and Coverage Evaluation (A.C.E.). The A.C.E. is a national survey of sample block clusters within the 50 states, the District of Columbia, and Puerto Rico. The Census Bureau developed the A.C.E. approach for measuring coverage of the population in the decennial census. In A.C.E., we independently count a sample of housing units and the people living in those units, then compare those results to the census. We then use this comparative information to produce final estimates of the coverage for Census 2000. The A.C.E. approach was tested in three sites during the Census 2000 Dress Rehearsal. The A.C.E. was formerly referred to as the Post-Enumeration Survey (PES) in the Census 2000 Dress Rehearsal.

The Independent Listing Operation is the first data collection step in the A.C.E. process. It will be used to obtain a complete housing unit inventory of all addresses within the Census 2000 A.C.E. sample of block clusters before the Census 2000 enumeration commences. The materials for the Independent Listing were approved under OMB control number 0607–0863.

This request is for clearance of the remainder of the Census 2000 A.C.E. activities to be performed. They are: Housing Unit Follow-up; Targeted Extended Search Field Follow-up; CAPI Person Interview; Person Follow-up; and Final Housing Unit Follow-up. The results of these activities will be used to estimate coverage in Census 2000.

Affected Public: Individuals and households.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: 13 USC, Sections 141, 193, and 221.

OMB Desk Officer: Susan Schechter, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: September 28, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–25608 Filed 9–30–99 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Service Annual Survey.

Form Number(s): Numerous.

Agency Approval Number: 0607–0422.

Type of Request: Revision of a currently approved collection.

Burden: 60,072 hours.

Number of Respondents: 78,000.

Avg Hours Per Response: 1 hour 30 minutes.

Needs and Uses: The Census Bureau seeks Office of Management and Budget (OMB) authorization to combine information that is currently collected under three separate surveys into one program. With the implementation of the North American Industry Classification System (NAICS), we plan to combine the Transportation Annual Survey (TAS) (OMB #0607–0798) and the Annual Survey of Communication Services (ASCS) (OMB #0607–0706) into the Service Annual Survey (SAS). This revision also will include industry coverage in sectors not previously covered in SAS. This will facilitate the collection, tabulation, presentation, and data analysis relating to firms. It also will promote uniformity and comparability in the presentation of statistical data describing the economy.

The SAS provides dollar volume estimates of the total output of services sector firms in the United States. The data produced are critical to the accurate measurement of total economic activity. We will collect information for both 1998 and 1999 to ensure a consistent NAICS time series, beginning

with the 1997 Economic Census forward.

The Bureau of Economic Analysis, the primary Federal user, uses survey information to develop the national income and product accounts, compile benchmark and annual input-output tables, and compute gross domestic product (GDP) by industry. The Bureau of Labor Statistics uses these data as inputs to its Producer Price Indexes and in developing productivity measurements. Other Federal agencies use the data for gauging regulatory impact, policy development and program development, management and evaluation. International agencies use the data to compare total domestic output to changing international activity. Private industry also uses these data as a tool for marketing analysis.

Affected Public: Businesses or other for-profit, not-for-profit institutions.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Sections 182, 224, and 225.

OMB Desk Officer: Susan Schechter, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: September 28, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–25609 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke three antidumping duty orders in part.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b) (1997), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on brass sheet and strip from the Netherlands, pure magnesium from Canada and sulfanilic acid from the People's Republic of China.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 2000.

	Period to be reviewed
Antidumping duty proceedings	
Argentina: Oil Country Tubular Goods, A–357–810	8/1/98–7/31/99
Siderca S.A.I.C.	
Belgium: Industrial Phosphoric Acid, A–423–602	8/1/98–7/31/99
Societe Chimique Prayon-Rupel	
Canada: Cut-to-Length Carbon Steel Plate, A–122–823	8/1/98–7/31/99
Stelco, Inc.	
Clayson Steel Inc.	
Canada: Corrosion-Resistant Carbon Steel, A–122–822, Flat Products	8/1/98–7/31/99
Stelco, Inc.,	
Continuous Colour Coat, Ltd.	
Dofasco, Inc.	
Sorevco, Inc.	
DNN Galvanizing Corp.	
Canada: Pure Magnesium, A–122–814	8/1/98–7/31/99
Norsk Hydro Canada Inc.	
France: Industrial Nitrocellulose, A–427–009	8/1/98–7/31/99
Begerac, N.C.	
Germany: Cut-to-Length Carbon Steel Plate, A–428–816	8/1/98–7/31/99
Novosteel SA	
Italy: Grain-Oriented Electrical Steel, A–475–811	8/1/98–7/31/99
Acciai Speciali Terni S.p.A.	
Japan: Certain Corrosion-Resistant Carbon Steel Flat Products, A–588–824	8/1/98–7/31/99
Nippon Steel Corporation	
Kawasaki Steel Corporation	
Japan: Oil Country Tubular Goods, A–588–835	8/1/98–7/31/99
Hallmark Tubulars Ltd.	
Itochu Corporation	
Itochu Project Management Corp.	

	Period to be reviewed
Nippon Steel Corp.	
Sumitomo Metal Industries, Ltd.	
Mexico: Cut-to-Length Carbon Steel Plate, A–202–809	8/1/98–7/31/99
Altos Hornos de Mexico S.A. de C.V.	
Mexico: Gray Portland Cement and Clinker, A–201–802	8/1/98–7/21/99
CEMEX, S.A.. de C.V.	
Cementos de Chihuahua, S.A. de C.V.	
Apasco, S.A. de C.V.	
Mexico: Oil Country Tubular Goods, A–201–817	8/1/98–7/31/99
Hylsa, S.A. de C.V.	
Tubos de Acero de Mexico S.A.	
Republic of Korea: Cold-Rolled Carbon Steel Flat Products, A–580–815	8/1/98–7/31/99
Dongbu Steel Co., Ltd.	
Pohang Iron and Steel Co., Ltd.	
Union Steel Manufacturing Co., Ltd.	
Republic of Korea: Corrosion-Resistant Carbon Steel Flat Products, A–580–816	8/1/98–7/31/99
Dongbu Steel Co., Ltd.	
Pohang Iron and Steel Co., Ltd.	
Union Steel Manufacturing Co., Ltd.	
Republic of Korea: Oil Country Tubular Goods, A–580–825	8/1/98–7/31/99
SeAH Steel Corporation	
Romania: Cut-to-Length Carbon Steel Plate, A–485–803	8/1/98–7/31/99
Sidex, S.A./Metalexportimport, S.A.	
The Netherlands: Brass Sheet & Strip, A–421–701	8/1/98–7/31/99
Outokumpu Copper Strip B.V.	
The Netherlands: Cold-Rolled Carbon Steel Flat Products, A–421–804	8/1/98–7/31/99
Hoogovens Staal BV	
The People's Republic of China: Sulfanilic Acid[1], A–570–815	8/1/98–7/31/99
Boading Mancheng Zhenzing Chemical Plant	
Boading Yude Chemical Co., Ltd.	
The People's Republic of China: Petroleum Wax Candles[2], A–570–504	8/1/98–7/31/99
CNACC (Zhejiang Imports & Export Co., Ltd.	
Shanghai Ornate Candle Art Co., Ltd.	
China Overseas Trading Dalian Corp.	
Jilin Province Arts and Crafts	
China Hebei Boye Great Nation Candle Co., Ltd.	
Taizhou Sungod Gifts Co., Ltd.	
Zhejiang Native Produce & Animal By-Products Import & Export Corp.	
Cnart China Gifts Import & Export Corp.	
Liaoning Light Industrial Products Import & Export Corp.	
Jintan Foreign Trade Corp.	
Jiangsu Yixing Foreign Trade Corp.	
Tonglu Tiandi	
Zhongnam Candle	
China Packaging Import & Export Liaoning Co.	
Kwung's International Trade Co., Ltd.	
Shanghai Gift & Travel Products Imp. & Exp. Corp.	
Liaoning Native Product Import & Export Corporation	
Tianjin Native Produce Imp. & Exp. Group Corp. Ltd.	
Candle World Industrial Co.	
Fu Kit	
Shanghai Zhen Hua	
Universal Candle Company, Ltd.	
The United Kingdom: Cut-to-Length Carbon Steel Plate, A–412–814	8/1/98–7/31/99
British Steel plc	
Countervailing duty proceedings	
Canada: Alloy Magnesium, C–122–815	1/1/98–12/31/98
Norsk Hydro Canada Inc.	
Canada: Pure Magnesium, C–122–815	1/1/98–12/31/98
Norsk Hydro Canada Inc.	
Germany: Cut-to-Length Carbon Steel Plate, C–428–817	1/1/98–12/31/98
Novosteel SA	
Israel: Industrial Phosphoric Acid, C–508–605	1/1/98–12/31/98
Rotem Amfert Negev Ltd.	
Mexico: Cut-to-Length Carbon Steel Plate, C–201–810	1/1/98–12/31/98
Altos Hornos de Mexico S.A. de C.V.	
Republic of Korea: Cold-Rolled Carbon Steel Flat Products, C–580–818	1/1/98–12/31/98
Dongbu Steel Company	
Hyundai Co.	
Pohang Iron and Steel Company	
Union Steel Manufacturing Co., Ltd.	
Republic of Korea: Corrosion-Resistant Carbon Steel Flat Products, C–580–818	1/1/98–12/31/98

	Period to be reviewed
Dongbu Steel Company Hyundai Co. Pohang Iron and Steel Company Union Steel Manufacturing Co., Ltd.	
Suspension agreements	
None.	

[1] If one of the above named companies does not qualify for a separate rate, all other exporters of sulfanilic acid from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[2] If one of the above named companies does not qualify for a separate rate, all other exporters of petroleum wax candles from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 24, 1999.

Bernard T. Carreau,

Deputy Assistant Secretary, Group II for AD/CVD Enforcement.

[FR Doc. 99–25489 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Reviews; Notice

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Five-Year (''Sunset'') Reviews.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year (''sunset'') reviews of the antidumping and countervailing duty orders or suspended investigations listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notices of *Institution of Five-Year Reviews* covering these same orders.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner or Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–1560 or (202) 482–5050, respectively, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

SUPPLEMENTARY INFORMATION:

Initiation of Reviews

In accordance with 19 CFR 351.218 (*see Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998)), we are initiating sunset reviews of the following antidumping and countervailing duty orders or suspended investigations:

DOC case No.	ITC case No.	Country	Product
A–570–815	A–538	China	Sulfanilic Acid.
C–533–807	C–318	India	Sulfanilic Acid.
A–533–806	A–561	India	Sulfanilic Acid.
C–351–812	C–314	Brazil	Hot-Rolled Lead & Bismuth Carbon Steel Products.
A351–811	A–552	Brazil	Hot-Rolled Lead & Bismuth Carbon Steel Products.
A–427–804	A–553	France	Hot-Rolled Lead & Bismuth Carbon Steel Products.
C–427–805	C–315	France	Hot-Rolled Lead & Bismuth Carbon Steel Products.
C–428–812	C–316	Germany	Hot-Rolled Lead & Bismuth Carbon Steel Products.
A–428–811	A–554	Germany	Hot-Rolled Lead & Bismuth Carbon Steel Products.
C–412–811	C–317	United Kingdom	Hot-Rolled Lead & Bismuth Carbon Steel Products.
A–412–810	A–555	United Kingdom	Hot-Rolled Lead & Bismuth Carbon Steel Products.

Statute and Regulations

Pursuant to sections 751(c) and 752 of the Act, an antidumping (''AD'') or countervailing duty (''CVD'') order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) Dumping or a countervailable subsidy, and (2) Material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* and *Sunset Policy Bulletin,* the Department's schedule of sunset reviews, case history information (*e.g.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset internet website at the following address: ''http://www.ita.doc.gov/import__admin/records/sunset/''.

All submissions in the sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303 (1998). Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. We ask that parties notify the Department in writing of any additions or corrections to the list. We also would appreciate written notification if you no longer represent a party on the service list.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306 (*see Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order,* 63 FR 24391 (May 4, 1998)).

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102 (1998)) wishing to participate in the sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(1)(ii). In accordance with the *Sunset Regulations,* if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive a notice of intent to participate from a domestic interested party, the *Sunset Regulations* provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the *Sunset Regulations* for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 (1998) for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (*Sunset Regulations,* 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b) (1998), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

Dated: September 27, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–25622 Filed 9–30–99; 8:45am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–007]

Final Results of Full Sunset Review: Carbon Steel Wire Rod From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Full Sunset Review: Carbon Steel Wire Rod from Argentina.

SUMMARY: On May 28, 1999, the Department of Commerce (''the Department'') published a notice of preliminary results of the full sunset review of the antidumping duty order on carbon steel wire rod from Argentina (64 FR 28975) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). We provided interested parties an opportunity to comment on our preliminary results. We received comments from both domestic and respondent interested parties. As a result of this review, the Department finds that revocation of this order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: October 1, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*'') and in 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-*

year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (*''Sunset Policy Bulletin''*).

Scope

The merchandise subject to this antidumping duty order is carbon steel wire rod from Argentina. This merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7213.20.00, 7213.31.30, 7213.39.00, 7213.41.30, 7213.49.00, and 7213.50.00. Although the item numbers are provided for convenience and customs purposes, the written description remains dispositive.

Background

On May 28, 1999, the Department issued the *Preliminary Results of Full Sunset Review: Carbon Steel Wire Rod from Argentina* (64 FR 28975) (*''Preliminary Results''*). In our preliminary results, we found that revocation of the order would likely result in the continuation or recurrence of dumping. In addition, we preliminarily determined that the magnitude of the margin of dumping likely to prevail if the order were revoked was 119.11 percent for Acindar Industria Argentina de Aceros S.A. (''Acindar'') and all others.

On July 12, 1999, within the deadline specified in 19 CFR 351.209(c)(1)(i), we received comments on behalf of Co-Steel (formerly Raritan River Steel), GS Industries, and North Star Steel Company (collectively, the ''domestic interested parties''), the domestic participants in this review, and on behalf of Acindar, the respondent in this review. On July 15, 1999, within the deadline specified in 19 CFR 351.309(d), the Department received rebuttal comments from the domestic interested parties. We have addressed the comment received below.

Comment

Comment 1: Acindar, in its July 12, 1999, case brief, states that they disagree with the Department's *Preliminary Results* in this sunset proceeding. Acindar argues that the 119.11 percent dumping margin to be reported to the Commission by the Department is not representative of the rate likely to prevail if the order were revoked. Acindar asserts that in a situation where the rate determined in the original investigation is not a rate based on a respondent's own data, as exists in this case, that rate should not be reported by Department. Furthermore, Acindar argues that the only administrative review conducted by the Department in which Acindar's own data was used resulted in a dumping margin of zero.

In addition, Acindar argues that this fifteen year old rate does not reflect the significant changes which have taken place in the industry and market for subject merchandise since the imposition of the order. According to Acindar, the intervention of numerous events—Mercosur, NAFTA, the changes in the Argentine currency, and the substantial changes in the wire rod industry in the United States and worldwide—all greatly weaken any inference that the rate of dumping ''likely to recur'' is the rate hypothesized for Acindar in the early 1980's.

The domestic interested parties, in their July 12, 1999, case brief, stated that they agree with the Department's *Preliminary Results* in this proceeding. With respect to Acindar's assertion, the domestic interested parties, citing the SAA in their July 15, 1999, rebuttal brief, state that the dumping margin from the original investigation is the only rate that properly reflects the behavior of exporters prior to the issuance of the antidumping duty order. According to the domestic interested parties, Acindar's request that the Department select another rate to report to the Commission is in direct contradiction to the SAA. They argue that the rate from the original investigation is the most appropriate to report to the Commission. Lastly, the domestic interested parties argue that the age of margin the Department reports to the Commission is irrelevant and that the rate from the original investigation, regardless of how long ago the order was created, is most probative of the rate likely to prevail because it is the only rate which reflects the behavior of producers and/or exporters absent the discipline of the order.

Department Position: The Department agrees with the domestic interested parties. The Department's *Sunset Regulations* state that we will normally provide the company-specific margin from the investigation for each company regardless of whether the margin was calculated using a company's own information or based on best information available or facts available. As stated in our *Preliminary Results*, the rate assigned to Acindar in the original investigation is the only one which reflects its behavior absent the discipline of the order and therefore is the most appropriate to report to the Commission as the margin likely to prevail if the order were to be revoked. The Department finds no reason to deviate from its stated policy in this proceeding.

As for the zero dumping margin attained by Acindar in the sole administrative review of this order, the Department does not find this rate probative of the margin likely to prevail if the order were to be revoked. In its *Preliminary Results*, the Department noted that the establishment of this zero dumping margin was preceded by a significant reduction in import volumes of the subject merchandise. Furthermore, throughout the life of the order, import volumes have remained substantially below their pre-imposition of the order levels. This strongly suggests to the Department that Acindar had to dramatically reduce its exports of subject merchandise to the United States in order to eliminate dumping and would be unable to sell significant quantities (*e.g.* pre-imposition quantities) of subject merchandise in the United States and maintain a dumping margin of zero. Furthermore, the Department notes that a zero or *de minimis* dumping margin, in itself, does not require the Department to determine that continuation or recurrence of dumping is not likely nor does it indicate to the Department that a zero or *de minimis* margin is the margin likely to prevail if the order were to be revoked. *See* section 772(c)(4)(A) of the Act.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping for the reasons set forth in our preliminary results of review. Furthermore, for the reasons set forth in our preliminary results of review and as discussed above, we find that the margins calculated in the original investigation are probative of the behavior of Argentine producers/exporters of the subject merchandise. As such, the Department will report to the Commission the company-specific and all others rates from the original investigation listed below:

Manufacturer/exporter	Margin (percent)
Acindar	119.11
All Others	119.11

This notice 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 19 CFR 351.305 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 five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: September 27, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–25626 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–815]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Sulfanilic Acid From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: Ocotber 1, 1999.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the antidumping duty administrative review of the antidumping order on sulfanilic acid from the People's Republic of China, covering the period August 1, 1997 through July 31, 1998.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Dana Mermelstein, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–3964 or (202) 482–3208, respectively.

SUPPLEMENTARY INFORMATION: Under section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the ''Act''), the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 120 days after the date on which the notice of preliminary results was published in the **Federal Register**. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit. *See* Memorandum from Joseph A. Spetrini to Robert S. LaRussa (September 22, 1999). Therefore, pursuant to section 751(a)(3)(A) of the Act, the Department is extending the time limit for the final results to no later than March 6, 2000, which is 180 days after the publication date in the **Federal Register** of the notice of preliminary results for this review. The preliminary results were published in the **Federal Register** on September 8, 1999. (64 FR 48788).

Dated: September 22, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–25488 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–054, A–588–604]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Intent to Revoke in-Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to requests by the petitioner and one respondent, the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from Japan (A–588-604), and of the antidumping finding on TRBs, four inches or less in outside diameter, and components thereof, from Japan (A–588–054). The review of the A–588–054 finding covers two manufacturers/exporters and one reseller/exporter of the subject merchandise to the United States during the period October 1, 1997, through September 30, 1998. The review of the A–588–604 order covers three manufacturers/exporters and the period October 1, 1997, through September 30, 1998.

We preliminarily determine that sales of TRBs have been made below the normal value (NV) for all respondents except Fuji. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between United States price and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Charles Ranado (NSK), Stephanie Arthur (Koyo), Deborah Scott (NTN or Fuji), or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone : (202) 482–3518, (202) 482–6312, or (202) 482–2657, 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 Rounds Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (1998).

SUPPLEMENTARY INFORMATION:

Background

On August 18, 1976, the Treasury Department published in the **Federal Register** (41 FR 34974) the antidumping finding on TRBs from Japan, and on October 6, 1987, the Department published the antidumping duty order on TRBs from Japan (52 FR 37352). On October 9, 1998, the Department published the notice of ''Opportunity to Request Administrative Review'' for both TRB cases covering the period October 1, 1997 through September 30, 1998 (63 FR 54440).

In accordance with 19 CFR 351.213 (b)(1), the petitioner, the Timken Company (Timken), requested that we conduct a review of Koyo Seiko Co., Ltd. (Koyo) and NSK Ltd. (NSK) in both the A–588–054 and A–588–604 cases. Timken also requested that we conduct a review of NTN Corporation (NTN) in the A–588–604 TRB case. In addition, Fuji Heavy Industries (Fuji) requested that the Department conduct a review in the A–588–054 case, and in accordance with 19 CFR 351.222(e) requested that this finding be revoked with respect to Fuji. On November 30, 1998, we published in the **Federal Register** a notice of initiation of these antidumping duty administrative reviews covering the period October 1, 1997 through September 30, 1998 (63 FR 65748).

Because it was not practicable to complete these reviews within the normal time frame, on May 7, 1999 we published in the **Federal Register** our notice of the extension of the time limits for both the A–588–054 and A–588–604 1997–98 reviews (64 FR 24577). As a result of this extension, we extended the deadline for these preliminary results to September 20, 1999.

Scope of the Reviews

Imports covered by the A–588–054 finding are sales or entries of TRBs, four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately. This merchandise is classified under Harmonized Tariff Schedule (HTS) item numbers 8482.20.00 and 8482.99.15.

Imports covered by the A–588–604 order include TRBs and parts thereof, finished and unfinished, which are flange, take-up cartridge, and hanger units incorporating TRBs, and roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the A–588–054 finding are not included within the scope of this order, except those manufactured by NTN. This merchandise is currently classifiable under HTS item numbers 8482.20.00, 8482.91.00, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, and 8483.90.80. The HTS item numbers listed above for both the A–588–054 finding and the A–588–604 order are provided for convenience and Customs purposes. The written description remains dispositive.

The period for each 1997–98 review is October 1, 1997, through September 30, 1998. The review of the A–588–054 case covers TRB sales by two manufacturers/exporters (Koyo and NSK) and one reseller/exporter (Fuji). The review of the A–588–604 case covers TRBs sales by three manufacturers/exporters (Koyo, NTN, and NSK).

Duty Absorption

On December 15, 1998, Timken requested that the Department determine with respect to all respondents whether antidumping duties had been absorbed during the POR. This request was filed pursuant to section 751(a)(4) of the Act. Section 751(a)(4) provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter (see also 19 CFR 351.213(j)(1)). Section 751(a)(4) was added to the Act by the URAA.

For transition orders as defined in section 751(c)(6)(C) of the Act, *i.e.*, orders in effect as of January 1, 1995, section 351.213(j)(2) of the Department's antidumping regulations provides that the Department will make a duty-absorption determination, if requested, for any administrative review initiated in 1996 or 1998. This approach ensures that interested parties will have the opportunity to request a duty-absorption determination prior to the time for sunset review of the order under section 751(c) of the Act on entries for which the second and fourth years following an order has already passed. Because the finding and order on TRBs have been in effect since 1976 and 1987, respectively, they are transition orders in accordance with section 751(c)(6)(C) of the Act; therefore, based on the policy stated above, the Department will consider a request for an absorption determination during a review initiated in 1998. Accordingly, we are making a duty-absorption determination as part of these administrative reviews.

The statute provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. In these cases, NTN, Koyo, NSK, and Fuji sold through importers that are affiliated within the meaning of section 771(33) of the Act. Furthermore, we have preliminarily determined that there are margins for the following firms with respect to the percentages of their U.S. sales, by quantity, indicated below:

Manufacturer/exporter reseller	Percentage of U.S. affiliates' sales with dumping margins
For the A–588–054 Case:	
Koyo Seiko	16.46
NSK	19.52
For the A–588–604 Case:	
NTN	33.69
NSK	24.76
Koyo Seiko	98.08

In the case of Koyo, the firm did not respond to our request for further-manufacturing information and the dumping margins for those sales were determined on the basis of adverse facts available (see ''Use of Facts Available'' below). Lacking other information, we find duty absorption on all such sales of further-processed TRBs. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews, 63 FR 2558 (January 15, 1998)(1995–96 TRB Final). Where Koyo's margins were not determined on the basis of adverse facts available (*i.e.*, for non-further manufactured sales), we must presume that duties will be absorbed for those sales which were dumped. *Id.*

With respect to other respondents with affiliated importers for whom we did not apply adverse facts available (NSK and NTN), we must presume that the duties will be absorbed for those sales which were dumped. This presumption of duty absorption can be rebutted with evidence that the unaffiliated purchasers in the United States will pay any ultimately assessed duty. *Id.* However, there is no such evidence on the record. Under these circumstances, we preliminarily find that antidumping duties have been absorbed by NSK and NTN on the percentages of U.S. sales indicated. If interested parties wish to submit evidence that the unaffiliated purchasers in the United States will pay any ultimately assessed duties, they must do so no later than 15 days after publication of these preliminary results.

Because we preliminarily determine that sales of TRBs have not been made below the normal value by Fuji, a duty absorption determination is not applicable.

Verification

As provided in section 782(i) of the Act, we verified information provided by Fuji and NSK, using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports, on file in Room B–099 in the main Commerce building.

Intent To Revoke

On October 30, 1998, Fuji submitted a request, in accordance with 19 CFR 351.222(e), that the Department revoke the order covering TRBs from Japan with respect to its sales of this merchandise. In accordance with 19 CFR 351.222(e), this request was accompanied by certification from Fuji that it had sold the subject merchandise to the United States in commercial quantities at not less than NV for a three-year period, including this review

period,[1] and would not sell subject merchandise at less than NV in the future. Fuji also agreed to its immediate reinstatement in the relevant antidumping order, as long as any firm is subject to the order, if the Department concludes that, subsequent to revocation, it sold the subject merchandise at less than NV.

The Department conducted verifications of Fuji's responses for this period of review. In the two prior reviews of this order, we determined that Fuji sold TRBs from Japan to the United States in commercial quantities at de minimis margins (1995–96 POR) or did not conduct a review with respect to Fuji (1996–97 POR)[2]. See 1995–96 TRB Final and Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews, 63 FR 63860 (November 17, 1998) (1996–97 TRB Final). We preliminarily determine that Fuji sold TRBs at not less than NV during the current review period. Based on Fuji's three consecutive years of zero or de minimis margins and the absence of evidence to the contrary, we preliminarily determine that it is not likely that Fuji will in the future sell TRBs at less than NV. Therefore, if these preliminary findings are affirmed in our final results, we intend to revoke the order on TRBs from Japan with respect to Fuji.

Use of Facts Available

In accordance with section 776(a)(2)(B) of the Act, in these preliminary results we find it necessary to use partial facts available in those instances were a respondent did not provide us with certain information necessary to conduct our analysis. This occurred with respect to certain sales and cost information Koyo failed to report for its sales of U.S. further-manufactured merchandise subject to the A–588–604 order.

On February 17, 1999, Koyo requested that it not be required to submit a response to Section E of our questionnaire regarding its U.S. further-manufactured sales. We informed Koyo on March 11, 1999 that it was required to supply further-manufacturing data by responding to section E of the Department's questionnaire by April 5, 1999. Koyo notified the Department on April 5, 1999 that it would not file a further-manufacturing response. Therefore, as in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews, 63 FR 47455 (January 15, 1998), we have preliminarily determined that, pursuant to section 776(b) of the Act, it is appropriate to make an inference adverse to the interests of Koyo because it failed to cooperate by not responding to the Department's request for information. The Department is authorized, under section 776(b) of the Act, to use an inference that is adverse to the interest of a party if the Department finds that the party has failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. We examined whether Koyo had acted to the best of its ability in responding to our requests for information. We took into consideration the fact that, as an experienced respondent in reviews of the TRB orders, it can reasonably be expected to know which types of information we request in each review. Because Koyo has submitted to the Department in previous TRB reviews complete further-manufacturing responses, we have determined that it failed to act to the best of its ability in providing the data we requested and that adverse inferences are warranted. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Administrative Review, 61 FR 25200, 25202 (May 20, 1996). As a result, we have used the highest rate determined for Koyo from any prior segment of the A–588–604 proceedings as partial adverse facts available, which is secondary information within the meaning of section 776(c) of the Act. See 19 CFR 351.308(c)(1)(iii).

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information used as facts available from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value (see H.R. Doc. 103–316, Vol. 1, at 870 (1994); 19 CFR 351.308(d)).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for calculated margins is administrative determinations. Thus, in an administrative review, if the Department chooses as adverse facts available 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 irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (see Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review, 60 FR 49567 (February 22, 1996), where we disregarded the highest margin in the case as best information available because the margin was based on another company's uncharacteristic business expense resulting in an extremely high margin).

For these preliminary results, we have examined the history of the A–588–604 case and have determined that 41.04 percent, the rate we calculated for Koyo in the 1993–94 A–588–604 review, is the highest rate for this firm in any prior segment of the A–588–604 order. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Administrative Review and Termination in Part, 63 FR 20585, (April 27, 1998). In the absence of information on the administrative record that application of this 41.04 percent rate would be inappropriate, that the margin is not relevant, or that leads us to re-examine this rate as adverse facts available in the instant review, we find the margin

[1] In addition, on March 22, 1999 Fuji provided information to the Department supporting its claim that it sold TRBs to the United States in commercial quantities during this three-year period. That submission included estimated sales information for the 1996–97 POR, during which the Department did not conduct a review of Fuji (see footnote 2). The information provided therein is consistent with the information from both the 1995–96 and current POR, and there is no evidence on the record calling into question Fuji's 1996–97 estimated sales information.

[2] For the 1996–97 POR, Fuji requested and then timely withdrew a request for review. Additionally, petitioner did not request a review of Fuji for this period. Therefore, we rescinded the 1996–97 review for Fuji.

reliable and relevant. As a result, for these preliminary results we have applied as adverse facts available, a margin of 41.04 percent to Koyo's further-manufactured U.S. sales.

Export Price and Constructed Export Price

Because all of Koyo's and NSK's sales and certain of NTN's and Fuji's sales of subject merchandise were first sold to unaffiliated purchasers after importation into the United States, in calculating U.S. price for these sales we used constructed export price (CEP) as defined in section 772(b) of the Act. We based CEP on the packed, delivered price to unaffiliated purchasers in the United States. We made deductions, where appropriate, for discounts, billing adjustments, freight allowances, and rebates. Pursuant to section 772(c)(2)(A) of the Act, we reduced this price for movement expenses (Japanese pre-sale inland freight, Japanese post-sale inland freight, international air and/or ocean freight, marine insurance, Japanese brokerage and handling, U.S. inland freight from the port to the warehouse, U.S. inland freight from the warehouse to the customer, U.S. duty, post-sale warehousing, pre-sale warehousing, and U.S. brokerage and handling). We also reduced the price, where applicable, by an amount for the following expenses incurred in the selling of the merchandise in the United States pursuant to section 772(d)(1) of the Act: commissions to unaffiliated parties, U.S. credit, payments to third parties, U.S. repacking expenses, and indirect selling expenses (which included, where applicable, inventory carrying costs, indirect advertising expenses, and indirect technical services expenses). Finally, pursuant to section 772(d)(3) of the Act, we further reduced U.S. price by an amount for profit to arrive at CEP.

NTN claimed an offsetting adjustment to U.S. indirect selling expenses to account for the cost of financing cash deposits during the POR. For the reasons set out in the 1996–97 TRB Final, we have continued to deny such an adjustment. See 1996–97 TRB Final, 63 FR at 63865.

Because certain of NTN's and Fuji's sales of subject merchandise were made to unaffiliated purchasers in the United States prior to importation into the United States and the CEP methodology was not indicated by the facts of record, in accordance with section 772(a) of the Act we used export price (EP) for these sales. We calculated EP as the packed, delivered price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we reduced this price, where applicable, by Japanese pre-sale inland freight, Japanese post-sale inland freight, international air and/or ocean freight, marine insurance, Japanese brokerage and handling, U.S. brokerage and handling, U.S. duty, and U.S. inland freight.

Where appropriate, in accordance with section 772(d)(2) of the Act, the Department also deducts from CEP the cost of any further manufacture or assembly in the United States, except where the special rule provided in section 772(e) of the Act is applicable. Section 772(e) of the Act provides that, where the subject merchandise is imported by a person affiliated with the exporter or producer and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, and if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate, we shall determine the CEP for such merchandise using the price of identical or other subject merchandise sold by the exporter or producer to an unaffiliated person. If there is not a sufficient quantity of such sales to provide a reasonable basis for comparison, or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine CEP. See sections 772(e)(1) and (2) of the Act.

In judging whether the use of identical or other subject merchandise is appropriate, the Department must consider several factors, including whether it is more appropriate to use another ''reasonable basis.'' Under some circumstances, we may use the standard methodology as a reasonable alternative to the methods described in sections 772(e)(1) and (2) of the Act. In deciding whether it is more appropriate to use the standard methodology, we have considered and weighed the burden on the Department in applying the standard methodology as a reasonable alternative and the extent to which application of the standard methodology will lead to more accurate results. The burden on the Department of using the standard methodology may vary from case to case depending on factors such as the nature of the further-manufacturing process and the finished products. The increased accuracy gained by applying the standard methodology will vary significantly from case to case, depending upon such factors as the amount of value added in the United States and the proportion of total U.S. sales that involve further manufacturing. In cases where the burden on the Department is high, it is more likely that the Department will determine that potential gains in accuracy do not outweigh the burden of applying the standard methodology. Thus, the Department likely will determine that application of the standard methodology is not more appropriate than application of the methods described in paragraphs 772(e)(1) and (2), or some other reasonable alternate methodology. By contrast, if the burden is relatively low and there is reason to believe the standard methodology is likely to be more accurate, the Department is more likely to determine that it is not appropriate to apply the methods described in paragraphs 772(e)(1) or (2) of the Act in lieu of the standard methodology. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews, 62 FR 47452, 47455 (September 9, 1997) (1995–96 TRB Prelim).

With respect to Fuji, its two U.S. affiliates, Subaru of America (SOA) and Subaru-Isuzu Automotive (SIA), both import TRBs into the United States which were first purchased by Fuji from Japanese producers in Japan. SOA imported TRBs during the review period primarily for the purpose of reselling the bearings as replacement parts for Subaru automobiles in the United States. SOA also imported TRB's which were further-manufactured into vehicle transmissions prior to resale to SOA's dealers. In addition, SIA imported TRBs for the sole purpose of using them in its production of Subaru automobiles in the United States, the final product sold by SIA to the first unaffiliated customer in the United States. Based on information provided by Fuji about this further manufacturing, we have determined that the special rule for merchandise with value added after importation under section 772(e) of the Act applies to this respondent.

To determine whether the value added in the United States by SIA and SOA is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the differences between the averages of the prices charged to the first unaffiliated U.S. customer for the final merchandise sold (the automobiles or vehicle transmissions) and the averages of the prices paid for the subject merchandise (the imported TRBs) by the affiliated person. Based on this analysis and information on the record, we determined that the value of the TRBs

further processed by SIA and SOA in the United States was a minuscule amount of the price charged by SIA and SOA to the first unaffiliated customer for the automobiles and vehicle transmissions sold in the United States. See Exhibit A–26 of Fuji's February 11, 1999 questionnaire response. Therefore, we determined that the value added is likely to exceed substantially the value of the subject merchandise. In addition, we have determined that those sales of TRBs made by SOA as replacement parts in the United States, which constitute sales of merchandise identical and/or most similar to those TRBs imported by SIA for use in the manufacture of Subaru automobiles and by SOA for use in the manufacture of vehicle transmissions, were made in sufficient quantities to provide a reasonable basis for comparison. Therefore, for purposes of determining dumping margins for the TRBs entered by SIA used in the production of automobiles and for those entered by SOA to be incorporated into vehicle transmissions, we have used the weighted-average dumping margins we calculated on sales of identical or other subject merchandise sold by SOA as replacement TRBs to unaffiliated persons in the United States. See 19 CFR 351.402(c).

Also, NTN imported subject merchandise (TRB parts) which was further processed in the United States. NTN further manufactured the imported scope merchandise into merchandise of the same class or kind as merchandise within the scope of the A–588–604 order. Based on information provided by NTN in its December 22, 1998 and January 11, 1999 letters to the Department, we first determined whether the value added in the United States was likely to exceed substantially the value of the subject merchandise. We estimated the value added based on the differences between the averages of the prices charged to the first unaffiliated U.S. customer for the final merchandise sold (finished TRBs) and the averages of the prices paid by the affiliated party for the subject merchandise (imported TRB parts), and determined that the value added was likely to exceed substantially the value of the imported TRB parts.

We then examined whether it would be appropriate to use sales of identical or other subject merchandise to unaffiliated persons as a basis for comparison, as stated under paragraphs 772(e)(1) and (2) of the Act. Based on the information provided by NTN in Exhibit A–1 of its February 9, 1999 questionnaire response and its December 22, 1998 letter, we determined that sales of identical or other subject merchandise to unaffiliated persons were in sufficient quantity for the purpose of determining dumping margins for NTN's imported TRBs which were further manufactured in the United States prior to resale. Furthermore, the proportion of NTN's further-manufactured merchandise to its total imports of subject merchandise was relatively low. In NTN's case, any potential gains in accuracy gained from examining NTN's further-manufactured sales are outweighed by the burden of the applying the standard methodology. Accordingly, it would be appropriate to apply one of the methodologies specified in the statute with respect to NTN's imported TRB parts. Therefore, we have used the weighted-average dumping margins we calculated on NTN's sales of identical or other subject merchandise to unaffiliated persons in the United States. See 19 CFR 351.402(c).

With respect to Koyo, while we determined that the value added to the United States was likely to exceed the value of the imported products, we have determined that the use of either of the two proxies specified in the statute is not appropriate. See Facts Available section for further information.

No other adjustments were claimed or allowed.

Normal Value

A. Viability

Based on (1) the fact that each company's quantity of sales in the home market was greater than five percent of its sales to the U.S. market and (2) the absence of any information that a particular market situation in the exporting country does not permit a proper comparison, we determined that the quantity of the foreign like product for all respondents sold in the exporting country was sufficient to permit a proper comparison with the sales of subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like products were first sold for consumption in the exporting country.

B. Arm's-Length Sales

For all respondents we have excluded from our analysis those sales made to affiliated customers in the home market which were not at arm's length. We determined the arm's-length nature of home market sales to affiliated parties by means of our 99.5 percent arm's-length test in which we calculated, for each model, the percentage difference between the weighted-average prices to the affiliated customer and all unaffiliated customers and then calculated, for each affiliated customer, the overall weighted-average percentage difference in prices for all models purchased by the customer. If the overall weighted-average price ratio for the affiliated customer was equal to or greater than 99.5 percent, we determined that all sales to this affiliated customer were at arm's length. Conversely, if the ratio for a customer was less than 99.5 percent, we determined that all sales to the affiliated customer were not at arm's length because, on average, the customer paid less than unaffiliated customers for the same merchandise. Therefore, we excluded all sales to the customer from our analysis. Where we were unable to calculate an affiliated customer ratio because identical merchandise was not sold to both affiliated and unaffiliated customers, we were unable to determine if these sales were at arm's length and, therefore, excluded them from our analysis (see Stainless Steel Wire Rods from France: Preliminary Results of Antidumping Duty Administrative Review, 61 FR 8915 (March 6, 1996).

C. Cost of Production Analysis

Because we disregarded sales that failed the cost test in our last completed A–588–054 review for Koyo and NSK, and in our last completed A–588–604 review for NTN, Koyo, and NSK we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review for these companies may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act (see 1995–96 TRB Final and 1996–97 TRB Final). Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Koyo, NTN, and NSK for both TRB cases.

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (SG&A) and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment. We relied on the home market sales and COP information provided by Koyo, NTN, and NSK except in those instances where the data was not appropriately quantified or valued (see company-specific preliminary results analysis memoranda).

After calculating COP, we tested whether home market sales of TRBs

were made at prices below COP within an extended period of time in substantial quantities and whether such prices permit the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts, or rebates.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's home market sales for a model are at prices less than the COP, we do not disregard any below-cost sales of that model because we determine that the below-cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of a respondent's home market sales of a given model are at prices less than COP, we disregard the below-cost sales because they are (1) made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on comparisons of prices to weighted-average COPs for the POR, were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

The results of our cost test for Koyo, NTN, and NSK indicated that for certain home market models less than 20 percent of the sales of the model were at prices below COP. We therefore retained all sales of these market models in our analysis and used them as the basis for determining NV. Our cost test for these respondents also indicated that within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act), for certain home market models, more than 20 percent of the home market sales were sold at prices below COP. In accordance with section 773(b)(1) of the Act, we therefore excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

D. Product Comparisons

For all respondents we compared U.S. sales with contemporaneous sales of the foreign like product in the home market. We considered bearings identical on the basis of nomenclature and determined most similar TRBs using our sum-of-the-deviations model-match methodology which compares TRBs according to the following five physical criteria: inside diameter, outside diameter, width, load rating, and Y2 factor. For Koyo, NTN, and NSK we used a 20 percent difference-in-merchandise (difmer) cost deviation cap as the maximum difference in cost allowable for similar merchandise, which we calculated as the absolute value of the difference between the U.S. and home market variable costs of manufacturing divided by the U.S. total cost of manufacturing. Because Fuji, a reseller, was unable to provide the variable and total costs of manufacturing for the TRBs they purchased from Japanese producers, it instead provided its acquisition cost for each TRB model purchased from Japanese producers. As a result, consistent with our practice in past TRB reviews for Fuji, we used these acquisition costs as the basis for our 20-percent difmer cap (see, *e.g.*, 1995–96 Prelim, 62 FR at 47458).

E. Level of Trade

To the extent practicable, we determined NV for sales at the same level of trade as the U.S. sales (either EP or CEP). When there were no sales at the same level of trade, we compared U.S. sales to home market sales at a different level of trade. The NV level of trade is that of the starting-price sales in the home market. When NV is based on constructed value (CV), the level of trade is that of the sales from which we derived SG&A and profit.

To determine whether home market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales were at a different level of trade and the differences affected price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we made a level-of-trade adjustment under section 773(a)(7)(A) of the Act. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731 (November 19, 1997).

We determined that for respondents Koyo and NSK, there were two home market levels of trade and one U.S. level of trade (CEP). For Fuji, we determined that only one level of trade existed in the home market and three distinct levels of trade existed in the U.S. market (one CEP and two EP levels of trade). Because there was no home market level of trade equivalent to the U.S. level(s) of trade for Koyo, NSK, and Fuji, and because NV for these firms represented a price more remote from the factory than CEP, we made a CEP offset adjustment to NV. For NTN we found that there were three home market levels of trade and two (EP and CEP) levels of trade in the U.S. Because there were no home market levels of trade equivalent to NTN's CEP level of trade, and because NV for NTN represented a price more remote from the factory than CEP, we made a CEP offset adjustment to NV in our CEP comparisons. We also determined that NTN's EP level of trade was equivalent to one of NTN's home market levels of trade. Because we determined that there was a pattern of consistent price differences due to differences in levels of trade, we made a level of trade adjustment to NV for NTN in our EP comparisons where the U.S. EP sale matched to a home market sale at a different level of trade. For more detailed company-specific descriptions of our level-of-trade analyses for these preliminary results, see the preliminary results analysis memoranda to Robert James, on file in Import Administration's Central Records Unit, Room B–099 of the main Commerce building).

F. Home Market Price

We based home market prices on the packed, ex-factory or delivered prices to affiliated purchasers (where an arm's-length relationship was demonstrated) and unaffiliated purchasers in the home market. We made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparison to EP we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments to NV by deducting home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in EP and CEP calculations. No other adjustments were claimed or allowed.

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find a contemporaneous home market match for the U.S. sale. We calculated CV based on the cost of materials and fabrication employed in producing the subject merchandise, SG&A, and profit. In accordance with 772(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the

ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses. To the extent possible, we calculated CV by LOT, using the selling expenses and profit determined for each LOT in the comparison market. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 351.410 for COS adjustments and LOT differences. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments by deducting home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset commissions in EP and CEP comparisons.

Preliminary Results of Review

As a result of our reviews, we preliminarily determine the following weighted-average dumping margins exist for the period October 1, 1997, through September 30, 1998, to be as follows:

Manufacturer/exporter/ reseller	Margin (percent)
For the A–588–054 Case:	
Koyo Seiko	12.97
Fuji	0.05
NSK	4.03
For the A–588–604 Case:	
Fuji	[3]—
Koyo Seiko	23.20
NTN	20.28
NSK	1.60

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). A party may request a hearing within thirty days of publication. Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument. The Department will issue final results of these administrative reviews, including the results of our analysis of the issues in any such written comments or at a hearing, within 120 days of issuance of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we calculated importer-specific ad valorem assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of these administrative reviews for all shipments of TRBs from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act:

(1) The cash-deposit rates for the reviewed companies will be the rates shown above except that, for firms whose weighted-average margins are less than 0.5 percent and therefore de minimis, the Department shall not require a deposit of estimated antidumping duties;

(2) For previously reviewed or 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 these reviews, a prior review, or the LTFV investigations, 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) If neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate for the A–588–054 case will be 18.07 percent, and 36.52 percent for the A–588–604 case (see Preliminary Results of Antidumping Duty Administrative Reviews; Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan and Tapered Roller Bearings, Four Inches or less in Outside Diameter, and Components Thereof, From Japan, 58 FR 51061 (September 30, 1993)).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 24, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–25620 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–DS–P

[3] No shipments or sales subject to this review. The firm has no rate from any prior segment of this proceeding.

DEPARTMENT OF COMMERCE

International Trade Administration National Renewable Energy Laboratory; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC.

Docket Number: 99–014. Applicant: National Renewable Energy Laboratory, Golden, CO 80401–3393. Instrument: 2 (Two) Anemometer Systems, Model DA–600. Manufacturer: Kaijo-Denki Corp., Japan. Intended Use: See notice at 64 FR 35630, July 1, 1999.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides: (1) A maximum wind speed range of 60 meters per second, (2) Maximum measurement bandwith of 10 Hz, (3) Minimum resolution of 0.005 m/s and (4) Compatibility with currently operating anemometers. The National Oceanographic and Atmospheric Administration advised September 3, 1999 that: (1) These capabilities are pertinent to the applicant's intended purpose and (2) It knows of no domestic

instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99–25621 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Publication of quarterly update to annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared its quarterly update to the annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty during the period April 1, 1999 through June 30, 1999. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Tipten Troidl, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230, telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department of Commerce (the Department) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(g)(b)(4) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies of cheeses that were imported during the period April 1, 1999 through June 30, 1999.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(g)(b)(2) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: September 24, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

APPENDIX.—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

County	Program(s)	Gross [1] Subsidy ($/lb)	Net [2] Subsidy ($/lb)
Austria	European Union Restitution Payments	$.018	$0.18
Belgium	EU Restitution Payments	0.07	0.07
Canada	Export Assistance on Certain Types of Cheese	0.24	0.24
Denmark	EU Restitution Payments	0.17	0.17
Finland	EU Restitution Payments	0.26	0.26
France	EU Restitution Payments	0.15	0.15
Germany	EU Restitution Payments	0.18	0.18
Greece	EU Restitution Payments	0.00	0.00
Ireland	EU Restitution Payments	0.11	0.11
Italy	EU Restitution Payments	0.13	0.13
Luxembourg	EU Restitution Payments	0.07	0.07
Netherlands	EU Restitution Payments	0.10	0.10
Norway	Indirect (Milk) Subsidy	0.32	0.32
	Consumer Subsidy	0.14	0.14
Total		0.46	0.46
Portugal	EU Restitution Payments	0.10	0.10
Spain	EU Restitution Payments	0.11	0.11
Switzerland	Deficiency Payments	0.12	0.12
U.K.	EU Restitution Payments	0.19	0.19

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 99–25617 Filed 9–30–99; 8:45 am]
BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–004]

Final Results of Full Sunset Review: Carbon Steel Wire Rod From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Full Sunset Review: Carbon Steel Wire Rod from Argentina.

SUMMARY: On May 28, 1999, the Department of Commerce (''the Department'') published a notice of preliminary results of the full sunset review of the suspended countervailing duty investigation on carbon steel wire rod from Argentina (64 FR 28978) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). We provided interested parties an opportunity to comment on our preliminary results. We received comments from both domestic and respondent interested parties. As a result of this review, the Department finds that termination of this suspended investigation would be likely to lead to continuation or recurrence of a countervailable subsidy at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: October 1, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) *(''Sunset Regulations'')* and in 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) *(''Sunset Policy Bulletin'').*

Scope

The merchandise subject to this suspended countervailing duty investigation is carbon steel wire rod, both high carbon and low carbon, manufactured in Argentina and exported, directly or indirectly from Argentina to the United States. The term ''carbon steel wire rod'' covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inches nor over 0.74 inches in diameter, not tempered, not treated, and not partly manufactured, and valued at over 4 cents per pound. As of the publication of the last administrative review,[1] the merchandise subject to this order was classifiable under item numbers 7213.20.00, 7213.31.30, 7213.39.00, 7213.41.30, 7213.49.00, and 7213.50.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description remains dispositive.

Background

On May 28, 1999, the Department issued the *Preliminary Results of Full Sunset Review: Carbon Steel Wire Rod from Argentina* (64 FR 28978) *(''Preliminary Results'').* In our preliminary results, we found that termination of the suspended investigation would be likely to lead to continuation or recurrence of a countervailable subsidy. Further, we found that the net countervailable subsidy likely to prevail if the suspended investigation were terminated is 5.36 percent ad valorem, the subsidy rate determined in the suspended investigation. Additionally, we found that each of the three programs (the reembolso, pre-export financing, and post-export financing) fall within the definition of an export subsidy under Article 3.1(a) of the 1994 WTO Agreement on Subsidies and Countervailing Measures (''Subsidies Agreement'').

On July 12, 1999, within the deadline specified in 19 CFR 351.309(c)(1)(i), we received comments on behalf of Co-Steel (formerly Raritan River Steel), GS Industries, and North Star Steel Company (collectively, the ''domestic interested parties''), the domestic participants in this review, and on behalf of Acindar Industria Argentina de Aceros S.A. (''Acindar''), the respondent in this review. On July 15, 1999, within the deadline specified in 19 CFR 351.309(d), the Department received rebuttal comments from the domestic interested parties. We have addressed the comments received below.

Comments

Comment 1: In its July 12, 1999, case brief, Acindar states that it disagrees with the Department's *Preliminary Results* in this sunset proceeding. Acindar states that, in the Department's *Preliminary Results,* we noted that Communique A–1807 ''totally suspended'' pre-export (as well post-export) financing as of March 8, 1991. Acindar argues that a suspension of this duration can hardly be considered temporary and that the Department should conclude that the subsidy attributable to pre- and post-export financing is zero and, consequently, reduce its final net countervailable subsidy rate to zero.

In their July 12, 1999, case brief, the domestic interested parties state that they agree with the Department's *Preliminary Results* in this proceeding. With respect to Acindar's assertion, the domestic interested parties argue that Acindar and the Government of Argentina have presented no evidence that pre- and post-export financing subsidy programs have been terminated. According to the domestic interested parties, because the programs are in place, their temporary suspension strongly suggests that subsidies would recur if the suspended investigation were terminated.

Department Position: The Department agrees with the domestic interested parties. Acindar and the Government of Argentina have presented no evidence to indicate that pre- and post-export financing programs have been eliminated. The Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, vol. I (''SAA''), at 888, states that temporary suspension or partial termination of a subsidy program will be probative of continuation or recurrence of countervailable subsidies. We acknowledge that, as a result of the suspension agreement, as amended, the pre-export and post-export financing programs have been suspended for producers of subject merchandise since 1982 and 1986, respectively. However, the Department notes that the suspension of a program is not the same as the termination of a program. Programs which have been suspended, and not officially terminated through legislative action, are more likely to be

[1] *See Carbon Steel Wire Rod from Argentina; Final Results of Countervailing Duty Administrative Review,* 56 FR 40309 (August 14, 1991).

reinstated. Communique A–1807 was a decree suspending pre- and post-export financing, not terminating these programs. Therefore, absent evidence from Acindar and/or the Government of Argentina that pre- and post-export financing programs have been terminated by legislative action, the Department finds that there is a likelihood of continuation or recurrence of countervailable subsidy if the suspended investigation were terminated.

Comment 2: Acindar quotes the Department's *Preliminary Results,* stating ''the rebate system was changed to cover only the reimbursements of indirect local taxes and does not cover import duties, except reimbursement of duties paid on imported products which are re-exported. Additionally, the Department found that the rates of reimbursement were reduced by 33 percent for all products * * *'' According to Acindar, this statement indicates that whatever net countervailable subsidy formerly existed by reason of the reembolso no longer can exist. To reflect this fact, Acindar requests that the Department readjust its final net countervailable subsidy.

The domestic interested parties argue that Acindar and the Government of Argentina have presented no evidence that the reembolso program has been terminated. They further argue that the Department found, in an administrative review of oil country tubular goods, that the legal structure of the reembolso program had been altered. However, they claim the Government of Argentina has not terminated the program. Domestic interested parties also contend that, according to the SAA at 888, even partial termination of a subsidy program is probative of a recurrence of countervailable subsidies. According to the domestic interested parties, because the reembolso program continues to exist, the Department should find that there is a likelihood of continuation or recurrence of a countervailable subsidy.

Department Position: The Department agrees with the domestic interested parties. Acindar and the Government of Argentina have presented no evidence to indicate that the reembolso program has been terminated. In fact, the reembolso program continues to exist, but, as noted in the final results of the 1991 administrative review of the countervailing duty order on oil country tubular goods from Argentina, has been modified to cover only reimbursements of indirect local taxes, and no longer covers import duties, except reimbursement of duties paid on imported products which are re-exported.[2] This modification of the reembolso program is in no way tantamount to a termination and does not preclude additional modifications to the program. Because Acindar and/or the Government of Argentina have submitted no evidence that this program has been terminated and that its reinstatement is not likely, the Department finds that there is a likelihood of continuation or recurrence of countervailable subsidy if the suspended investigation were terminated.

Comment 3: Acindar argues that the Department's distinction between countervailing duty orders and suspension agreements, with respect to *Ceramica,*[3] is weak. Acindar argues that the only incentive to enter into a suspension agreement is the threat of countervailing duties. Since the threat of such duties absent an injury determination disappeared when Argentina achieved ''country under the agreement'' status, the suspension agreement should likewise lapse.

The domestic interested parties argue that *Ceramica* did not address the issue of suspension agreements or their administrability by the Department. According to the domestic interested parties, *Ceramica* addressed only the Department's authority to assess countervailing duties on imports that did not receive an injury test. The Department is not assessing countervailing duties, but rather administering a negotiated agreement between the governments of Argentina and the United States. Therefore, according to the domestic interested parties, the findings in *Ceramica* are irrelevant to this sunset review.

Department Position: The Department agrees with the domestic interested parties. As discussed in the Department's *Preliminary Results, Ceramica* addresses the Department's authority to assess countervailing duties on imports where the Commission made no injury determination with respect to those imports. Accordingly, the findings in *Ceramica* do not inform this sunset analysis. The Department is not assessing countervailing duties with respect to subject merchandise. In fact, the Department terminated the suspension of liquidation as a result of the conclusion of this agreement.

[2] *See Oil Country Tubular Goods from Argentina; Final Results of Countervailing Duty Administrative Review,* 62 FR 55589 (October 27, 1997) (affirming the preliminary determination).

[3] *See Ceramica Regiomontana* v. *United States,* 64 F.3d 1579 (Fed. Cir. 1995) (''*Ceramica*'').

Final Results of Review

As a result of this review, the Department finds that termination of the suspended countervailing duty investigation would be likely to lead to continuation or recurrence of a countervailable subsidy for the reasons set forth in the preliminary results of our review. Furthermore, for the reasons set forth in our preliminary results of review and, as discussed above, we find that the net countervailing duty rate of 5.36 percent *ad valorem* is the rate likely to prevail if the suspended investigation were terminated. Finally, we continue to find that the reembolso, pre-export financing, and post-export financing programs, because receipt of benefits is contingent upon export, fall within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement.

This notice 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 19 CFR 351.305 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 five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: September 27, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–25625 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–831]

Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Certain Cold Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos or Dana Mermelstein, Office of CVD/AD Enforcement VII, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street

and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–1394 and (202) 482–3208 respectively.

PRELIMINARY DETERMINATION: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies have been provided to producers and/or exporters of certain cold-rolled flat-rolled carbon-quality steel products from Brazil. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corporation, Gulf States Steel Inc., Ispat Inland, Inc., LTV Steel Company, Inc., National Steel Corporation, Steel Dynamics Inc., U.S. Steel Group (a unit of USX Corporation), Weirton Steel Corporation, the Independent Steelworkers of America and the United Steelworkers of America (collectively, ''the petitioners'').

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see* Notice of Initiation of Countervailing Duty Investigations: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil, Indonesia, Thailand, and Venezuela, 64 FR 34204 (June 25, 1999) (*Initiation Notice*)), the following events have occurred. On June 25, 1999, we issued countervailing duty questionnaires to the Government of Brazil (GOB) and the producers/exporters of the subject merchandise (cold-rolled flat-rolled carbon-quality steel products, or ''cold-rolled steel''). On August 3, 1999, we received responses to our initial questionnaires from the GOB and the producers/exporters of the subject merchandise: Companhia Siderugica Nacional (CSN), Usinas Siderugicas de Minas Gerais (USIMINAS) and Companhia Siderurgica Paulista (COSIPA). Acesita-Cia Acos Especiais Itabira entered an appearance on July 16, 1999, stating that it had not exported subject merchandise to the United States during the POI. On August 24, 1999, we issued a supplemental questionnaire to the GOB and received the response on September 13, 1999. We issued a second supplemental questionnaire on September 20, 1999, and received the response on September 23, 1999.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) carbon steel flat products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider, (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10 times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedules of the United States (HTSUS), are products in which (1) iron predominates, by weight, over each of the other contained elements, (2) the carbon content is 2 percent or less, by weight, and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium (also called columbium), or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- SAE grades (formerly also called AISI grades) 2300 and higher;
- Ball bearing steels, as defined in the HTSUS;
- Tool steels, as defined in the HTSUS;
- Silico-manganese steel, as defined in the HTSUS;
- Grain-oriented silicon electrical steel;
- Non-grain-oriented silicon electrical steel with a silicon level exceeding 2.25 percent;
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).

The merchandise subject to this investigation is typically classified in the HTSUS at subheadings: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2550, 7209.18.6000. 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6075, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.19.0000, 7225.50.6000, 7225.50.7000, 7225.50.8010, 7225.50.8015, 7225.50.8085, 7225.99.0090, 7226.19.1000, 7226.19.9000, 7226.92.5000, 7226.92.7050, 7226.92.8050, and 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the

regulations codified at 19 C.F.R. Part 351 (1998) and to the substantive countervailing duty regulations published in the **Federal Register** on November 25, 1998 (63 FR 65348) (CVD Regulations).

Injury Test

Because Brazil is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Brazil materially injure, or threaten material injury to, a U.S. industry. On July 30, 1999, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Brazil of the subject merchandise (64 FR 41458). The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 19, 1999. The views of the Commission are contained in USITC Publication 3214 (July 1999), entitled Certain Cold-Rolled Steel Products from Argentina, Brazil, China, Indonesia, Japan, Russia, Slovakia, South Africa, Taiwan, Thailand, Turkey, and Venezuela: Investigations Nos. 701–TA–393–396 and 731–TA–829–840 (Preliminary).

Alignment With Final Antidumping Duty Determination

On September 16, 1999, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. *See Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Brazil, the People's Republic of China, Indonesia, Japan, the Russian Federation, Slovakia, South Africa, Taiwan, Thailand, Turkey, and Venezuela,* 64 FR 34194 (June 22, 1999). In accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the antidumping investigations of certain cold-rolled flat-rolled carbon-quality steel products.

Period of Investigation

The period of investigation for which we are measuring subsidies (the POI) is calendar year 1998.

Company Histories

USIMINAS was founded in 1956 as a venture between the Brazilian Government, various stockholders and Nippon Usiminas. In 1974, the majority interest in USIMINAS was transferred to SIDERBRAS, the government holding company for steel interests. The company underwent several expansions of capacity throughout the 1980s. In 1990, SIDERBRAS was put into liquidation and the GOB decided to include its operating companies, including USIMINAS, in its National Privatization Program (NPP). In 1991, USIMINAS was partially privatized; as a result of the initial auction, Companhia do Vale do Rio Doce (CVRD), a majority government-owned iron ore producer, acquired 15 percent of USIMINAS's common shares. In 1994, the Government disposed of additional holdings, amounting to 16.2 percent of the company's equity. USIMINAS is now owned by CVRD and a consortium of private investors, including Nippon Usiminas, Caixa de Previdencia dos Funcionarios do Banco do Brasil (Previ) and the USIMINAS Employee Investment Club. CVRD was partially privatized in 1997, when 31 percent of the company's shares were sold.

COSIPA was established in 1953 as a government-owned steel production company. In 1974, COSIPA was transferred to SIDERBRAS. Like USIMINAS, COSIPA was included in the NPP after SIDERBRAS was put into liquidation. In 1993, COSIPA was partially privatized, with the GOB retaining a minority of the preferred shares. Control of the company was acquired by a consortium of investors led by USIMINAS. In 1994, additional government-held shares were sold, but the GOB still maintained approximately 25 percent of COSIPA's preferred shares. During the POI, USIMINAS owned 49.8 percent of the voting capital stock of the company. Other principal owners include Bozano Simonsen Asset Management Ltd., the COSIPA Employee Investment Club, and COSIPA's Pension Fund (FEMCO).

CSN was established in 1941 and commenced operations in 1946 as a government-owned steel company. In 1974, CSN was transferred to SIDERBRAS. In 1990, when SIDERBRAS was put into liquidation, the GOB included CSN in its NPP. In 1991, 12 percent of the equity of the company was transferred to the CSN employee pension fund. In 1993, CSN was partially privatized; CVRD, through its subsidiary Vale do Rio Doce Navegacao S.A. (Docenave), acquired 9.4 percent of the common shares. The GOB's remaining share of the firm was sold in 1994. CSN is now owned by Docenave/CVRD and a consortium of private investors, including Uniao Comercio e Partipacoes Ltda., Textilia S.A., Previ, the CSN Employee Investment Club, and the CSN employee pension fund. As discussed above, CVRD was partially privatized in 1997; CSN was part of the consortium that acquired control of CVRD through this partial privatization.

Attribution of Subsidies

The GOB has identified three producers/exporters of the subject merchandise in this investigation: USIMINAS, COSIPA, and CSN. As discussed above, USIMINAS owns 49.8 percent of COSIPA. The CVD Regulations, at section 351.525(b)(6)(ii) provide guidance with respect to the attribution of subsidies between or among companies which have cross-ownership. Specifically, with respect to two or more corporations producing the subject merchandise which have cross-ownership, the regulations direct us to attribute the subsidies received by either or both corporations to the products produced by both corporations. Further, section 351.525(b)(6)(vi) defines cross-ownership as existing ''between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. Normally, this standard will be met where there is a majority voting ownership interest between two corporations through common ownership of two (or more) corporations.'' The preamble to the CVD Regulations identifies situations where cross-ownership may exist even though there is less than a majority voting interest between two corporations: ''in certain circumstances, a large minority interest (for example, 40 percent) or a ''golden share'' may also result in cross-ownership'' (63 FR at 65401).

In this investigation, we have preliminarily determined that USIMINAS's 49.8 percent ownership interest in COSIPA is sufficient to establish cross-ownership between the two companies because USIMINAS is capable of using or directing the individual assets of COSIPA in essentially the same ways it can use its own assets. We base this determination on the following facts: (1) USIMINAS has virtually a majority share in COSIPA; and (2) the remaining shareholdings are divided among numerous shareholders (more than ten), with no one shareholder controlling even one-quarter of the shares which USIMINAS controls. Thus, for purposes of this preliminary determination, we have calculated one subsidy rate for USIMINAS/COSIPA, by adding together their countervailable subsidies during

the POI and dividing that amount by the sum of the two companies' sales during the POI.

We have also examined the ownership of CSN. We note that during the POI, two entities, CVRD and Previ (the pension fund of the Bank of Brasil), had meaningful holdings in both USIMINAS and CSN. As these entities both have ownership interests in and elect members to the Boards of Directors of both companies, we examined whether CSN and USIMINAS could, notwithstanding the absence of direct cross-ownership between them, have cross-ownership such that their interests are merged, and one company could have the ability to use or direct the assets of the other through their common investors. CVRD holds 15.48 percent of USIMINAS and 10.3 percent of CSN (through Docenave); Previ holds 15 percent of the common shares of USIMINAS and 13 percent of CSN. Both USIMINAS and CSN are controlled through shareholders' agreements, which require the participating shareholders (who account for more than 50 percent of the shares of the company) pre-vote issues before the Board of Directors and vote as a block. While CVRD and Previ both participate in the CSN shareholders' agreement, and thus exercise considerable influence over the use of CSN's assets, neither CVRD or Previ participates in the USIMINAS shareholders' agreement and neither CVRD or Previ has any appreciable influence (beyond their respective 15.48 and 15 percent USIMINAS shareholdings) over the use of USIMINAS's assets. Therefore, CVRD's and Previ's shareholdings in both USIMINAS and CSN are not sufficient to establish cross-ownership between those two companies under our regulatory standard. This lack of common majority shareholders leads us to preliminarily determine that USIMINAS's and CSN's interests have not merged, *i.e.*, one company is not able to use or direct the individual assets of the other as though the assets were their own. Thus, for the purposes of this preliminary determination, we have calculated a separate countervailing duty rate for CSN.

Changes in Ownership

In the *General Issues Appendix* (*GIA*), attached to the *Final Affirmative Countervailing Duty Determination; Certain Steel Products from Austria*, 58 FR 37217, 37226 (July 9, 1993), we applied a new methodology with respect to the treatment of subsidies received prior to the sale of the company (privatization).

Under this methodology, we estimate the portion of the company's purchase price which is attributable to prior subsidies. We compute this by first dividing the face value of the company's subsidies by the company's net worth for each of the years corresponding to the company's allocation period, ending one year prior to the privatization. We then take the simple average of these ratios, which serves as a reasonable surrogate for the percentage that subsidies constitute of the overall value, *i.e.*, net worth, of the company. Next, we multiply the purchase price of the company by this average ratio to derive the portion of the purchase price that we estimate to reflect the repayment of prior subsidies. Then, we reduce the benefit streams of the prior subsidies by the ratio of the repayment/reallocation amount to the net present value of all remaining benefits at the time of the change in ownership.

In the current investigation, we are analyzing the privatizations of USIMINAS, COSIPA and CSN, including the various partial privatizations. In conducting these analyses, to the extent that partially government-owned companies purchased shares, we have not applied our methodology to a percentage of the acquired shares equal to the percentage of government ownership in the partially government-owned purchaser. We have adjusted certain figures included in the privatization calculations to account for inflationary accounting practices. Further, we have made additional adjustments to USIMINAS and CSN's calculations to account for CVRD's 1997 partial privatization. *See Brazil Hot-Rolled Final* at 38745, 38752 (Department's Position on Comment 3).

In the *Brazil Hot-Rolled Final,* we noted the use of privatization currencies, *i.e.*, certain existing government bonds, privatization certificates and frozen currencies, and examined them in the context of our privatization methodology. We obtained information about the use and valuation of the privatization currencies that were used in the NPP, and we learned about how privatization currencies were valued in the context of the privatization auctions. Specifically, we found that the GOB accepted most of these currencies at their full redeemable value (face value discounted according to the time remaining until maturity). Additionally, foreign debt and restructuring bonds (MYDFAs) were accepted at 75 percent of their redeemable value. Many of the government bonds that were accepted as privatization currencies were trading at a discount on secondary markets. However, no data or estimation of what discounts applied was provided for the record. *See Brazil Hot-Rolled Final* at 38745. Further, it was common knowledge that these bonds traded at a discount in these markets, and that investors actively traded to obtain the cheapest bonds in order to maximize their positions in the privatization auctions. The value of the bonds varied depending on the instrument's yield and length to maturity and traded within a range of 40 percent to 90 percent of the redeemable value, *i.e.*, with a discount ranging from 10 percent to 60 percent. Because various issues of bonds were accepted as privatization currencies, with different yields and terms, precise valuation data was not available. However, public information from the record of the hot-rolled investigation subsequently placed on the record of this investigation, indicates that during the period of 1991–1994 most bonds traded with discounts ranging from 40 to 60 percent on average. Privatization Certificates (CPs), which banks were forced to purchase and could only be used in the privatization auctions, traded at a discount of approximately 60 percent on average. *See Brazil Hot-Rolled Final,* 64 FR at 38745.

In the hot-rolled investigation, we concluded that some adjustment to the purchase price of the companies is warranted because of the use of privatization currencies in the auctions. *See Brazil Hot-Rolled Final,* at 38745, 38752 (the Department's Position on Comment 3). No further information has been provided in the record of this investigation which would enable us to refine or otherwise cause us to change the approach we developed in the hot-rolled investigation. Thus, we have followed the same approach and have applied a 30 percent discount to the MYDFAs. In addition, as we did in the hot-rolled investigation, we have applied a 60 percent discount to the CPs. *See Id.* For the remaining privatization currencies, in the *Brazil Hot-Rolled Final,* we applied a 50 percent discount as facts available, which reflected an average of the range of discounts estimated. Because no information has been provided to date in this investigation which accurately indicates the relevant secondary market discounts for these instruments, and in accordance with section 776(a) of the Act, we are again applying, as facts available, the 50 percent discount to the remaining privatization currencies.

Subsidies Valuation Information:

Allocation Period

Section 351.524(d)(2) of the CVD Regulations states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System and updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

No company requested or submitted information which yielded a company-specific AUL significantly different from the AUL listed in the IRS tables. Therefore, we are using the 15 year AUL as reported in the IRS tables to allocate non-recurring subsidies under investigation in the preliminary calculations.

Equityworthiness

In measuring the benefit from a government equity infusion, in accordance with section 351.507 (a)(1) of the Department's CVD Regulations, a government-provided equity infusion confers a benefit to the extent that the investment decision is inconsistent with the usual investment practice of private investors, including the practice regarding the provision of risk capital, in the country in which the equity infusion is made. *See also* section 771(5)(E)(i) of the Act. Our review of the record in this investigation has not led us to change our finding from prior investigations. Specifically, we determined an unequityworthy status: (1) for COSIPA, 1977 through 1989, and 1992 through 1993; (2) for USIMINAS, 1980 through 1988; and (3) for CSN, 1977 through 1992. *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Brazil,* 58 FR 37295, 37297 (July 9, 1993) (*1993 Certain Steel Final); Brazil Hot-Rolled Final,* 64 FR at 38746. We note that because the Department determined that it is appropriate to use a 15-year allocation period for non-recurring subsidies, equity infusions provided in the years 1977 through 1983 no longer provide a benefit in the POI. No new information has been submitted in this investigation that would cause us to reconsider these determinations.

Section 351.507(a)(3) of the Department's CVD Regulations provides that a determination that a firm is unequityworthy constitutes a determination that the equity infusion was inconsistent with usual investment practices of private investors. The Department will then apply the methodology described in section 351.507(a)(6) of the regulations, and treat the equity infusion as a grant. Use of the grant methodology for equity infusions into an unequityworthy company is based on the premise that an unequityworthiness finding by the Department is tantamount to saying that the company could not have attracted investment capital from a reasonable investor in the infusion year based on the available information.

Creditworthiness

To determine whether a company is uncreditworthy, the Department must examine whether the firm could have obtained long-term loans from conventional commercial sources based on information available at the time of the government-provided loan. *See* section 351.505 (a)(4) of the CVD Regulations. In this context, the term ''commercial sources'' refers to bank loans and non-speculative grade bond issues. *See* section 351.505 (a)(2)(ii) of the CVD Regulations.

The Department has previously determined that respondents were uncreditworthy in the following years: USIMINAS, 1983–1988; COSIPA, 1983–1989 and 1991–1993; and CSN 1983–1992. *See Certain Steel from Brazil,* 58 FR at 37297; *Brazil Hot-Rolled Final,* 64 FR at 38746–38747. No new information has been presented in this investigation that would lead us to reconsider these findings.

Discount Rates

From 1984 through 1994, Brazil experienced persistent high inflation. There were no long-term fixed-rate commercial loans made in domestic currencies during those years that could be used as discount rates. As in the *Certain Steel Final* (58 FR at 37298) and the *Brazil Hot-Rolled Final* (64 FR 38745–38746), we have determined that the most reasonable way to account for the high inflation in the Brazilian economy through 1994, and the lack of an appropriate Brazilian discount rate, is to convert the non-recurring subsidies into U.S. dollars. If available, we applied the exchange rate applicable on the day the subsidies were granted, or, if unavailable, the average exchange rate in the month the subsidies were granted. Then we applied, as the discount rate, a long-term dollar lending rate. Therefore, for our discount rate, we used data for U.S. dollar lending in Brazil for long-term non-guaranteed loans from private lenders, as published in the World Bank Debt Tables: External Finance for Developing Countries. This conforms with our practice in *Certain Steel Final* (58 FR at 37298); *Brazil Hot-Rolled Final* (64 FR at 38746) and *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela* (62 FR 55014, 55019, 55023) (October 21, 1997).

Because we have determined that USIMINAS, COSIPA, and CSN were uncreditworthy in the years in which they received equity infusions, section 351.505 (a)(3)(iii) of the CVD Regulations directs us regarding the calculation of a discount rate for purposes of calculating the benefits for uncreditworthy companies.

To calculate the discount rate for uncreditworthy companies, the Department must identify values for the probability of default by uncreditworthy and creditworthy companies. For the probability of default by an uncreditworthy company, we normally rely on the average cumulative default rates reported for the Caa to C-rated category of companies as published in Moody's Investors Service, ''Historical Default Rates of Corporate Bond Issuers, 1920–1997'' (February 1998).[1] For the probability of default by a creditworthy company, we used the cumulative default rates for Investment Grade bonds as reported by Moody's. We established that this figure represents a weighted average of the cumulative default rates for Aaa to Baa-rated companies. *See* September 24, 1999, Memorandum to the File, ''Conversations and correspondence regarding the weighted average default rates of corporate bond issuers as published by Moody's,'' on file in the CRU. The use of the weighted average is appropriate because the data reported by Moody's for the Caa to C-rated companies is also a weighted average. *See Id.* For non-recurring subsidies, we used the average cumulative default rates for both uncreditworthy and creditworthy companies based on a 15-year term, since all of the non-recurring subsidies examined were allocated over a 15-year period.

[1] We note that since publication of the CVD Regulations, Moody's Investors Service no longer reports default rates for Caa to C-rated category of companies. Therefore for the calculation of uncreditworthy interest rates, we will continue to rely on the default rates as reported in Moody Investor Service's publication dated February 1998 (at Exhibit 28).

I. Programs Preliminarily Determined To Be Countervailable

A. Pre-1992 Equity Infusions

As discussed above, the GOB, through SIDERBRAS, provided equity infusions to USIMINAS (1983 through 1988), COSIPA (1983 through 1989 and 1991) and CSN (1983 through 1991) that have previously been investigated by the Department. *See Certain Steel from Brazil,* 58 FR at 37298; *Brazil Hot-Rolled Final,* 64 FR at 38747–38748.

We preliminarily determine that under section 771(5)(E)(i) of the Act, the equity infusions into USIMINAS, COSIPA and CSN were not consistent with the usual investment practices of private investors. Thus, these infusions constitute financial contributions within the meaning of section 771(5)(D) of the Act and confer a benefit in the amount of each infusion (*see* ''Equityworthiness'' section above). These equity infusions are specific within the meaning of section 771(5A)(D) of the Act because they were limited to each of the companies. Accordingly, we find that the pre-1992 equity infusions are countervailable subsidies within the meaning of section 771(5) of the Act.

As explained in the ''Equity Methodology'' section above, we have treated equity infusions into unequityworthy companies as grants given in the year the infusion was received. These infusions are non-recurring subsidies in accordance with section 351.524(c)(1) of the CVD Regulations. Consistent with section 351.524(d)(3)(ii) of the CVD Regulations, because USIMINAS, COSIPA and CSN were uncreditworthy in the relevant years (the years the equity infusions were received), we applied a discount rate that takes into account the differences between the probabilities of default of creditworthy and uncreditworthy borrowers. From the time USIMINAS, COSIPA and CSN were privatized, we have been following the methodology outlined in the ''Change in Ownership'' section above to determine the amount of each equity infusion attributable to the companies after privatization. We still continue to rely on this methodology except for the selection of the discount rate as discussed above.

For CSN, we summed the benefits allocable to the POI from all equity infusions and divided by CSN's total sales during the POI. For USIMINAS/COSIPA, we summed the benefits allocable to the POI from all of the equity infusions and divided this amount by the combined total sales of USIMINAS/COSIPA during the POI. On this basis, we preliminarily determine the net subsidy to be 5.37 percent ad valorem for CSN and 5.99 percent ad valorem for USIMINAS/COSIPA.

B. GOB Debt-for-Equity Swaps Provided to COSIPA in 1992 and 1993

Prior to COSIPA's privatization, and in accordance with the recommendations of one of the consultants who examined COSIPA, the GOB made two debt-for-equity swaps in 1992 and 1993. We previously examined these swaps and determined that they were not consistent with the usual investment practices of private investors, constituted a financial contribution within the meaning of section 771(5)(D) of the Act, and therefore conferred countervailable benefits on COSIPA in the amount of each conversion. *See Brazil Hot-Rolled Final,* 64 FR at 38747. No information has been provided in this investigation which would warrant the reconsideration of this finding. Thus, we preliminarily determine that pursuant to section 771(5)(E)(i) of the Act, these debt-for-equity swaps confer a benefit in the amount of each swap (*see* ''Equityworthiness'' section above). These debt-for-equity swaps are specific within the meaning of section 771(5A)(D) of the Act because they were limited to COSIPA. Accordingly, we find that the GOB debt-for-equity swaps provided to COSIPA in 1992 and 1993 are countervailable subsidies within the meaning of section 771(5) of the Act.

Each debt-to-equity swap constitutes an equity infusion in the year in which the swap was made. As such, we have treated each debt-for-equity swap as a grant given in the year the swap was made in accordance with section 351.507(a)(6) of the CVD Regulations. Further these swaps, as equity infusions, are non-recurring in accordance with section 351.524(c)(1) of the CVD Regulations. Because COSIPA was uncreditworthy in the years of receipt, we applied a discount rate consistent with section 351.524(d)(3)(ii) of the CVD Regulations as discussed in the ''Uncreditworthy Rate'' section above. Since COSIPA has been privatized, we followed the methodology outlined in the ''Change in Ownership'' section above to determine the amount of each debt-for-equity swap attributable to the company after privatization. We divided the benefit allocable to the POI from these debt-for-equity swaps by the combined total sales of USIMINAS/COSIPA. On this basis, we preliminarily determine the net subsidy to be 5.89 percent ad valorem for USIMINAS/COSIPA.

C. GOB Debt-to-Equity Swap Provided to CSN in 1992

Prior to CSN's privatization, and in accordance with the recommendations of one of the consultants who examined CSN, in 1992, the GOB converted some of CSN debt into GOB equity in CSN. In this investigation, we initiated on this debt-for-equity swap as a straight equity infusion (*see Initiation Notice* 64 FR 34204), but subsequent to our initiation, in the *Brazil Hot-Rolled Final,* we determined that this constituted a debt-for-equity swap (64 FR at 38748). In the *Brazil Hot-Rolled Final,* we determined that this swap was not consistent with the usual investment practices of private investors and therefore conferred countervailable benefits on CSN in the amount of the swap. *See Id.* No information has been provided in this investigation which would warrant reconsideration of that finding. Thus, we preliminarily determine that pursuant to section 771(5)(E)(i) of the Act, this debt-to-equity swap constitutes a financial contribution which confers a benefit in the amount of the swap (*see* ''Equityworthiness'' section above). This debt-for-equity swap is specific within the meaning of section 771(5A)(D) of the Act because it is limited to CSN. Accordingly, we find that the GOB debt-for-equity swaps provided to CSN in 1992 is a countervailable subsidy within the meaning of section 771(5) of the Act.

This debt-to-equity swap constitutes an equity infusion in the year in which the swap was made. As such, we have treated this debt-for-equity swap as a grant given in the year the swap was made in accordance with section 351.507(a)(6) of the CVD Regulations. Further these swaps, as equity infusions, are non-recurring in accordance with section 351.524(c)(1) of the CVD Regulations. Because CSN was uncreditworthy in the years of receipt, we applied a discount rate consistent with section 351.524(d)(3)(ii) of the CVD Regulations as discussed in the ''Uncreditworthy Rate'' section above. Since CSN has been privatized, we followed the methodology outlined in the ''Change in Ownership'' section above to determine the amount of the debt-for-equity swap attributable to the company after privatization. We divided the benefit allocable to the POI from the equity infusion by CSN's total sales during the POI. On this basis, we preliminarily determine the net subsidy to be 1.30 percent *ad valorem* for CSN.

II. Program for Which the Investigation is Being Rescinded

Negotiated Deferrals of Tax Liabilities

Prior to COSIPA's privatization, and on the recommendation of one of the consultants who examined COSIPA, COSIPA negotiated with the various tax authorities in order to arrange to pay its large tax arrears in deferred installments. COSIPA was able to arrange for installment payments for ten different types of taxes owed. CSN also arranged for installment payments for one tax liability.

Petitioners alleged that these negotiated tax deferrals provided countervailable subsidies to COSIPA and CSN. The Department initiated on these deferrals, acknowledging the then-preliminary determination in the hot-rolled investigation that these deferrals were not countervailable. *See Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil* 64 FR 8313, 8321 (February 19, 1999) (*Brazil Hot-Rolled Prelim*). The Department has since made a final determination that this program is not specific and therefore does not provide countervailable subsidies. *See Brazil Hot-Rolled Final*, 64 FR at 38748–38749. No information has been placed on the record of this investigation which would warrant the reconsideration of this finding. Thus, we are rescinding our investigation of this program. *See* Memorandum to the File, Countervailing Duty Investigation of Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil, August 2, 1999, on file in the Import Administration Central Records Unit (CRU), Room B–099 of the Department of Commerce.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a combined *ad valorem* rate for USIMINAS and COSIPA and an individual rate for CSN. The total estimated net countervailable subsidy rates are stated below.

Company	Net subsidy rate
USIMINAS/COSIPA ..	11.88 % *ad valorem.*
CSN	6.67 % *ad valorem.*
All Others	9.76 % *ad valorem.*

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of certain cold-rolled flat-rolled carbon-quality steel products from Brazil, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts listed above. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 C.F.R. 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: September 27, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–25619 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

1999 Trade Missions Application Opportunity

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the following overseas trade missions that they also explain at the following website: http://www.ita.doc.gov/doctm. For a comprehensive description of the trade mission, obtain a copy of the mission statement from the project officer listed below. The recruitment and selection of private sector participants will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions announced by Secretary Daly on March 3, 1997. Assistant Secretarial Business Development Mission to Mercosur Chile, Uruguay and Argentina, November 8–13, 1999.

FOR FURTHER INFORMATION CONTACT: Joan Hall at the Department of Commerce. Telephone number 202–482–2267 or FAX 202–482–0115. The U.S. Franchising Matchmaker Trade Delegation, The Hague, Netherlands, Munich, Germany, Milan, Italy and Paris, France, November 1–10, 1999.

FOR FURTHER INFORMATION CONTACT: Sam Dhir at the Department of Commerce. Telephone number: 202–482–4756 or FAX number: 202–482–0178. The Healthcare Technologies Matchmaker Trade Delegation, Madrid, Spain and Milan, Italy, February 28–March 3, 2000.

FOR FURTHER INFORMATION CONTACT: Yvonne Jackson at the Department of Commerce. Telephone number: 202–482–2675 or FAX number: 202–482–0178.

FOR FURTHER INFORMATION CONTACT: Molly Costa, U.S. Department of Commerce: Tel: 202–482–0691 or FAX number: 202–482–0178. The Hotel and Recreation Equipment Trade Mission, Santo Domingo and Puerta Plata, Dominican Republic, February 8–11, 2000.

FOR FURTHER INFORMATION CONTACT: Sheila de Andujar at the U.S. Department of Commerce Telephone: 809–221–2171, x408 or FAX 809–688–4838.

Dated: September 27, 1999.

John Klingelhut,

Director, Office of Private/Public Initiatives.

[FR Doc. 99–25487 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–FP–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.092799F]

Highly Migratory Species Tournament Registration and Reporting

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

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 30, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Kimberly Dawson, Highly Migratory Species Management Division, NMFS, NOAA, 1315 East-West Highway, Silver Spring, MD 20910, 301–713–2328.

SUPPLEMENTARY INFORMATION:

I. Abstract

Tournament operators planning to hold tournaments targeting Atlantic highly migratory species (i.e., tunas, billfish, swordfish, sharks) will be required to register their tournaments with NMFS at least 4 weeks prior to the beginning of the tournament. Tournament operators who have held tournaments targeting Atlantic highly migratory species will be required to submit summary reports on landings of Atlantic highly migratory species to NMFS. International treaty obligations pertaining to catch monitoring and provision of scientific information for these species require a comprehensive reporting program.

II. Method of Collection

The information required will be transcribed on registration and reporting forms provided by NMFS. Completed forms are mailed to NMFS.

III. Data

OMB Number: 0648–0323.

Form Number: None.

Type of Review: Regular submission.

Affected public: Individuals, business or other for-profit organizations.

Estimated Number of Respondents: 300.

Estimated Time Per Response: 2 minutes to complete a tournament registration form and 20 minutes to complete a tournament landings report.

Estimated Total Annual Burden Hours: 110.

Estimated Total Annual Cost to Public: $0 (no capital expenditures).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and /or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 24, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Chief Information Officer.

[FR Doc. 99–25572 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 990907250–9250–01; I.D. 063099B]

RIN 0648–ZA70

Community-Based Restoration Program

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

ACTION: Request for comments on proposed guidelines for the Community-Based Restoration Program.

SUMMARY: NOAA Fisheries began a new Community-Based Restoration Program (Program) in 1996 to encourage local efforts to restore fish habitats. Since that time NOAA has provided funding to 66 small-scale habitat restoration projects around coastal America. The Program is a systematic national effort to encourage partnerships with Federal agencies, states, local governments, non-governmental and non-profit organizations, businesses, industry and schools to carry out locally important habitat restorations to benefit living marine resources. The Program is developing formal guidelines which will expand the financial instruments available to accomplish furtherance of this mission. This announcement provides proposed guidelines for the implementation of the Program in FY 2000 and beyond. NMFS is seeking comments on the proposed guidelines for the Program through this document. This is not a solicitation of project proposals.

DATES: The agency must receive comments concerning this document on or before November 1, 1999.

ADDRESSES: Comments may be provided in writing. Please send your comments by mail to: Director, NOAA Restoration Center, National Marine Fisheries Service, 1315 East West Highway (F/HC3), Silver Spring, MD 20910–3282, ATTN: Guideline Comments.

FOR FURTHER INFORMATION CONTACT: Christopher D. Doley, (301) 713–0174, or by e-mail at Chris.Doley@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Habitat loss and degradation are major, long-term threats to the sustainability of the Nation's fishery resources. Over 75 percent of commercial fisheries and 80–90 percent of recreational marine and anadromous fishes depend on estuarine or coastal habitats for all or part of their life-cycles. Protecting existing, undamaged habitat is a priority and should be combined with coastal habitat restoration to enlarge and enhance the functionality of degraded habitat. Restored coastal habitat will help rebuild fisheries stocks and recover threatened or endangered species. Restoring coastal habitats will help ensure that valuable resources will be available to future generations of Americans.

The proposed guidelines that follow reflect modifications to the existing Program to allow greater flexibility to support community-based habitat restoration projects. The purpose of this document is to provide an outline of the goals, objectives and structure of the Program, and to solicit comments and suggestions concerning Program design for implementation in FY 2000 and beyond. The Program will provide **Federal Register** notifications on the availability of funds and will solicit project proposals one or more times per year. Each solicitation will provide greater detail on the criteria for project selection and/or the weighting of the criteria.

Electronic Access

Information on the existing Program, including projects that have been funded to date, can be found on the world wide web at: http://www.nmfs.gov/habitat/restoration.

Goals and Objectives

The Program's objective is to bring together citizen groups, public and non-profit organizations, industry, corporations and businesses, youth conservation corps, students, landowners, and local government, state, and Federal agencies to implement habitat restoration projects to benefit NOAA trust resources. Partnerships are sought at the national and local level to contribute funding, land,technical assistance, workforce support or other in-kind services to allow citizens to take responsibility for the improvement of locally important living marine resources.

The Program recognizes the significant role that communities play in habitat restoration and protection and acknowledges that habitat restoration is often best supported and implemented at a community level. Projects are successful because they have significant community support and depend upon citizens' ''hands-on'' involvement. The role of NMFS in the Program is to strengthen the development and implementation of sound restoration projects. NMFS anticipates maintaining the current focus of the Program by continuing to form strong partnerships to fund grass-roots, bottom-up activities that restore habitat and develop stewardship and a conservation ethic for the Nation's living marine resources.

Eligibility Requirements

Any state, local or tribal government, regional governmental body, public or private agency or organization may sponsor a project for funding consideration. The sponsoring group or organization may be a recipient of the funds or may recommend that a Federal agency receive the funds for implementation. However, in the latter situation, NMFS would enter into a Memorandum of Agreement between NMFS, the sponsor and the Federal agency. Although Federal and state agencies and municipalities are eligible to be the recipient of funding, they are encouraged to work in partnership with community groups. Successful applicants will be those whose projects demonstrate that significant, direct benefits are expected to NOAA trust resources within supportive, involved communities. Proponents who seek funding under the Program are not eligible to seek funding for the same project under other Restoration Center programs. The Program operates under statutory authority that precludes individuals from applying.

Eligible Restoration Activities

NMFS is interested in funding projects that will result in on-the-ground restoration of habitat to benefit living marine resources, including anadromous fish species. Habitat restoration is defined here as activities that directly result in the reestablishment or re-creation of stable, productive marine, estuarine or coastal river biological systems. Restoration may include, but is not limited to: improvement of coastal wetland tidal exchange or reestablishment of historic hydrology, dam or berm removal, fish passageway improvements, natural or artificial reef/substrate/habitat creation, establishment of riparian buffer zones and improvement of freshwater habitat features that support anadromous fishes, planting of native coastal wetland and submerged aquatic vegetation and improvements of feeding, spawning and growth areas essential to fisheries.

In general, proposed projects should clearly demonstrate anticipated benefits to habitats such as salt marshes, seagrass beds, coral reefs, mangrove forests and riparian habitat near rivers, streams and creeks used by anadromous fish. To protect the Federal investment, projects on private lands must demonstrate a minimum 10-year conservation easement. Projects on permanently protected lands may be given priority consideration.

Projects must involve significant community support through an educational and volunteer component tied to the restoration activities. Implementation of on-the-ground habitat restoration projects must involve community outreach and post-restoration monitoring to assess project success, and may involve limited pre-implementation activities such as engineering and design and short-term baseline studies. Proposals emphasizing only research, outreach, monitoring or coordination are discouraged, as are funding requests primarily for administration, salaries, and overhead.

Although NMFS recognizes that water quality issues may impact habitat restoration efforts, this initiative is intended to fund physical habitat restoration projects rather than direct water quality improvement measures, such as wastewater treatment plant upgrades or combined sewer outfall corrections. Similarly, the following restoration projects will not be eligible for funding: (1) Activities that constitute legally required mitigation for the adverse effects of an activity regulated or otherwise governed by state or Federal law; (2) activities that constitute restoration for natural resource damages under Federal or state law, and (3) activities that are required by a separate consent decree, court order, statute or regulation. Funds from this program may be available to enhance restoration activities beyond the scope legally required by these activities.

Examples of Previously Funded Projects

The following examples are community-based restoration projects that have been funded with assistance from the Restoration Center. These examples are only illustrative and are not intended to limit the scope of future proposals in any way.

Submerged Aquatic Vegetation Restoration

Funding was provided to evaluate the feasibility of using volunteer divers to restore seagrass. A protocol was developed to train volunteers in water quality monitoring and seagrass transplantation techniques.

Fish Ladder Construction

An impediment to fish passage was corrected through the design and construction of a step-pool fish ladder, which now allows native steelhead trout to reach their historic spawning grounds.

Invasive Plant Removal

Funding was provided to a coalition of volunteer groups called ''Pepperbusters'' who worked to remove exotic Brazilian pepper plants and replant native shoreline vegetation.

Salt Marsh Restoration

Tidal flushing was restored to 20 acres of salt marsh by replacing an undersized culvert to increase the mean high water level in the restricted portion of the marsh.

Oyster Reef Restoration

Funding was provided to increase oyster reef habitat by reconstructing historic reefs and seeding them with hatchery-produced seed oysters grown in floating cages by students.

Kelp Forest Restoration

Funding was provided to train community dive groups in kelp reforestation activities, including the preparation, planting and maintenance of kelp sites, documentation of growth patterns and changes in marine life attracted to the newly-planted kelp areas.

Wetland Plant Nursery

Funding was provided to start an innovative wetland nursery program in local high schools, where science and ecology classes build wetland nurseries on-campus to grow salt marsh grasses for local restoration efforts.

Riparian Habitat Restoration

Funding was provided to train youth corps in the use of biorestoration and stabilization techniques to restore eroding riverbanks and improve habitat for salmon smolt and other fish species.

Anadromous Fish Habitat Restoration

Highly functional salmonid and wildlife habitat was restored with the cooperation of private landowners by opening silted enclosures along a slough to provide refuge for juvenile salmonids during the winter flood flows.

Funding Ranges

NMFS anticipates that typical project awards will range from $25,000 to $50,000, but NMFS will accept proposals ranging from $5,000 to $200,000. Final awards will be dependent on funding levels appropriated by Congress. Each solicitation issued for pre-applications for the Program will contain suggested ranges for funding requests and any specific criteria, including the weighting of selection criteria that will be used for proposal evaluation. The number of awards to be made in FY 2000 and beyond will depend on the amount of funds appropriated to the Program.

Funding Sources and Dispersal Mechanisms

The Restoration Center envisions funding projects through joint project agreements, cooperative agreements and grants, and intra- and interagency transfers, as appropriate.

The Secretary of Commerce has authority to enter into joint project agreements with non-profit, research or public organizations on matters of mutual interest, the cost of which is equitably apportioned. The principal purpose of a joint project agreement is to engage in a collaborative and equitably apportioned effort with a qualified organization on matters of mutual interest.

Interagency agreements are written documents containing specific provisions of governing authorities, responsibilities, and funding, entered into between NMFS and a reimbursing Federal agency or between another Federal agency and NMFS when NMFS is the funding organization. Such agreements will also require inclusion of a local sponsor of the restoration project.

A cooperative agreement is a legal instrument reflecting a relationship between NMFS and a recipient whenever (1) the principal purpose of the relationship is to provide financial assistance to the recipient and (2) substantial involvement is anticipated between NMFS and the recipient during performance of the contemplated activity. A grant is similar to a cooperative agreement, except that in the case of grants, substantial involvement between NMFS and the recipient is not anticipated during the performance of the contemplated activity. Financial assistance is the transfer of money, property, services or anything of value to a recipient in order to accomplish a public purpose of support or stimulation which is authorized by Federal statute.

The instrument chosen will be based on such factors as degree of direct NOAA involvement with the project beyond the provision of financial assistance, the proportion of funds invested in the project by NOAA and the other organizations, and the efficiency of the different mechanisms to achieve the Program's goals and objectives. NMFS will determine which method is the most appropriate for funding individual projects based on the specific circumstances of each project.

NMFS reserves the right to fund individual projects directly, or through partnership arrangements. The Program will continue to create partnership arrangements at a national level with non-profit and other organizations that have similar goals for improving fisheries habitat. Partnerships are a key element that allow the Restoration Center to significantly leverage the funding available for on-the-ground restoration. Partnerships also encourage the sharing and distribution of technical expertise, often improve relations between diverse organizations with common goals, and allow NOAA to reach larger and more diverse communities that have vested interests in fishery habitat restoration.

The Restoration Center will also function in a clearinghouse capacity to help develop and link high quality proposals for habitat restoration with other potential funding sources whose evaluation criteria contain similar specifications for habitat enhancement. This will provide greater exposure for project ideas that increase the chances for project proponents to secure funding.

Each year the Restoration Center Director will make a determination of the proportion of the funds available to the Program that will be obligated to national or regional partnerships and the proportion for direct project solicitation. The proportion will be established annually and will depend upon the amount of funds available from partnership organizations for habitat restoration activities that meet the goals and objectives of the Program, including the goal of funding a broad array of projects over a wide geographic distribution.

Match and Use of Funds

The focus of the Program is to provide seed money to leverage funds and other contributions from a broad public and private sector to implement locally important habitat restoration to benefit living marine resources. To this end, proposals are required to demonstrate a minimum non-Federal match (equitable share, in the case of a joint project) of 50–percent of the total funds needed to complete the proposed project. The Restoration Center may waive the requirement for 50–percent matching funds if the project meets the following three requirements: (1) The project is judged be to be an outstanding match with NMFS and Restoration Center objectives; (2) there is a critical need to carry out the project in a timely fashion in order to benefit NOAA trust resources; and (3) the project sponsor has attempted to obtain matching funds but was unable to come up with the full 50–percent minimum requirement. NOAA strongly encourages applicants to leverage as much investment as possible. The degree to which cost-sharing exceeds the minimum level may be taken into account in the final selection of projects to be funded. The match can come from a variety of public and private sources and can include in-kind goods and services. Federal funds may not be considered as matching funds. Applicants are permitted to combine contributions from additional project partners in order to meet the 50–percent required match (equitable share, in the case of a joint project) for the project. Applicants whose proposals are selected for funding will be obligated to account for the amount of cost-share reflected in the proposal and provide letters of commitment identifying and precisely specifying match (or equitable share) to confirm stated contributions.

For each proposal accepted for funding one award will be made. Funds awarded cannot necessarily pay for all the costs which the recipient might incur in the course of carrying out the project. Allowable costs are determined by reference to the Office of Management and Budget Circulars A–122, ''Cost Principles for Non-profit Organizations'', A–21, ''Cost Principles for Education Institutions'' and A–87, ''Cost Principles for State, Local and Indian Tribal Governments.'' Generally, costs that are allowable include salaries, equipment, supplies, and training, as long as these are ''necessary and reasonable.'' However, in order to encourage on-the-ground restoration, if funding for salaries is requested, at least 75 percent of the total salary request must be used to support staff accomplishing the restoration work. Entertainment costs are an example of unallowable costs. Generally, the Program will make awards only to those projects where requested funding will be used to complete proposed restoration activities, with the exception of post-construction monitoring, within a period of 18 months from the time awards are distributed.

Project Selection Process

NOAA will publish, in the **Federal Register**, notifications soliciting project proposals one or more times annually. Pre-proposals submitted in response to these solicitation notices will be screened for eligibility and conformance with the final program guidelines and must achieve a minimum score based on the weighting of selection criteria set forth within each solicitation. Pre-proposals will be limited to 4 single-spaced, single-sided pages of 12 point type, including an abstract of the work to be performed. An appendix, limited to 2 pages, may be added to include maps, photographs, letters of support or other supplementary information. Suggested pre-proposal contents may be detailed in each solicitation, but are also summarized as follows: (1) Project abstract that includes the applicant's name, address and phone number, the Congressional district where the project will occur, the amount of assistance requested, the various entities or organizations that will be partners in the project, and any indication of support from other organizations, and (2) a proposal narrative that explains the relationship of the proposed restoration activity to the criteria for project selection described in each **Federal Register** notification, including the project's objectives, methodology and anticipated results, degree of community involvement, and a plan for evaluating project success. A detailed budget, while helpful in evaluating the cost effectiveness of the project, is not required in a pre-proposal, but the total amount of assistance requested is required.

Pre-proposals will be used to determine if applicants meet the minimum Program requirements. Guidance will be provided as to the most suitable funding mechanism that project proponents may pursue for further consideration. Some of these proposals will be required to submit additional information, which may require providing additional information on budget details. Restoration projects determined to be eligible by NOAA for funding under this program will undergo a technical review, ranking and selection process. As appropriate during this process, the NOAA Restoration Center will consult with other NMFS and NOAA offices, the NOAA Grants Management Division, the U.S. Department of Commerce, the Regional Fishery Management Councils, other Federal and state agencies such as state coastal management agencies and state fish and wildlife agencies, private and public sector subject experts or other interested parties who have knowledge of a specific project or its subject matter. The NOAA Restoration Center will solicit individual technical evaluations of each project. Recommendations on the merits of funding each project and the level of funding NMFS should award will be presented to the Director of the NOAA Restoration Center for final approval. Reviewers will assign scores to proposals ranging from 0 (unacceptable) to 100 (excellent) based on the following four evaluation criteria:

(1) *Benefit to NOAA Trust Resources*

NMFS is interested in funding projects where benefits to living marine resources can be realized. Therefore, NMFS will evaluate proposals based on the potential of the restoration project to restore, protect, conserve, and create habitats and ecosystems vital to self-sustaining populations of living marine resources under NOAA Fisheries stewardship. Locations where restoration projects may have high potential to benefit NOAA trust resources include areas identified as essential fish habitat (EFH) and areas within EFH identified as Habitat Areas of Particular Concern; areas identified as critical habitat for listed marine and anadromous species; areas identified as important habitat for marine mammals; areas located within National Marine Sanctuaries or National Estuarine Research Reserves; watersheds or other areas under conservation management, such as special management areas under state coastal management programs; and other important commercial or recreational marine fish habitat, including degraded areas that formerly were important habitat for living marine resources.

(2) *Technical Merit and Adequacy of Implementation Plan*

Proposals will be evaluated on the technical feasibility of the project from both biological and engineering perspectives, and the qualifications and past experience of the project leaders and/or partners. Communities and/or organizations developing their first locally driven restoration project may not be able to document past experience, and, therefore, will be evaluated on the basis of the availability of technical expertise to guide the

project to a successful completion. Proposals will also be evaluated on their ability to: (a) Deliver the restoration objective stated in the proposal; (b) provide educational benefits; (c) incorporate post-restoration monitoring and assessment of project success in terms of meeting the proposed objectives; (d) demonstrate that the restoration activity will be sustainable and long-lasting;(e) demonstrate that implementation of the project will meet all state environmental laws and Federal consistency requirements by obtaining or proceeding to obtain applicable permits and consultations; and (f) provide mid-term and final project reports, including photo-documentation of the project site and restoration activities.

(3) *Community Commitment and Partnership Development*

Proposals will be evaluated on how well they describe the depth and breadth of the community's support. Projects must incorporate significant community involvement, which may include: (a) Hands-on training and restoration activities undertaken by volunteer students and other citizens; (b) input from local entities such as businesses, conservation organizations and others, either through in-kind goods and services (earth moving, technical expertise, easements) or cash contributions; (c) visibility within the community and demonstrated potential for public outreach and/or outreach products, including, but not limited to, an educational sign/poster at the project site, compilation of protocols into training manuals, guides, brochures, or videos; (d) cooperation with private landowners that set an example within the community for natural resource conservation; (e) support by state and local governments; (f) representation of those within the community who have an interest in or are affected by the project and seek the benefits of the restoration; (g) ability to achieve long-term stewardship for restored resources and generate a community conservation ethic; and/or (h) description of methods to assure that all residents or citizens affected by the project are provided an opportunity to participate.

(4) *Cost-effectiveness and Budget Justification*

Projects will be evaluated on their ability to demonstrate that a significant benefit will be generated for the most reasonable cost; on their importance to NOAA trust resources; the extent of habitat and degree to which it will be restored; and on their demonstration of partnership and collaboration. Projects will also be ranked in terms of their need for funding and the ability of NMFS to act as a catalyst to implement projects. NMFS will require cost-sharing to leverage funding and to encourage partnerships among government, industry, and academia to address the needs of communities to restore important fisheries habitat. Applicants submitting full proposals must include a detailed cost estimate showing a breakdown of total project costs. Cost-sharing must be indicated as Federal and non-Federal shares, divided into cash and in-kind contributions, and must be accompanied by commitment letters. The exact amount of funds awarded to a project and the funding instrument will be determined in pre-award negotiations between the applicant and NOAA/NMFS representatives. The application requirements will differ depending upon the funding instrument selected. Projects receiving funds under this program will have to meet applicable NOAA/Department of Commerce/ Federal policies, requirements and laws.

NMFS is particularly interested in comments on the following:

Are there additional criteria for proposal evaluation that should be included? Are there criteria that should be excluded?

Should the evaluation criteria listed above receive equal or different weighting during evaluation, and why?

Statutory Authority

Fish and Wildlife Coordination Act of 1956, 16 U.S.C. 661–667; Joint Project Authority, 15 U.S.C. 1525, and the Economy Act, 31 U.S.C. 1535.

Dated: September 27, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–25641 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092499E]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Caribbean Fishery Management Council's Queen Conch Committee will hold a public meeting to discuss the issues included in the agenda.

DATES: The Committee will meet on October 20, 1999. The meeting will begin at 10:00 a.m. and will adjourn at 4:00 p.m.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, 8000 Tartak St., Isla Verde, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The agenda is as follows:

Call to Order

Adoption of Agenda

Queen Conch

Banning Use or SCUBA Gear in the Exclusive Economic Zone (EEZ)

Banning Queen Conch Fishing in the EEZ

Establishing a Four Months Closed Season

Alternative Management Measures to the Size Limit Requirement -Draft Option Paper

Discussion of Puerto Rico's Present and New Fishing Regulations

Other Business

The meeting is open to the public, and will be conducted in the English language. However, simultaneous interpretation services (English-Spanish) will be available. Fishers and other interested persons are invited to attend.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Miguel A. Rolon at the Council (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Dated: September 27, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–25636 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092499G]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Caribbean Fishery Management Council's (CFMC) Coastal Pelagic Committee will hold a public meeting to discuss the issues included in the agenda.

DATES: The Committee will meet on October 19, 1999,. The meeting will begin at 10:00 a.m. and will adjourn at 4:00 p.m.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, 8000 Tartak St., Isla Verde, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The agenda is as follows:

Call to Order

Adoption of Agenda

Coastal Pelagic

Discussion of Wahoo/Dolphin Framework Draft Document

Recommended Measures by the Scientific and Statistical Committee to the CFMC

Discussion of Puerto Rico's Present and New Fishing Regulations

Other Business

The meeting is open to the public, and will be conducted in the English language. However, simultaneous interpretation services (English-Spanish) will be available. Fishers and other interested persons are invited to attend.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Miguel A. Rolon at the Council (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Dated: September 27, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–25637 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092499C]

Caribbean Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council's (CFMC) Advisory Panel (AP) and Scientific and Statistical Committee (SSC) will hold meetings.

DATES: The SSC meeting will be held on October 13, 1999, from 10:00 a.m. to 4:00 p.m., and the AP meeting will be held on October 14, 1999, from 10:00 a.m. until 4:00 p.m.

ADDRESSES: Both meetings will be held at the Embassy Suites Hotel, 8000 Tartak St., Isla Verde, Carolina, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The AP and the SSC will meet to discuss the items contained in the following agenda:

Reeffish

Banning of Traps in the Exclusive Economic Zone (EEZ)

Establishing a Permit for Fish Traps and/or other Fixed Gear

Establishing a Limited Entry System for Fixed Gear Fishery

Queen Conch

Banning Use of SCUBA Gear in the EEZ

Banning Queen Conch Fishing in the EEZ

Establishing a Four Months Closed Season

Alternative Management Measures to the Size Limit

Requirement - Draft Option Paper

Coastal Pelagic

Discussion of Wahoo/Dolphin Framework Draft Document

Recommended Measures by SSC and AP to CFMC

The meetings are open to the public, and will be conducted in English. However, simultaneous interpretation (Spanish-English) will be available during the AP meeting (October 14, 1999). Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Dated: September 28, 1999.

Richard W. Surdi,

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

[FR Doc. 99–25638 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092499F]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Caribbean Fishery Management Council's Reeffish Committee will hold a public meeting to discuss the issues included in the agenda.

DATES: The Committee will meet on October 21, 1999, The meeting will begin at 10:00 a.m. and will adjourn at 4:00 p.m.

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, 8000 Tartak St., Isla Verde, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The agenda is as follows:

Call to Order

Adoption of Agenda

Reeffish

Banning of Traps in the Exclusive Economic Zone

Establishing a Permit for Fish Traps and/or Other Fixed Gear

Establishing a Limiting Entry System for Fixed Gear Fishery

Discussion of Puerto Rico's Present and New Fishing

Regulations

Other Business

The meeting is open to the public, and will be conducted in the English language. However, simultaneous interpretation services (English-Spanish) will be available. Fishers and other interested persons are invited to attend.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Miguel A. Rolon, at the Council (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Dated: September 27, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–25639 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091499G]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting; cancellation.

SUMMARY: The New England Fishery Management Council (Council) has canceled a public meeting of its Herring Oversight Committee in October, 1999. This was to be a joint meeting with the Atlantic States Marine Fisheries Commission Atlantic Herring Section.

DATES: The meeting was scheduled for Wednesday, October 6, 1999, at l0:00 a.m.

ADDRESSES: The meeting was to be held at the Trade Winds Motel,
2 Park Drive, Rockland, ME 04841, telephone (207) 596–6492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422.

SUPPLEMENTARY INFORMATION: In the September 21, 1999, issue of the **Federal Register**, the announcement of the New England Fishery Management Council's Herring Oversight Committee was published (64 FR 51095). This meeting has been canceled. The meeting will be rescheduled and the date will be announced in the *Federal Register* at a later date.

Dated: September 28, 1999.

Richard W. Surdi,

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

[FR Doc. 99–25642 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092499H]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad-Hoc Groundfish Strategic Plan Development Committee (Committee) will hold a work session which is open to the public.

DATES: The work session will begin Monday, October 18, 1999, at 10 a.m. and may go into the evening until business for the day is completed. The work session will reconvene at 8 a.m. on Tuesday, October 19 and continue.

ADDRESSES: The work session will be held at the Pacific States Marine Fisheries Commission, Large Conference Room, 45 SE 82nd Drive, Suite 100, Gladstone, OR; telephone: (503) 650–5400.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence D. Six, Executive Director; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the work session is to begin drafting a strategic plan for the West Coast groundfish fishery.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This work session is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: September 27, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–25640 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board; Notice of Open Meeting

AGENCY: Office of the Under Secretary and Administrator, National Oceanic and Atmospheric Administration.

SUMMARY: The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997 and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on long- and short-range strategies for research, education and application of science to resource management. SAB activities and advice will provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Time and Place: Tuesday, October 19, 1999 from 10 AM to 5:30 PM; Wednesday, October 20, 1999 from 8:30 AM to 5 PM; and Thursday, October 21, 1999 from 1:30 PM to 5:30 PM. The meeting will take place on October 19, 1999 in the Alpine/Balsam Room at the Hotel Boulderado, 2115 13th Street, Boulder, CO 80302. The meeting will take place on October 20 and 21, 1999 in Room GB–124 of the David Skaggs Research Center, 325 Broadway, Boulder, CO 80303.

Agenda Topics

1. Overview of NOAA-University Partnership activities.
2. NOAA responses to previous SAB recommendations concerning the Endangered Species Act related to salmon (see www.sab.noaa.gov).
3. NOAA responses to previous SAB recommendations concerning the establishment of three pilot SAB Working Groups to develop review processes that will be used to review various NOAA science efforts (see www.sab.noaa.gov).
4. Discussion of a SAB Report for the next NOAA Administrator.
5. Public Input Session with SAB discussion.
6. Overview and SAB discussion of initial NOAA efforts to establish a collaborative coastal ocean and estuarine monitoring system that measures physical, biological, and chemical parameters.
7. Overview and SAB discussion of a NOAA report on ''The Nation's Environmental Data: Treasures at Risk.''
8. SAB discussion on potential recommendations related to NOAA strategic planning process.
9. SAB Sub-Committee and Issue Group Reports.

Public Participation: The meeting will be open to public participation with two 30 minute time-periods set aside during the meeting for direct verbal comments or questions from the public. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments (at least 35 copies) should be received in the SAB Executive Director's Office by October 7, 1999, in order to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after October 7 will be distributed to the SAB, but may possibly not be reviewed prior to the meeting date.
Approximately twenty (20) seats will be available for the public including five (5) seats reserved for the media. Seats will be available on a first-come first-served basis.

FOR FURTHER INFORMATION CONTACT: Dr. Michael P. Crosby, Executive Director, Science Advisory Board, NOAA, Rm. 11142, 1315 East-West Highway, Silver Spring, MD, 20910 (Phone: 301–713–9121, Fax: 301–713–3515, E-mail: Michael.Crosby@noaa.gov); or visit the NOAA SAB website at www.sab.noaa.gov.

Dated: September 28, 1999.

Terry D. Garcia,

Assistant Secretary for Oceans and Atmosphere.

[FR Doc. 99–25571 Filed 9–30–99; 8:45 am]

BILLING CODE 3510–08–P

COMMODITY FUTURES TRADING COMMISSION

Order Granting the London Clearing House's Petition for an Exemption Pursuant to Section 4(c) of the Commodity Exchange Act

AGENCY: Commodity Futures Trading Commission.

ACTION: Final order.

SUMMARY: In response to a Petition for Exemption Pursuant to Section 4(c) of the Commodity Exchange Act (''CEA'' or ''Act'') submitted by the London Clearing House Limited (''LCH''), the Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is adopting an order that exempts certain swap agreements submitted for clearing through LCH's newly-developed swaps clearing operation (''SwapClear'') from most provisions of the Act and Commission regulations. The order provides a similar exemption to specified persons who engage in certain activities with respect to such agreements. This order is being adopted pursuant to the exemptive authority granted to the Commission by the Futures Trading Practices Act of 1992. The Commission believes that the relief provided by this order is appropriate because a centralized swaps clearing operation may provide substantial benefits to the over-the-counter (''OTC'') derivatives market and because the SwapClear operation satisfies the statutory criteria for an exemption pursuant to Section 4(c) of the Act.

EFFECTIVE DATE: September 23, 1999.

FOR FUTHER INFORMATION CONTACT: John C. Lawton, Acting Deputy Director; Thomas E. Joseph, Special Counsel; or Jocelyn B. Barone, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5450.

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SUPPLEMENTARY INFORMATION:

I. Introduction

By a petition dated June 15, 1998, LCH requested that the Commission

grant an exemption pursuant to Section 4(c) of the CEA [1] to qualified persons using ''SwapClear,'' a proposed facility for clearing swap transactions that satisfy specified criteria (''LCH Petition''). The LCH Petition specifically requested that the Commission exempt such persons from all provisions of the CEA and Commission regulations, except for Sections 2(a)(1)(B);[2] 4b and 4*o* of the Act; [3] the provisions of Sections 6(c) and 9(a)(2) of the Act [4] to the extent that such provisions prohibit the manipulation of the market price of any commodity in interstate commerce or for future delivery on or subject to the rules of any contract market; and Rule 32.9.[5] The Commission published a notice of the LCH Petition and a request for public comment in the **Federal Register** on July 7, 1998.[6] The comment period was originally sixty days, but it was extended until September 23, 1998, in response to a request by the International Swaps and Derivatives Association, Inc. (''ISDA'').[7] The Commission received four letters in response to its request for comments. Two of these letters were from futures exchanges, and two were from trade associations.[8] The comments are summarized in Section V below.

Based upon the Commission's review and consideration of the LCH Petition, as supplemented by correspondence from counsel for LCH, the comments received in response to the LCH Petition, and the Commission's independent analysis, the Commission is adopting an order pursuant to the authority granted in Section 4(c) of the Act that exempts specified swap agreements submitted for clearing to SwapClear and specified persons who engage in certain activities with respect to those agreements from most provisions of the CEA to the extent that such persons and agreements are subject to the Act and the Commission's regulations. The exemptive relief provided by the order is subject to the terms and conditions set forth therein.

II. Statutory and Regulatory Background

Section 2(a)(1)(A) of the CEA grants the Commission exclusive jurisdiction over ''accounts, agreements (including any transaction which is of the character of * * * 'an option'), and transactions involving contracts of sale of a commodity for future delivery traded or executed on a contract market or any other board of trade, exchange, or market.'' [9] The term ''commodity'' is not limited to tangible products, but rather has been defined broadly to include ''all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.'' [10]

The CEA and Commission regulations require that transactions in futures contracts and commodity option contracts, with narrowly defined exceptions, occur on or subject to the rules of a contract market designated by the Commission.[11] Specifically, Section 4(a) of the CEA provides, *inter alia,* that it is unlawful to enter into a futures contract that is not made on or subject to the rules of a board of trade which has been designated by the Commission as a ''contract market.'' [12] Pursuant to Sections 4c(b) and 4c(c) of the Act, the trading of commodity options is permitted only in accordance with Commission regulations.[13] Part 33 of the regulations prohibits persons from entering into, offering to enter into, or executing any commodity option transaction unless the transaction occurs on a contract market designated by the Commission to trade commodity options, subject to certain exceptions set forth elsewhere in Commission rules.[14]

The Futures Trading Practices Act of 1992 (''1992 Act'') added subsections (c) and (d) to Section 4 of the CEA.[15] Section 4(c)(1) authorizes the Commission, by rule, regulation, or order, to exempt any agreement, contract or transaction, or class thereof, from the exchange-trading requirement of Section 4(a) or any other requirement of the Act other than Section 2(a)(1)(B).[16] The Commission is authorized to grant an exemption either: (i) On its own initiative or on the application of any person; (ii) retroactively or prospectively; and (iii) unconditionally or on stated terms or conditions.[17]

The Commission may grant an exemption from the exchange trading requirement of Section 4(a) or any other requirement of the Act other than Section 2(a)(1)(B) ''to promote responsible economic or financial innovation and fair competition'' if it determines that ''the exemption would be consistent with the public interest.'' [18] Prior to issuing an exemption under Section 4(c) from the exchange trading requirement of Section 4(a), the Commission must find that: (i) The exchange trading requirement ''should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of [the] Act;'' (ii) the exempted transaction ''will be entered into solely between the 'appropriate persons' '' delineated in Section 4(c)(3); [19] and (iii) the

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[1] 7 U.S.C. 6(c).

[2] Section 4(c) of the CEA expressly prohibits the Commission from exempting any transaction from Section 2(a)(1)(B) of the Act. Section 2(a)(1)(B) sets forth the division of the jurisdiction between the CFTC and the Securities and Exchange Commission (''SEC'') over specified instruments and restricts or prohibits certain types of securities derivatives. 7 USC 2a.

[3] Sections 4b and 4*o* of the Act prohibit fraudulent conduct with respect to futures and option transactions. 7 USC 6b and 6*o*.

[4] 7 U.S.C. 9 and 13(a)(2).

[5] Rule 32.9 prohibits fraud in connection with commodity option transactions. 17 CFR 32.9.

[6] Petition of the London Clearing House Limited for an Exemption Pursuant to Section 4(c) of the Commodity Exchange Act, 63 FR 3665 (July 7, 1998)(Request for Comments).

[7] Petition of the London Clearing House Limited for an Exemption Pursuant to Section 4(c) of the Commodity Exchange Act, 63 FR 49094 (Sept. 14, 1998)(Extension of Comment Period).

[8] The Commission received comments from the Chicago Board of Trade (''CBOT''), the New York Mercantile Exchange (''NYMEX''), ISDA, and the OTC Derivatives Products Committee of the Securities Industry Association (''SIA'').

[9] 7 U.S.C. 2(i).

[10] 7 U.S.C. 1a(3).

[11] 7 U.S.C. 6(a), 6c(b), and 6c(c).

[12] 7 U.S.C. 6(a). This prohibition does not apply to contracts made on or subject to the rules of a board of trade, exchange, or market located outside of the United States, its territories, or possessions.

[13] 7 U.S.C. 6c(b) and 6c(c). Section 4c(b) provides, *inter alia*:

No person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an ''option'' * * * contrary to any rule, regulation or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe.

Section 4c(c) directs the Commission to issue regulations that, *inter alia*, ''permit the trading of such commodity options under such terms and conditions that the Commission from time to time may prescribe.''

[14] 17 CFR Part 33.

[15] Pub. L. No. 102–546 (1992), 106 Stat. 3590, 3629.

[16] Section 4(c) provides that:

[17] 7 U.S.C. 6(c)(1).

In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, after notice and opportunity for hearing may (on its own initiative or on application of any person, including any board of trade designated as a contract market for transactions for future delivery in any commodity under section 5 of this Act) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract or transaction), either unconditionally or on stated terms or conditions or for stated periods and or from any other provision of the Act (except section 2(a)(1)(B)), if the Commission determines that the exemption would be consistent with the public interest.

[18] *Id.*

[19] The Act defines the term ''appropriate person'' to include:

(A) A bank or trust company (acting in an individual or fiduciary capacity).

(B) A savings association.

Continued

agreement, contract, or transaction in question ''will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under [the] Act.'' [20]

Section 4(c)(5) of the Act authorized the Commission ''promptly'' to exercise the exemptive authority granted in Section 4(c)(1) by providing an exemption for swap agreements that are not part of a fungible class of agreements that are standardized as to their material economic terms.[21] The Commission did so by adopting Part 35 of the Commission's regulations in January 1993. These rules exempt swap agreements satisfying specified criteria and any person who offers, enters into, or renders advice or other services with respect to such transactions from all provisions of the Act and the Commission's regulations except for Sections 2(a)(1)(B), 4b and 4*o*, Rule 32.9, and the antimanipulation provisions in Sections 6(c) and 9(a)(2).[22] The Part 35 swaps exemption became effective retroactively as of October 23, 1974, the date of the enactment of the Commodity Futures Trading Commission Act of 1974.

To be eligible for exemptive treatment under Part 35, a transaction must: (i) Be a ''swap agreement'' as defined in Rule 35.1(b)(1); [23] (ii) be entered into solely between ''eligible swap participants'' as defined in Rule 35.1(b)(2); [24] (iii) not be part of a fungible class of agreements that are standardized as to their material economic terms; [25] (iv) include the creditworthiness of a party having an obligation under the agreement as a material consideration in entering into or determining the terms of the swap agreement; and (v) not be entered into and traded on or through a multilateral transaction execution facility. These criteria were designed to ensure that the exempted swap agreements met the requirements set forth by Congress in Section 4(c) of the CEA and ''to promote domestic and international market stability, reduce market and liquidity risks in financial markets, including those markets (such as futures exchanges) linked to swap markets and eliminate a potential source of systemic risk.'' [26]

The Part 35 swaps exemption does not extend to transactions that are subject to a clearing system, such as SwapClear, where the credit risk of individual counterparties to each other is mitigated.[27] The Commission excluded centralized swaps clearing facilities from the Part 35 rules because ''such mechanisms [were] not yet in existence, and [might] take many forms and raise different regulatory concerns depending upon their structure or participants or whether another regulatory regime is applicable'' and because the Commission believed that ''the design of swaps clearing facilities and the services that such facilities will offer should be driven by the needs and desires of swaps market participants.'' [28] The Commission stated that ''a clearing house system for swap agreements could be beneficial to participants and the public generally.'' [29] Accordingly, the Commission stated that it would ''consider the terms and conditions of [an] exemption for swaps clearing houses in the context of specific proposals from exchanges, other regulators and others.'' [30]

On May 12, 1998, the CFTC published a Concept Release on OTC Derivatives (''OTC Concept Release'').[31] Therein, the Commission generally recognized that ''the OTC derivatives market [had] grown dramatically in both volume and variety of products offered'' since the Commission's last major regulatory

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(C) An insurance company.

(D) An investment company subject to regulation under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*).

(E) A commodity pool formed or operated by a person subject to regulation under [the] Act.

(F) A corporation, partnership, proprietorship, organization, trust, or other business entity with a net worth exceeding $1,000,000 or total assets exceeding $5,000,000, or the obligations of which under the agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support or other agreement by any such entity or by an entity referred to in subparagraph (A), (B), (C), (H), (I), or (K) of this paragraph.

(G) An employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, investment adviser registered under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*), or a commodity trading advisor subject to regulation under the Act.

(H) Any governmental entity (including the United States, any state, or any foreign government) or political subdivision thereof, or any multinational or supranational entity or any instrumentality, agency, or department of any of the foregoing.

(I) A broker-dealer subject to regulation under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) acting on its own behalf or on behalf of another appropriate person.

(J) A futures commission merchant, floor broker, or floor trader subject to regulation under [the] Act acting on its own behalf or on behalf of another appropriate person.

(K) Such other persons that the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections. 7 U.S.C. 6(c)(3).

[20] Specifically, Section 4(c) states:

The Commission shall not grant any exemption under [Section 4(c)] from any of the requirements of subsection (a) [the exchange trading requirement] unless the Commission determines that—

(A) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and purposes of this Act; and

(B) the agreement, contract, or transactions—

(i) will be entered into solely between appropriate persons; and

(ii) will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act.

[21] Section 4(c)(5)(B) states, in part, that the Commission may

[P]romptly following the enactment of this subsection, or upon application by any person, exercise the exemptive authority granted under paragraph (1) * * * with respect to classes of swap agreements * * * that are not part of a fungible class of agreements that are standardized as to their material economic terms, to the extent that such agreements may be regarded as subject to the provisions of this Act.

[22] 17 CFR Part 35. In enacting the swaps exemption, the Commission also acted pursuant to its plenary authority to regulate commodity options under Section 4c(b) of the CEA with respect to swap agreements that are commodity options. *Id.* at 5589.

[23] Rule 35.1(b)(1) defines a *swap agreement* as:

(i) An agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, any other similar agreement (including an option to enter into any of the foregoing);

(ii) Any combination of the foregoing; or

(iii) A master agreement for any of the foregoing together with all supplements thereto. 17 CFR 35.1(b)(1).

[24] 17 CFR 35.1(b)(2). The definition of ''eligible swap participants'' in Part 35 was patterned after the definition of ''appropriate persons'' in Section 4(c) of the Act with certain adjustments to ensure that both foreign and United States entities could qualify for treatment as eligible swap participants and to establish minimal financial requirements for some participants. Exemption for Certain Swap Agreements, 58 FR 5587, 5589 (Jan. 22, 1993). This approach is consistent with Congressional intent that the Commission may limit the terms of an exemption granted pursuant to Section 4(c) to some, but not all, of the listed categories of appropriate persons. H.R. Rep. No. 978, 102d Cong., 2nd Sess. 79 (1992); 58 FR 5587 at 5589. The determination as to whether a counterparty qualifies as an eligible swap participant must be made at the time the counterparties enter into the swap agreement, but it is sufficient that a party have a reasonable basis to believe that the other party is an eligible swap participant at such time. 17 CFR 35.2; 58 FR 5587 at 5589.

[25] The phrase ''material economic terms'' was intended ''to encompass terms that define the rights and obligations of the parties under the swap agreement and that, as a result, may affect the value of the transaction.'' 58 FR 5587 at 5590. This condition was designed to ensure ''that the exemption does not encompass the establishment of a market in swaps agreements, the terms of which are fixed and are not subject to negotiation, that functions essentially in the same manner as an exchange but for the bilateral execution of transactions.'' *Id.*

[26] *Id.* at 5588.

[27] *See id.* at 5591.

[28] *Id.* at 5591, n.30.

[29] *Id.*

[30] *Id.*

[31] 63 FR 26114.

action involving such products.[32] The Commission specifically observed that the swaps exemption provided by Part 35 of the Commission's regulations reflects ''the circumstances in the relevant market at the time of their adoption'' and that the Commission should review the exemption ''in light of current market conditions.'' [33] The increased ''interest in developing clearing mechanisms for swaps and other OTC derivatives'' was among the recent market changes explicitly noted by the Commission.[34] The Commission stated that it believed that such efforts had reached a stage where it was necessary ''to consider and to formulate a program for the appropriate oversight and exemption of swaps clearing.'' [35] Accordingly, it requested comment on the extent to which the Commission should continue to require that the creditworthiness of a counterparty be a material consideration for relief under the Part 35 rules.[36] The Commission also requested comment on the type of functions that an OTC derivatives clearing facility would perform, the products it would clear, the standards it would impose upon participants, and the risk management tools it would employ.[37]

As discussed in the OTC Concept Release and in Section VI.B below, a swaps clearing operation may reduce counterparty credit risk and the transaction and administrative costs associated with the swaps market while increasing liquidity and price transparency in that market.[38] Accordingly, the Commission is approving the LCH Petition, pursuant to Section 4(c) of the Act, subject to the terms and conditions contained in the Commission's order. As set forth in Section VI below, the Commission believes that the representations made in the LCH Petition, as supplemented by its counsel, support the findings required by that provision of the Act.

The Commission has reviewed the SwapClear operation as presented in the LCH Petition and has decided to extend exemptive relief only to those transactions and market participants set forth in its order. Because Section 4(c) expressly authorizes the Commission to furnish the exemptive relief described therein by order, as well as by rule or regulation, the Commission believes that there is no legal impediment to providing individualized relief to LCH for SwapClear.

The Commission has chosen this approach for several reasons. First, LCH, SwapClear, and SwapClear participants will be subject to a comprehensive regulatory regime in the United Kingdom, including oversight by the Financial Services Authority (''FSA''). In adopting the Part 35 exemption, the Commission stated that it was ''mindful of the costs of duplicative regulation'' and indicated that it would consider ''the applicability of other regulatory regimes'' in addressing petitions for further exemptive relief relating to swaps facilities.[39] It reiterated this intention in the OTC Concept Release.[40] The FSA, as the regulator in SwapClear's home jurisdiction, has primary responsibility for implementing regulatory requirements and enforcement procedures that are sufficient to protect against credit concentration and other risks associated with a swaps clearing facility that interposes a central counterparty to the transactions it clears and provides for payment netting across exchange-traded and OTC instruments.[41] Because the Commission is deferring to the applicable regulatory body in the United Kingdom in this case, the Commission is not presented with certain issues that would otherwise arise if a petition were submitted by a domestic clearing organization or by a foreign clearing organization subject to a less comprehensive regulatory structure. Accordingly, the Commission believes that the LCH Petition is not necessarily a basis from which to develop a regulatory framework for other swaps clearing facilities.

Second, the LCH Petition is the first of its kind. An individualized course will afford the Commission an opportunity to gain greater experience with swaps clearing operations prior to formulating and proposing more generalized exemptive relief. Finally, an individualized approach is consistent with the Commission's previously stated intention to review and to analyze petitions for swaps clearing operations on a case-by-case basis in the context of specific proposals.[42]

The Commission's decision to provide specific relief to LCH does not preclude the Commission from issuing exemptive relief to additional parties that submit petitions to the Commission at a later date. Nor does it prevent the Commission from granting exemptive relief of broader applicability should circumstances or experience warrant.

III. LCH and SwapClear

A. LCH

LCH is a recognised clearing house (''RCH'') under the United Kingdom's Financial Services Act 1986 (''FSAct'') and is subject to the FSAct and other relevant laws, rules and regulations in the United Kingdom.[43] Under the FSAct, as supplemented by the Companies Act 1989 (''U.K. Companies Act''), a clearing house may be ''recognised'' if it appears to the FSA [44] that the clearing house, among other things: (i) Has sufficient financial resources; (ii) has adequate arrangements and resources for the effective monitoring and enforcement of its rules; (iii) is able and willing to promote and maintain high standards of integrity and fair dealing and to cooperate by the sharing of information and otherwise, with the Secretary of State and any other authority, body or person having responsibility for the supervision or regulation of investment business or other financial services; and (iv) has default rules which enable action to be taken to close out a member's position in relation to all unsettled market contracts to which such member is a party, where that member appears to be unable to meet its obligation.[45]

Subject to its continuing compliance with the RCH recognition requirements, LCH is permitted to clear both exchange-traded and OTC instruments.[46] LCH currently performs clearing and settlement functions for futures and option contracts traded on the London International Financial Futures and Options Exchange

[32] *Id.*

[33] *Id.* at 26120.

[34] *Id.* at 26122.

[35] *Id.*

[36] *Id.* at 26120.

[37] *Id.* at 26122–23.

[38] *Id.* at 26122.

[39] 58 FR 5587 at 5591, n. 30.

[40] 63 FR 26114 at 26123.

[41] In its OTC Concept Release, the Commission acknowledged that the benefits that might accrue from a swaps clearing service might come at the cost of increased credit concentration and its attendant risks. 63 FR 26114 at 26122. The Commission notes, however, that LCH represents that it has adopted several risk management procedures to address such risks. LCH's risk management program is discussed in Section III.B below.

[42] 58 FR 5587 at 5591.

[43] LCH Petition at 17–18.

[44] The FSA is authorized to ''recognise'' clearing houses in the United Kingdom pursuant to FSAct (Delegation) Order 1987. *Id.* at 17, n. 33.

[45] *Id. See also* FSAct Pt. 1, 39 (1986) (Eng.). According to LCH, the FSAct requires that persons who intend to engage in ''investment business'' in the United Kingdom be either ''authorised'' or ''exempted'' persons, as those terms are defined in the FSAct. RCHs qualify as ''exempted persons'' and, thus, are exempt from the authorisation requirement and the conduct of business rules for the activities associated with their recognition status, as long as they continue to satisfy the recognition criteria. These criteria were established to take into account an RCH's ''special regulatory position within the financial system'' and an RCH's expertise in the operation of such markets.

[46] LCH Petition at 17.

(''LIFFE''), the London Metal Exchange, and the International Petroleum Exchange and for United Kingdom equity transactions effected on Tradepoint, an electronic stock exchange.[47] LCH states that it cleared and settled 279 million exchange-traded futures and option contracts in 1997.

As discussed more particularly in Section IV.A below, LCH, as an RCH, is subject to direct regulatory oversight by the FSA and is subject to reporting, recordkeeping, and other regulatory obligations.[48] Among other things, the FSA monitors LCH's continuing compliance with the RCH qualifying criteria and its own annual statement of objectives and requires that LCH furnish the FSA with information regarding its governance, personnel, members, business entities, and rule changes.[49]

B. SwapClear

SwapClear is a newly-developed LCH operation that will provide multilateral clearing, settlement, and payment netting services to qualified participants for forward rate agreements (''FRAs'') and interest rate swap agreements that satisfy SwapClear's product eligibility criteria.[50] SwapClear is neither a separately organized corporation nor an affiliated entity or branch of LCH. As an extension of an RCH's activities, SwapClear will be subject to the regulatory authority of the FSA and to applicable United Kingdom law.[51] SwapClear is scheduled to commence operation in the summer of 1999.[52]

1. Participants

LCH will restrict participation in SwapClear to those persons who are eligible for designation by LCH as SwapClear Dealers (''SDs'')[53] and/or SwapClear Clearing Members (''SCMs'').[54] A swap agreement will not be eligible for clearing through SwapClear unless both counterparties to the transaction have been approved as SDs and the SDs submit transactions to SwapClear for clearing through a qualified SCM.[55] End-users and members of the general public will not be permitted to participate.[56]

LCH designed the SD and SCM eligibility criteria to ensure that SwapClear participants[57] possess the financial and operational capability and experience to deal in swap agreements and the sophistication to understand and to manage the risks of such transactions.[58] Its admission standards will limit participation in SwapClear to persons whose qualifications exceed those of the ''appropriate persons'' set forth in Section 4(c) of the Act and the ''eligible swap participants'' delineated in Rule 35.1.[59] LCH represents that its participant eligibility standards will be publicly disclosed and that it will provide access to SwapClear's services to all qualified SDs and SCMs on equal terms.[60]

LCH further represents that its Risk Management Department will monitor the compliance of SDs and SCMs with SwapClear's admission standards on an ongoing basis[61] and that all SDs and SCMs will be bound by LCH rules, regulations, and procedures (collectively, ''LCH Rules'').[62] Any SD who fails to comply with LCH Rules will no longer satisfy SwapClear's participant eligibility criteria. An SCM's failure to comply with LCH Rules will constitute an event of default by the SCM.[63] LCH will establish formal limits on its intraday credit exposure to each SCM.[64] SCMs will be notified of their respective credit limits.[65]

2. Products

Only those swap agreements whose terms comply with certain product eligibility requirements will be accepted for registration and clearing by SwapClear. The product eligibility criteria were designed to ensure that there is sufficient market liquidity in the swap agreements that are cleared through SwapClear to allow LCH to calculate daily mark-to-market prices accurately and to enter into replacement transactions in the event of an SCM's default.[66] Initially, the SwapClear operation will be restricted to clearing FRAs[67] and interest rate swap agreements[68] that contain specified

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[47] *Id.*

[48] *Id.* at 18. *See also* FSAct Pt. 1, 39 (1986) (Eng.).

[49] Letter from Jane Lowe, FSA, to Michael Greenberger, Director, Division of Trading and Markets, CFTC (Nov. 17, 1998) (on file with the Division of Trading and Markets, CFTC) at 4.

[50] LCH Petition at 1–2.

[51] *Id.* at 38.

[52] *Id.* at 2.

[53] To qualify as an SD, an entity must be: (i) An institution that enters into transactions that are equivalent to the swap agreements cleared through SwapClear as a dealer in the ''wholesale market'' in the United Kingdom or its equivalent elsewhere; (ii) at all times such person is carrying on ''investment business'' in the United Kingdom, as that term defined in the FSAct, either: (a) An authorised or exempted person under the FSAct or (b) a ''European investment firm'' as that term is defined in the United Kingdom's Investment Services Regulations 1995 (''U.K. Investment Services Regulations''); (iii) of investment grade caliber (*i.e.*, an entity having a Standard and Poor's credit rating of BBB or better) or a fully guaranteed subsidiary of an investment grade parent; (iv) use the Society for International Financial Telecommunications communications network (''SWIFT'') (SWIFT is a bank-owned cooperative which operates a network that processes and transmits financial messages among its users worldwide); and (v) either a swaps clearing member (''SCM'') or an entity that has a clearing arrangement with an SCM. *Id.* at 13–14, 23. *See also* Letter from Michael M. Philipp, Katten Muchin & Zavis, counsel to LCH, to Jocelyn B. Barone, Staff Attorney, Division of Trading and Markets, CFTC 1 (Nov. 10, 1998) (on file with the Division of Trading and Markets, CFTC).

LCH will usually regard transactions as being in the wholesale market where, for example, the institution enters into such transactions as a ''listed institution'' under Section 43 of the FSAct or otherwise meets the eligibility criteria for such listing. LCH Petition at 13, n. 28. If the institution is not undertaking such transactions in the United Kingdom, LCH will usually regard the transactions as being in the wholesale market if the eligibility criteria for Section 43 listing would be met by the institution if it were undertaking such transactions in the United Kingdom. *Id.* LCH will not usually regard the wholesale market dealer criterion as being satisfied where the institution is generally regarded as a customer or end-user of the interbank wholesale market. *Id.* at 13.

[54] *Id.* at 8–9 and 12–13. To qualify as an SCM, an entity must: (i) At all times such person is carrying on ''investment business'' in the United Kingdom, as that term is defined in the FSAct, be either: (a) An authorised or exempt person under the FSAct or (b) a ''European investment firm,'' as that term is defined in the U.K. Investment Services Regulations; (ii) be an LCH shareholder; (iii) contribute a minimum of £2 million to LCH's Default Fund; (iv) submit regular financial reports to LCH; (v) maintain a back-office with adequate systems and records and a staff with expertise in the swaps market; and (vi) satisfy minimum financial resource requirements. *Id.* at 12–13.

An SCM's financial requirements will be satisfied if an SCM: (i) is an SD; (ii) has a parent who is an SD and who provides a guaranty of the SCM's liabilities to LCH; or (iii) has financial resources of £250 million. *Id.* An SCM's financial resources will be calculated by subtracting its current liabilities from its current assets. *Id.* at 13, n.27. For purposes of this calculation, intangible fixed assets, investments in subsidiaries or other group companies, other long term assets, shares in LCH, and the value of exchange memberships will not be included as current assets. *Id.* LCH has indicated that long term assets include debts or debits that will be due in more than twelve months.

[55] LCH Petition at 8–9, 12–13, and 23. An SCM may also act as an SD if it satisfies LCH's SD admission standards. *Id.* at 9.

[56] *Id.* at 22–23 and 35.

[57] SDs and SCMs are referred to collectively throughout this release as ''SwapClear participants.''

[58] *Id.* at 13–14, 28, and Appendix I, A–1.

[59] *Id.* at 23 and 42.

[60] *Id.* at 12, 23, and 29.

[61] *Id.* at 12–13 and 23.

[62] *Id.* at 37. LCH represents that all SwapClear participants will receive a copy of LCH's regulations and default rules. *Id.* at 28.

[63] *Id.* at 37.

[64] *Id.* at 28 and Appendix I, A–1. LCH has indicated that intraday credit limits will be established on a ''net'' basis.

[65] *Id.* at 16 and Appendix I, A–1.

[66] *Id.* at 14.

[67] The LCH Petition defines an FRA as ''a privately negotiated contract in which two counterparties agree on the interest rate to be paid on a notional amount of a specified currency, of specified maturity, at a specific future time.'' *Id.* at 1. The principal is not exchanged. Rather, ''the difference between the contracted rate and the prevailing rate is settled in cash.'' *Id.* FRAs may be for any gap period up to one year and will be settled on a discounted basis. *Id.* at 14.

[68] The LCH Petition defines an interest rate swap agreement as ''a privately negotiated agreement between counterparties to make periodic payments to each other for a specified period'' where ''[o]ne

characteristics. To be eligible for clearing by SwapClear, an interest rate swap transaction must: (i) Be fixed versus floating rate in a single currency; [69] (ii) be in acceptable currencies; [70] (iii) use acceptable floating rate indices; [71] (iv) be for a maturity of up to ten years; [72] and (v) have a constant notional principal amount throughout the term of the agreement, with no reset in arrears.[73] An FRA must also be transacted in acceptable currencies and use an acceptable floating rate to be eligible for clearing through SwapClear.[74] LCH will impose a minimum acceptable notional amount of one unit of currency on eligible FRAs and interest rate swaps, but will not impose a maximum notional amount.[75] SDs will be permitted to use forward starts,[76] stub periods,[77] and mismatched fixed/floating dates.[78] LCH anticipates broadening the classes of transactions acceptable for clearing through SwapClear in the future, but represents that it will only register and clear those transactions within the definition of a ''swap agreement'' as set forth in Part 35 of the Commission rules.[79]

Some of the material economic terms of transactions eligible to be cleared by SwapClear will be subject to private negotiation between SDs.[80] LCH will neither establish nor impose any requirement (other than those described above) that the swap agreements contain standard contract specifications, nor will it provide any facility for arranging or executing swap agreements.[81] LCH will not obligate an SD to submit swap agreements to LCH for registration and clearing, will not mandate that an SD submit a swap transaction for registration and clearing within a specified period of time after the trade date, and will not require that a swap agreement be at current market prices when submitted for registration.[82] Swap agreements that are ineligible for registration on the trade date may be submitted for clearing on a later date, if they subsequently become eligible.[83] No swap agreement to be cleared through SwapClear will be traded on a multilateral transaction execution facility.[84]

3. Clearing Procedures

Confirmations of swap agreements between SDs to be submitted for clearing through SwapClear will be exchanged and matched through Accord,[85] Londex,[86] or another operationally compatible matching system.[87] After the agreement has been confirmed, the relevant details of the transaction will be transmitted to SwapClear.[88] SDs will be required to submit transactions to SwapClear for clearing through a registered SCM.[89] Upon submission, SwapClear will verify that: (i) Both original counterparty SDs satisfy LCH's participant eligibility criteria and are in good standing with LCH; (ii) the swap agreement satisfies SwapClear's product eligibility requirements; and (iii) the transaction does not exceed the SCMs' respective intra-day credit limits with LCH.[90] If these criteria are satisfied, LCH will register the swap agreement and confirm the transaction to the SDs and their respective SCMs.[91] If a transaction does not satisfy these criteria, or LCH otherwise rejects the trade, the SwapClear system will send a rejection message to each original SD counterparty.[92] In the latter case, the transaction between the original SD counterparties will remain in existence and will remain subject to the relevant master agreement between them, but the transaction will not be cleared through SwapClear.[93] Between the time a transaction is effected and the time it takes the SDs to match and present the details of the transaction for registration, the parties will keep the transactions on their own books and will be subject to full counterparty credit risk.[94]

LCH will register swap agreements for clearing only in the names of the SCMs, and the SCMs will be required to deal with LCH as principals.[95] Each SCM will be fully liable to LCH for ensuring performance with respect to each swap agreement registered in its name.[96] When LCH registers a swap agreement, it automatically will send a message to the applicable SCMs via SWIFT [97] confirming that their transaction has been registered. At the time of registration, the original, bilateral transaction between the SDs will be replaced with four new swap agreements: one between each SD and its SCM, contracting as principals, and one between each SCM and LCH, contracting as principals.[98] LCH will become the central counterparty with respect to all swap agreements to be

party makes payments based on a fixed interest rate, while the counterparty makes payments on a variable (*e.g.*, floating) rate. The contractual payments are based on a notional amount that is not actually exchanged.'' *Id.* at 1.

[69] *Id.* at 14.

[70] SwapClear will accept FRAs and interest rate swaps that have been transacted in United States Dollars, Japanese Yen, Euros, British Pounds, and if there is sufficient participation in SwapClear by Canadian Dollar market-makers, Canadian Dollars. *Id.*

[71] Currently, SwapClear will accept transactions using the following floating rate indices: LIBOR, PIBOR, and EURIBOR. *Id.* at 15. LCH is contemplating expanding the list of acceptable indices to include Commercial Paper, Fed Funds, and Constant Maturity Treasuries. *Id.*

[72] *Id.* at 14.

[73] *Id.* During the life of a swap agreement, the floating rate is ''reset'' at an agreed frequency (*e.g.*, 6 months). In the case of swap agreements traded on the interbank market, this is typically done in advance. A swap agreement has ''reset in arrears'' where the rate is applied at the end of the prevailing period with payment being made on the period end date. Letter from Michael M. Philipp, Katten Muchin & Zavis, counsel to LCH, to Jocelyn B. Barone, Staff Attorney, Division of Trading and Markets, CFTC 1 (Nov. 13, 1998) (on file with the Division of Trading and Markets, CFTC).

[74] LCH Petition at 14–15.

[75] *Id.* at 15.

[76] LCH defines a ''forward start'' as a swap agreement that starts at an agreed date in the future. Letter from Michael M. Philipp, Katten Muchin & Zavis, counsel to LCH, to Jocelyn B. Barone, Staff Attorney, Division of Trading and Markets, CFTC 1 (Nov. 13, 1998) (on file with the Division of Trading and Markets, CFTC).

[77] LCH explains that a swap agreement contains a ''stub period'' when either the time period between the start of the swap agreement and the first reset or the time period between the last reset and the end of a swap agreement is not a commonly quoted interval (*i.e.*, 2.5 months, rather than 3 months). *Id.*

[78] LCH Petition at 15.

[79] *Id.*

[80] *Id.* at 14, 22, and 42. Within the parameters set by LCH, the SD may negotiate the notional amount, trade date, effective date, fixed rate, fixed rate payer, fixed rate payment dates, floating rate, floating rate payer, floating rate payment dates, reset dates, termination date, and business day convention, as defined in ISDA's 1991 definitions. *Id.* at 14.

[81] *Id.* at 9 and 14.

[82] *Id.*

[83] *Id.* at 14. For example, a swap agreement with a fifteen year maturity initially would not satisfy SwapClear's product eligibility criteria because such criteria do not allow for transactions with maturities in excess of ten years. However, such a transaction would become eligible for registration after five years. *Id.*

[84] *Id.* at 22.

[85] Accord is a service offered to the users of SWIFT that facilitates the matching of transaction confirmations. *Id.* at 9, n. 24.

[86] Londex is an OTC confirmation matching system that is currently being developed by SNS Systems, Inc. *Id.* at 9, n. 25.

[87] *Id.* at 9. SDs will maintain responsibility for ensuring that the trade details of all swap agreements submitted to SwapClear for registration and clearing match. *Id.*

[88] *Id.*

[89] *Id.* at 8–9.

[90] *Id.* at 8–9 and Appendix I, A–1.

[91] *Id.* at 9.

[92] *Id.* at Appendix I, A–2.

[93] *Id.*

[94] *Id.* at 9.

[95] *Id.* at 12.

[96] *Id.*

[97] Because all SDs must be SWIFT users to acquire and maintain their SD designation, SCMs that also qualify as SDs necessarily will have access to the SWIFT network. LCH anticipates that most other SCMs will utilize the SWIFT system in order to obtain automatic confirmation. However, an SCM who is not SWIFT user will be able to access, through LCH, a real time listing of the registered trades for that SCM's customers.

[98] *Id.* at 10 and Appendix I, A–2.

cleared through SwapClear and, as such, will be responsible to the SCMs for the performance of the obligations thereunder.[99] The SCMs, in turn, will be responsible for performance to their respective SDs and to LCH.[100] The new contracts between the SDs and the SCMs will contain the same terms to which the original counterparties agreed.[101] The new contracts between LCH and each SCM will contain the same terms as the contracts they replaced, but will also contain LCH's standard contract terms (*e.g.,* margin payment requirements, rules regarding what constitutes acceptable collateral, and choice of law provisions).[102]

Immediately upon registration of a swap agreement, LCH will net the payment amounts due to or from each SCM under the terms of all of the swap transactions registered in the SCM's name for the same value date and in the same currency.[103] In addition, LCH will net these payments with other payments due to or from the SCM as a result of any exchange-traded instruments that it clears with LCH on each payment date.[104] This will result in a net single pay or receive amount per currency per day between LCH and each SCM.[105] SwapClear will determine all reset rates and calculate reset amounts.[106] Upon each payment date, the amount payable or receivable in each currency will be settled by means of LCH's Protected Payment System (''PPS'').[107]

4. Treatment of Client Funds

LCH represents that United Kingdom law would permit LCH to commingle segregated client funds relating to an SCM's exchange-traded business in the United Kingdom and client funds relating to an SCM's SwapClear business.[108] However, LCH represents further that it anticipates that LCH clearing members who are also SCMs will carry their non-proprietary futures positions and associated margin funds in their ''client'' account at LCH, but likely will carry their non-proprietary SwapClear positions and associated margin funds in their ''house'' account at LCH.[109] Accordingly, LCH believes that United States persons who do not engage in SwapClear transactions, but who clear their exchange-traded futures through the ''client'' account of a member of LCH who is also an SCM are unlikely to be exposed to a greater likelihood of loss in the event of a default by a SwapClear participant than would exist prior to the implementation of a SwapClear facility.

5. Risk Management Procedures

LCH represents that it will employ several risk management tools to control the risks arising from its acting as a central counterparty for swap transactions that are registered and cleared through SwapClear.[110] In addition to the mechanisms already discussed—participant admission standards and payment netting arrangements—these risk management tools include participant reporting requirements, initial margin requirements, daily marking-to-market of all positions, variation margin requirements, intraday credit limits, back-up financial resources, and stress testing.

LCH also will impose both routine and event-based reporting requirements upon SwapClear participants.[111] For example, SCMs will be required to submit regular financial statements and audited accounts to LCH. SCMs and SDs will have an ongoing duty to notify LCH if they cease to satisfy any of the SwapClear participant eligibility criteria and will be required to furnish LCH, upon request, with any information LCH deems necessary to determine their participant eligibility status if LCH reasonably doubts their continued eligibility.[112] SDs and SCMs will be required to notify LCH upon the occurrence of specified events relating to their status as a registrant or licensee; their authorization to conduct investment business in the United Kingdom; their insolvency, dissolution, or conviction of a financial crime; disciplinary or enforcement judgments involving them; and material changes in their business.[113] LCH will maintain records of SCM transactions for six years, and such records will be available to SwapClear participants and to their auditors upon request.[114]

To protect against potential adverse future market movements and the cost of liquidating the portfolio in the event of an SCM's default, LCH will require SCMs to post initial margin.[115] The initial margin required of SCMs will be established using a scenario-based margin methodology analogous to London SPAN®, the futures margining system currently in use at LCH.[116] In determining the definition and scale of the scenarios, LCH will use: (i) its experience in setting margin rates for LIFFE interest rate contracts; (ii) an analysis of historic, implied, and modeled term structure volatility; (iii) modeling of extreme events; [117] and (iv) conservative assumptions regarding the time necessary to close out.[118] The

[99] *Id.* at 10.

[100] *Id.*

[101] *Id.* at Appendix I, A–1–A–2.

[102] *Id.*

[103] *Id.* at 10 and Appendix I, A–2. These payments may include margin payments, fees, interest, settlement payments, and other payments associated with the SCM's LCH-cleared transactions. *Id.* at Appendix I, A–2.

[104] *Id.* at 10 and Appendix I, A–2.

[105] *Id.* at 10.

[106] *Id.*

[107] *Id.* LCH requires SCMs to maintain accounts for each currency type with at least one of the twenty-three banks it uses under its PPS. *Id.* at Appendix I, A–4. Settlement takes place via book entry transfer between the accounts of the SCM and LCH. *Id.*

[108] Letter from Michael M. Philipp, Katten Muchin & Zavis, counsel to LCH, to Jocelyn B. Barone, Staff Attorney, Division of Trading and Markets, CFTC 2 (Feb. 9, 1999) (on file with the Division of Trading and Markets, CFTC).

[109] Letter from Michael M. Philipp, Katten Muchin & Zavis, counsel to LCH, to Jocelyn B. Barone, Staff Attorney, Division of Trading and Markets, CFTC (Mar. 2, 1999) (on file with the Division of Trading and Markets, CFTC). LCH's expectation that SCMs will carry their respective SwapClear positions in their ''house'' account is based upon three assumptions. First, LCH believes that most SDs will submit swap transactions for clearing through an affiliated SCM. Second, LCH anticipates that most SCMs will not be required under relevant United Kingdom law to segregate an SD's SwapClear-related funds into a ''client'' account and will not, in fact, do so. Third, to the extent that the segregation requirement would otherwise apply, relevant United Kingdom law permits most SDs to ''opt out'' of that requirement and to consent to the placement of their funds in the SCM's ''house'' account.

[110] LCH Petition at 15–17 and Appendix I, A–1-A–8.

[111] *Id.* at 16 and 37. The specific reporting requirements LCH will impose upon SwapClear participants will vary depending upon the type of SwapClear participant and the regulatory regime to which the participant is subject. Letter from Michael M. Philipp, Katten Muchin & Zavis, counsel to LCH, to Jocelyn B. Barone, Staff Attorney, Division of Trading and Markets, CFTC 1 (Nov. 20, 1998) (on file with the Division of Trading and Markets, CFTC). For instance, a SwapClear participant that is regulated as a bank will be required to provide LCH with a copy of its annual report and audited accounts; a participant that is regulated by the FSA or the Securities and Futures Authority (''SFA'') will be required to provide copies of the monthly financial reports that it files with its respective regulator; a participant that is regulated by the CFTC or the SEC will be required to provide copies of the quarterly financial reports that it files with its respective regulator; and an unregulated participant will be required to provide quarterly financial reports, including the balance sheets and profit and loss statements prepared by the participant for its management's use. *Id.* at 37.

[112] *Id.* at 16.

[113] *Id.*

[114] *Id.* at 37. LCH is also subject to certain reporting and recordkeeping regulations imposed by the FSA. These requirements are discussed in Section IV.

[115] *Id.* at 16 and Appendix I, A–1 and A–3.

[116] *Id.* at Appendix I, A–3. SwapClear's margin methodology is subject to approval by the FSA. *Id.*

[117] The LCH Petition cites the United Kingdom leaving the ERM in 1992 and the bond crisis in February of 1994 as examples of such events. *Id.*

[118] *Id.* LCH's yield curve scenarios used in calculating SwapClear initial margin requirements assume a time to close out of five days, although LCH would seek to offset the positions of a defaulting SCM by liquidating, hedging, or

amount of initial margin required of any SCM will be affected by the market volatility of the SCM's portfolio, the liquidity of the instruments in the portfolio, and the relative size of the portfolio.[119] LCH will distribute its margin model to SCMs and will publish its margin parameters.[120] In its discretion, LCH's Risk Management Department may require an SCM to post initial margin in excess of that calculated using its margin methodology.[121] LCH will accept initial margin in the form of: (i) Cash; (ii) securities of the following types—United Kingdom gilts and treasury bills, United States government bills, notes, and bonds, German government bonds, French, Dutch, Italian, and Spanish government bonds and treasury bills, and certain certificates of deposit; and (iii) bank guarantees, in a form determined by LCH.[122]

To prevent losses from accumulating in the system, LCH will mark-to-market all SwapClear positions on a daily basis and will require SCMs to pay any change in the value of those positions from the previous day's value in cash as variation margin.[123] LCH will establish a zero-coupon yield curve in each currency on each day and calculate mark-to-market values of the swap agreements cleared through SwapClear to facilitate the collection of the appropriate amount of variation margin.[124]

As discussed above, SCMs will be subject to intraday credit limits set by LCH.[125] LCH intends to monitor its exposure to each SCM throughout the day and to call for additional margin cover in advance of the SCM's exceeding its credit limit.[126] LCH will reject transactions involving an SCM that has reached its limit unless additional margin is provided.[127] LCH also has extensive emergency intervention powers under its regulations to impose liquidation orders when an SCM exceeds its credit limit.[128]

LCH asserts that it will ensure that SwapClear will have access to financial resources of sufficient size and liquidity to satisfy its settlement obligations.[129] As of the date of the LCH Petition, LCH had cash margin cover for its futures and option business in excess of £2 billion.[130] LCH represents that these funds are held on short-term deposit with acceptable bank depositories, as determined by minimum credit rating criteria and limits according to credit rating and shareholder funds.[131] Should additional funds be needed, LCH maintains bank lines of credit in the amount of £40.5 million and $10 million.[132] LCH also maintains a Default Fund (''DF'') to cover situations where the costs to LCH of standing behind and closing out and/or transferring a defaulting member's positions exceed the margin collected by LCH from the defaulting member.[133] The DF currently consists of £150 million contributed by LCH's exchange clearing members.[134] The DF contributions are in the form of cash-backed indemnities, with LCH holding the cash.[135] Upon commencement of the SwapClear operation, LCH intends to increase the DF by an additional £100 million to be contributed by SCMs.[136] It is likely that each SCM initially will contribute to the DF at a minimum flat rate of £2 million.[137] As registered positions increase, LCH intends to implement risk-based contributions.[138] The adequacy of the SCMs' additional £100 million contribution to the DF and the aggregate size of the DF will be reassessed once SwapClear becomes operational on the basis of actual exposures and stress test results.[139]

LCH currently conducts internal stress tests on the initial margin cover it holds from each member on a daily basis to assess the adequacy of its daily funding level in the event a member default coincides with extreme market movements.[140] The stress tests employ, for all contracts, extreme historical price movements recorded in the exchange markets cleared by LCH.[141] LCH examines the results of the stress testing daily and reports the results on a quarterly basis to the Risk Committee of LCH's Board so that the Risk Committee may make recommendations to the Board if the ongoing adequacy of the DF is placed in doubt.[142] LCH also makes the results of the stress testing available to the FSA.[143]

6. Default Rules and Procedures

SCMs will be subject to LCH's default rules.[144] LCH is authorized by these rules to declare an SCM in default in a number of circumstances, including: (i) The failure of the SCM to satisfy its payment obligations on time or the likelihood that it will have difficulty in doing so; (ii) the insolvency of the SCM or a related company; and (iii) certain regulatory action.[145] LCH will have the discretion to take a variety of actions with respect to a defaulting SCM's transactions, including: (i) closing out the transactions; (ii) entering into replacement transactions; [146] (iii) setting off any losses that result from the SCM's

transferring such positions in a shorter period of time. Letter from Michael M. Philipp, Esquire, Katten Muchin & Zavis, counsel to LCH, to Jocelyn B. Barone, Staff Attorney, Division of Trading and Markets, CFTC 1 (Mar. 3, 1998) (on file with the Division of Trading and Markets, CFTC).

119 LCH Petition at Appendix I, A–3.

120 *Id.*

121 *Id.* LCH represents that its governance structure reserves margin rate setting to LCH's Chief Executive to ensure LCH's decisions regarding margin are made independently and to avoid conflicts of interest. *Id.* at 28. LCH has indicated that neither the Chief Executive nor members of his staff will be associated with SwapClear participants.

122 *Id.* at Appendix I, A–4. Bank guarantees from an SCM or from an SCM's parent company would not be accepted. LCH is currently considering whether to extend its arrangements to include Euroclear's Collateral Management Service in order to facilitate the provision of additional margin cover after transfers are no longer possible through the United Kingdom banking system. *Id.*

123 *Id.* at 16, 28, and Appendix I, A–3.

124 *Id.* at 16 and Appendix I, A–1–A–2. One feature of SwapClear's margining process that distinguishes it from an exchange margining procedure is that SwapClear sets no separate maintenance margin level. Daily margin flows must meet initial margin requirements, so that all margin payments are essentially ''variation margin'' because there is no daily settlement or mark-to-market flows that adjust margin accounts above the maintenance level, but below the initial margin level.

125 *Id.* at 16 and Appendix I, A–1.

126 *Id.* at Appendix I, A–1.

127 *Id.* at 9, 16, and Appendix I, A–1.

128 *Id.* at Appendix I, A–1.

129 *Id.* at 16 and Appendix I, A–4.

130 *Id.* at Appendix I, A–4.

131 *Id.*

132 *Id.* LCH does not believe that it will be necessary to establish additional credit lines with respect to its SwapClear business. LCH asserts that it does not need to maintain the large credit lines held by clearing houses whose initial margin cover principally takes the form of securities because LCH's margin cover is highly liquid. *Id.*

133 *Id.*

134 *Id.*

135 *Id.*

136 *Id.* at Appendix I, A–5.

137 *Id.*

138 *Id.*

139 *Id.* Both the transitional DF increase of £100 million and LCH's approach to measuring the adequacy of the DF and making necessary adjustments to it are subject to further refinement and discussion with the FSA. Changes to the rules governing the DF are also subject to approval by LCH's membership. *Id.*

140 *Id.* at Appendix I, A–4–A–5.

141 *Id.* at 28 and Appendix I, A–4.

142 *Id.* at Appendix I, A–4–A–5.

143 *Id.* at Appendix I, A–5.

144 *Id.* at Appendix I, A–2.

145 *Id.* at Appendix I, A–5. Regulatory actions that might constitute an event of default include: (i) The SCM is in breach of the terms of membership of a regulatory body, is refused an application for membership in a regulatory body or is suspended or expelled from membership in a regulatory body; (ii) the SCM is in breach of the rules of a regulatory body to which it is subject; (iii) the SCM's authorisation by a regulatory body is suspended or withdrawn; or (iv) a regulatory body takes or threatens to take action against or in respect of the SCM under any statutory provision or process of law. LCH Default Rules.

146 The replacement costs would be part of the loss that LCH could claim from the defaulting SCM. LCH Petition at Appendix I, A–6.

default against its gains; (iv) applying margin held against any net loss; [147] and (iv) if the margin held by LCH is insufficient to cover the net loss, applying additional resources against the net loss in accordance with its default rules.[148] Additional resources would be applied in the following order: (i) The defaulting SCM's DF contribution; (ii) any pre-tax, pre-rebate earnings LCH has generated in the financial year in which the default occurs as a loss borne by LCH for its own account, up to a maximum of £10 million per financial year; (iii) LCH's insurance backing or analogous arrangements; (iv) the DF contributions of non-defaulting members; [149] and (v) LCH's own capital.[150]

7. Operational Safeguards

LCH will implement certain safeguards to ensure the reliability and security of its operations.[151] Specifically, LCH will internally test and will participate in third party testing of the systems upon which it relies (*e.g.*, CGO II, CREST, and SWIFT).[152] LCH will also maintain comprehensive back-up and business recovery facilities.[153] In addition, LCH has implemented a comprehensive year 2000 (''Y2K'') program to avoid disruptions that could be caused by the use of computer technology that is not Y2K compliant.[154]

147 LCH would return any surplus margin to the defaulting SCM's administrator or liquidator or to the defaulting SCM itself, as appropriate. *Id*.

148 *Id*. at Appendix I, A–5–A–6.

149 LCH's default rules permit LCH to use a non-defaulter's DF contribution unless insurance is available. Letter from Michael M. Philipp, Katten Muchin & Zavis, counsel to LCH, to Jocelyn B. Barone, Staff Attorney, Division of Trading and Markets, CFTC 1 (Nov. 19, 1998) (on file with the Division of Trading and Markets, CFTC). The terms of LCH's insurance contract provide for coverage for default losses totaling in excess of £150 million over a rolling three year period rather than a loss incurred on any individual default. *Id*. To the extent that LCH has used any of its profits, or if there has been a previous call on the DF after which LCH has required members to ''top-up'' the DF, the insurance may be available before all of the DF has been depleted. *Id*.

150 LCH Petition at Appendix I, A–5–A–6; LCH Default Fund Rules; and Letter from Michael M. Philipp, Katten Muchin & Zavis, counsel to LCH, to Jocelyn B. Barone, Staff Attorney, Division of Trading and Markets, CFTC 1 (Nov. 19, 1998) (on file with the Division of Trading and Markets, CFTC). Such procedures would not preclude LCH from pursuing contractual and other legal remedies against the SCM in the event of a default.

151 LCH Petition at 16, 28, and Appendix I, A–1 and A–7.

152 *Id*. at Appendix I, A–8.

153 *Id*. at Appendix I, A–1 and A–7.

154 *Id*.

IV. Regulatory Oversight in the United Kingdom and Information-Sharing Between Regulators

A. Applicable Regulations in the United Kingdom

LCH, SwapClear, and SwapClear participants are subject to a comprehensive regulatory regime in the United Kingdom. The Commission reviewed the United Kingdom's regulatory framework in connection with a petition submitted by the FSA's predecessor in interest, the Securities and Investment Board (''SIB''), that requested an exemption from the application of certain Commission foreign futures and options rules pursuant to Rule 30.10 (''SIB Petition'').[155] The SIB Petition requested exemptive relief on the grounds that the applicable regulatory and self-regulatory framework in the United Kingdom was comparable to that imposed by the CEA and the Commission's regulations. By an order that became effective on July 19, 1989,[156] the Commission granted the SIB Petition, stating that the Commission had concluded that the standards for relief relevant to a determination that a particular regulatory program is ''comparable'' to that in the United States, as set forth in Commission rules, had ''generally been satisfied'' and that ''compliance with applicable United Kingdom Law and SIB rules may be substituted for compliance with [certain] sections of the Act * * *'' [157]

Pursuant to applicable United Kingdom law, LCH, as an RCH, is subject to oversight by the FSA. The FSA will monitor LCH's ongoing compliance with relevant regulatory requirements. In order to uphold its RCH status, LCH is required to maintain specified financial resources and to adhere to certain reporting and recordkeeping requirements. For example, LCH must furnish the FSA with the information set forth in the Financial Services Notification by Recognised Bodies Regulations 1996 (''Notification Regulations'').[158] LCH must also provide the FSA with an annual regulatory plan that includes a statement of its objectives and annual targets against which LCH's performance may be judged.[159] The FSA monitors LCH's progress against its regulatory plan on an annual basis.[160]

Representatives of the FSA meet with senior clearing house risk managers and LCH's Chief Executive on a regular basis to discuss regulatory issues. The FSA also conducts various site projects, as necessary, in response to specific regulatory concerns.[161]

As an extension of LCH's activities as an RCH, the SwapClear operation will be subject to regulatory oversight by the FSA. The FSA anticipates requiring regular reporting regarding SwapClear, but has not determined definitively the specific reporting requirements that it

155 Appendix A to Rule 30.10 permits specified persons located outside of the United States and subject to a comparable regulatory structure in the jurisdiction in which they are located to petition the Commission for exemption from the application of certain Part 30 rules based upon substituted compliance with comparable regulatory requirements imposed by the foreign jurisdiction. 17 CFR 30.10. The Part 30 rules authorize the Commission to grant such an exemption if the action would not be otherwise contrary to the public interest or to the purposes for which the exemption is sought. *Id*.

156 Foreign Futures and Option Transactions, 54 FR 21599 (May 19, 1989).

157 *Id*. at 21600.

158 FSAct, Section 39. Section 41 of the FSAct authorizes the FSA to promulgate regulations so that it may acquire the information necessary to carry out its supervisory and other regulatory functions.

Among other things, LCH is required to provide the FSA with information relating to its governance, personnel, business activities, members and changes to its rules. LCH Petition at 18; Letter from Jane Lowe, Financial Services Authority, to Michael Greenberger, Director, Division of Trading and Markets, CFTC (Nov. 17, 1998) (on file with the Division of Trading and Markets, CFTC) at 3. Governance and personnel information would include information relating to changes to its constitution, changes to key personnel, and events relating to key personnel (*e.g.*, the presentation of a petition for bankruptcy); a change in its independent arbitrator, ombudsman, or complaints investigator; or the dismissal of, or any disciplinary actions relating to, any of its officers or employees). *Id*. at 6–7. With respect to its business activities, LCH must provide the FSA with certain financial information (*e.g.*, annual audited reports and accounts and the quarterly and annual budgets) and notification of the following: a change in its auditors, fees, or charges; the presentation of a petition for winding up; the appointment of a receiver or liquidator; the making of a voluntary arrangement with creditors; the institution of legal proceedings against it; the delegation of regulatory functions of another body regulated by the FSA; the undertaking of any regulatory functions of another body regulated by the FSA; a change in the name of the persons to whom it provides clearing services; and admissions and deletions from its membership. *Id*. With respect to its members, LCH is required to advise the FSA of any disciplinary action it takes against a member or an employee of a member; persons appointed by another regulatory body to investigate the affairs of a member or its clearing services; evidence indicating that any person has been carrying on unauthorized investment business or has committed a criminal offense under the FSAct; and the open positions, margin liability, and cash and collateral balances of a defaulting member's accounts. *Id*.

159 LCH Petition at 18.

160 Letter from Jane Lowe, Financial Services Authority, to Michael Greenberger, Director, Division of Trading and Markets, CFTC (Nov. 17, 1998) (on file with the Division of Trading and Markets, CFTC) at 4.

161 *Id*. at 4–5. The FSA anticipates that the existing regulatory framework applicable to LCH will be substantially retained in the United Kingdom's Financial Services Reform Bill. *Id*. at 5.

will impose with respect to the SwapClear operation. The FSA expects to receive, among other things, product reporting (*e.g.*, the range in mark-to-market values of the FRAs and swap agreements it clears and information regarding counterparty positions); risk management reporting (*e.g.*, margining levels, changes in the credit standing of SCMs, LCH's counterparty exposure, and stress testing results); and exception reporting (*e.g.*, same day reporting on matters being reported regularly, where developments extend beyond predetermined levels).[162]

SwapClear participants will also be subject to regulation in the United Kingdom. SwapClear participants will be required to be authorised or exempt under the FSAct where entering into swap agreements cleared by SwapClear would constitute ''investment business in the United Kingdom,'' as that phrase is defined in the FSAct.[163]

B. Information-Sharing Between the CFTC and the FSA

The FSA and the CFTC have reached an understanding concerning the form and content of a Bilateral Side Letter (''Side Letter'') to the Memorandum of Understanding dated September 25, 1991 on the Mutual Assistance and Exchange of Information between the SEC, the CFTC, the United Kingdom's Department of Trade and Industry, HMT, and the FSA (formerly the Securities and Investments Board)(''US/UK MOU''). The Commission believes that an exchange of information concerning SwapClear should help provide LCH, the FSA, and the Commission with notice of potential problems arising from the operation of SwapClear or the activities of SDs and SCMs and thus permit regulatory or self-regulatory bodies to react to such conditions at an earlier stage.

V. Summary of Comments

Most of the commenters viewed the establishment of a swaps clearing operation as an important and positive development in the OTC derivatives market and affirmed that a clearing mechanism may provide significant benefits to swap market participants, including a reduction of the counterparty credit risk associated with swap transactions. However, the commenters' views diverged on the approach that the Commission should take in approving a swaps clearing operation and the appropriate timing of Commission action on the LCH Petition.

CBOT questioned the suitability of any Commission action on the LCH Petition prior to the completion of Commission consideration of the comments regarding swaps clearing organizations it solicited in the OTC Concept Release.[164] It further suggested that the Commission subject the LCH Petition itself to the concept release process consistent with its recent treatment of similar market initiatives.[165] The Commission notes that there is no legal requirement for the Commission to issue a concept release prior to granting an exemption pursuant to the authority provided by that provision. Furthermore, the Commission has had the benefit of the public comments submitted in response to the OTC Concept Release as well as the public comments submitted in response to its request for comment on the LCH Petition.

Both CBOT and NYMEX recommended that, in lieu of granting piecemeal exemptions, the Commission should adopt a generic regulatory framework that would permit the centralized clearing of swap agreements in accordance with standards that would apply equally to foreign and domestic clearing organizations. CBOT and NYMEX urged the Commission to defer action upon the LCH Petition until generally applicable rules could be proposed and published. NYMEX maintained that publishing proposed standards for broad prospective application would be more compatible with the Commission's prior practice in issuing Section 4(c) exemptions than providing isolated relief to one applicant.[166] It also argued that a generalized rulemaking would provide the Commission with an opportunity to acquire and consider the perspectives of several segments of the derivatives markets and would provide a level of due process more appropriate to the contemplated degree of regulatory change.

As discussed above, the Commission is authorized to examine and assess petitions for exemptive relief pursuant to Section 4(c) of the Act on a case-by-case basis and to issue orders granting or denying such relief. It has elected to do so because (i) such an approach is consistent with its formerly stated intention to evaluate proposals for swaps clearing operations in this way; (ii) this is the first such petition that has been submitted to the Commission; (iii) swaps clearing services are a novel addition to the OTC market and, thus, there is little experience upon which the Commission might draw in developing an exemption of general applicability; and (iv) SwapClear and SwapClear participants will be subject to extensive regulation abroad. The Commission also notes that the comment letters received by the Commission support the conclusion that the public was sufficiently informed of the LCH Petition to enable meaningful comment on the proposal.

NYMEX also recommended that the Commission use the minimum standards for netting systems recommended by the Report of the Committee on Interbank Netting Schemes of the Central Banks of the Group of Ten Countries, known as the ''Lamfalussy Report,'' as a starting point in developing standards for a swaps clearing facility. NYMEX specifically proposed that the Commission establish qualifying criteria for participation in a swaps clearing operation that consider the financial integrity, commercial standing, and swaps transaction experience of the prospective participants.[167] It further suggested that the Commission require swaps clearing facilities to, inter alia, collect original and variation margin in cash or cash equivalents, mark-to-market and settle cleared swap agreements on a daily basis,[168] segregate customer funds from

[162] *Id.* at 8.

[163] *Id.* at 18.

[164] 63 FR 26115.

[165] CBOT cited the placement of the electronic computer terminals of foreign boards of trade in the United States for the purpose of trading products available through those boards of trade as an example of a recent market innovation that the Commission has subjected to the concept release process. Concept Release on the Placement of a Foreign Board of Trade's Computer Terminals in the United States, 63 FR 39779 (July 24, 1998). CBOT also cited the Commission's decision to postpone its deliberation of CBOT's proposal regarding the exchange of agricultural futures for OTC options and NYMEX's proposal to adopt a new rule that would permit an exchange of futures contracts for qualifying swap agreements (''EFS Transactions'') until the Commission examined the issues raised in its Concept Release on the Regulation of Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market, 63 FR 3708 (Jan. 28, 1998). The Commission notes that it has since approved NYMEX's EFS Transactions proposal, pursuant to the terms and conditions of a three year pilot program. CFTC Approves [NYMEX's] Proposal to Permit EFS Transactions, CFTC Press Release No. 4228–99 (Jan. 11, 1999).

[166] NYMEX cited the Commission's publication of the proposed order granting exemptive relief for certain contracts involving the deferred purchase or sale of energy products. See Exemptions for Certain Contracts Involving Energy Products, 58 FR 6250 (Jan. 27, 1998)(Proposed Order).

[167] NYMEX objected to SwapClear's admission standards as unnecessarily restrictive and anticompetitive because they would prohibit an entity that is not a swaps dealer in the interbank wholesale market from using SwapClear, regardless of the entity's size, financial integrity, or experience in swap transactions.

[168] NYMEX recommended that the Commission accept the prices of Commission-approved contracts

Continued

proprietary funds,[169] and maintain certain records of the essential terms of cleared swap transactions and of all exchanges of payments, including margin flows, associated with the such transactions. NYMEX also recommended that the Commission reserve the right periodically to review any exemption it provides pursuant to Section 4(c) of the Act and prospectively to modify or terminate the exemption as circumstances warrant. The Commission notes that NYMEX acknowledged that the LCH Petition incorporated many of the financial and operational safeguards suggested by NYMEX. For example, SwapClear's risk management features include participant reporting requirements, the collection of initial and variation margin, and daily marking-to-market of all positions.

CBOT and NYMEX also expressed concern regarding the competitive effects on the United States industry of approving the LCH Petition in the absence of generally applicable exemptive relief. CBOT explicitly noted that approving the LCH Petition absent generalized relief would enable a foreign entity to begin clearing swap agreements in the United States before a United States-based clearing organization would have an opportunity to develop a competing facility. These commenters contended that the likelihood that swap agreements cleared by LCH will directly compete with products traded on regulated domestic futures exchanges necessitates consistency both between the regulatory treatment of clearing facilities for swap agreements and clearing facilities for futures contracts and between foreign and domestic clearing operations. CBOT remarked, for example, that the terms of LCH-cleared swap agreements were likely to become standardized over time to qualify for clearing and indicated that this increasing standardization might facilitate secondary trading in swaps contracts among swap market participants, SDs, and SCMs, thereby creating a new and competitive futures-like market in swap transactions. To ensure even-handed regulation and fair competition between OTC markets and futures exchanges, NYMEX proposed that the Commission undertake a broad review of its current regulations and consider applying its Section 4(c) exemptive authority to exchange-traded instruments.

The Commission notes that its order expressly conditions the exemptive relief provided therein upon the requirement that the swap transactions to be cleared by SwapClear not be part of a fungible class of agreements that are standardized as to their material economic terms. The Commission also notes that its approval of the LCH Petition does not preclude other entities that may wish to operate a swaps clearing facility from submitting a similar request for relief.

ISDA and SIA questioned the Commission's ability to exercise jurisdiction over LCH and the transactions to be cleared by SwapClear. In ISDA's view, individually negotiated swap transactions subject to clearing arrangements are excluded from the exemption of Part 35, but are not within the ambit of the CEA and the Commission's regulations. Accordingly, ISDA maintained that LCH was not required to submit a petition for exemptive relief under Section 4(c) of the CEA. ISDA asserted that Commission action on the LCH Petition should be restricted to: (i) stating that LCH does not require an exemption pursuant to Section 4(c) of the Act or (ii) issuing an exemption pursuant to Section 4(c) that specifies that the exemption should not be construed to imply that the exempted transactions are futures contracts under the CEA. SIA similarly urged the Commission to grant the requested exemptive relief only to the extent, and without any determination that, the swap transactions submitted for clearance by LCH constitute futures contracts or commodity options subject to the Commission's jurisdiction. The Commission notes that the order grants an exemption from the CEA only to the extent that the CEA is applicable to the instruments covered by SwapClear and that the Commission need not analyze each such instrument to determine that issue.

SIA further suggested that the Commission limit the scope of the transactions that are eligible for the requested exemptive relief to transactions that satisfy the requirements for an exemption under Part 35 of Commission rules, except for the requirement that the credit-worthiness of a party with an obligation under the transaction be a material consideration in entering into the swap transaction. The Commission notes that the exemptive relief provided by the order is restricted to transactions and participants that satisfy such requirements as well as the other terms and conditions set forth in the order.

SIA also questioned the Commission's authority to oversee the operations of a clearing house such as LCH. Specifically, it asserted that the Commission may only regulate a clearing organization in the limited context of its oversight of the futures and option clearing activities of boards of trade designated as contract markets. SIA also argued that the Commission's assertion of jurisdiction over LCH would be inconsistent with Section 4(b) of the Act.[170] The Commission recognizes that LCH and SwapClear are subject to an extensive regulatory scheme in the United Kingdom and notes that it is not adopting any rules or regulations of the type prohibited by Section 4(b) of the CEA. Rather, the Commission is issuing an order as authorized by Section 4(c) of the Act to extend the exemption already granted in Part 35 of the Commission's Rules by permitting swaps clearing.

In sum, the Commission has carefully considered each of the comments and believes that the order is generally responsive to the commenters' concerns.

VI. Determinations Required for Exemption

Section 4(c) of the CEA authorizes the Commission, by rule, regulation, or order, to exempt any agreement, contract or transaction, or class thereof from the exchange trading requirement or Section 4(a) of the Act or any other requirement of the Act other than Section 2(a)(1)(B), if the Commission determines that the exemption would be consistent with the public interest. Furthermore, Section 4(c)(2) of the Act provides that the Commission may not grant an exemption from the exchange trading requirement of Section 4(a) of the Act unless the Commission finds

with sufficient levels of trading volume and open interest as safe and reliable sources of price data for use in marking swaps positions to market, but that it formulate standards for the use of alternative sources of price data as well. NYMEX suggested that such standards should take into account the reliability of the data sources, the frequency with which the data are disseminated, and the degree of acceptance of the data sources by market participants.

[169] NYMEX contended that centralized swaps clearing operations would raise fiduciary concerns because they would collect and hold money from many parties. NYMEX conceded, however, that it would be appropriate to provide an exception to the segregation requirement where the customer knowingly and willingly opts out of the protection afforded by it. LCH represents that it will permit SCMs to establish separately designated ''client'' accounts that are separately margined, if they so desire, even though the United Kingdom Client Money Rules that generally require the segregation of proprietary and client funds will not apply to most SCMs.

[170] Section 4(b) of the Act, *inter alia*, prohibits the Commission from adopting a rule or regulation that:

(1) Requires Commission approval of any contract, rule, regulation, or action of any foreign board of trade, exchange, or market or clearinghouse for such board of trade, exchange, or market, or (2) governs in any way any rule or contract term or action of any foreign board of trade, exchange, or market, or clearing house for such board of trade, exchange, or market. 7 U.S.C. 6(b).

that: (i) The exchange-trading requirement should not be applied to the agreement, contract, or transaction for which the exemption is requested and the exemption would be consistent with the public interest and the purposes of the Act; (ii) the exempted transaction will be entered into solely between ''appropriate persons''; and (iii) the agreement, contract or transaction in question will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under the Act.[171] For the reasons stated below, the Commission believes that issuing the exemptive relief as set forth in the order is consistent with those determinations.

A. Exchange-Trading Requirement

The Commission believes that the exchange trading requirement contained in Section 4(a) of the CEA should not be applied to swap transactions that satisfy the terms and conditions set forth in this order. First, the Commission has recognized that the OTC swaps market does not serve the same price discovery function [172] as the exchange-traded market because prices in the OTC swaps market are privately negotiated between individual market participants.[173] LCH represents that some of the material economic terms of the transactions to be cleared by SwapClear will be bilaterally negotiated between the SDs. Accordingly, SwapClear will not likely perform a ''primary price discovery function.'' [174]

In addition, when adopting the Part 35 rules,[175] the Commission found that it was not necessary to apply the exchange trading requirement to swap agreements satisfying the conditions of the exemption provided therein because ''one of the prerequisites for the exemption [was] that the swaps agreement not be standardized like exchange products or entered into or traded on a [multilateral transaction execution facility].'' [176] Allowing transactions to be cleared through SwapClear, under the conditions enumerated in the order, will not alter the validity of this determination. The swaps market currently exists outside the exchange trading forum pursuant to Part 35, and LCH represents that ''[a]ll swap agreements cleared through SwapClear will continue to be individually negotiated transactions and will not be traded on a multilateral trade execution facility.'' [177]

The Commission has expressly excluded transactions that are part of a fungible class of agreements standardized as to their material economic terms or are traded on a multilateral transaction execution facility from the scope of the order. It has further restricted the exemptive relief to ''swap agreements'' that have been entered into by ''eligible swap participants,'' as those terms are defined in Rule 35.1.[178] The order, therefore, does not significantly expand the class of transactions or class of participants already afforded exemptive relief pursuant to Part 35 of Commission rules because the transactions to be cleared by SwapClear satisfy all of the conditions for an exemption under those rules, with the exception of one. Because LCH will interpose itself as a counterparty to each transaction it clears, the requirement that the creditworthiness of the counterparties be a material consideration in entering into or determining the terms of the agreements is not satisfied. In adopting the Part 35 Rules, however, the Commission indicated its willingness to expand the exemption to include centralized swaps clearing facilities under appropriate conditions and stated that such a facility may prove beneficial to participants and the public.[179]

Based upon the above, the Commission determines that the exchange trading requirement of Section 4(a) of the CEA should not be applied to transactions meeting the terms and conditions of this order.

B. The Public Interest and the Purposes of the Act

When considering previous Section 4(c) exemptive actions, the Commission has measured the action's consistency with ''the public interest and the purposes of the Act'' against the ''template of its over-all regulatory scheme'' and the guidance set forth in the Conference Report accompanying the 1992 Act.[180] In this respect, the Conference Report states that the term ''public interest'' as used in Section 4(c) is intended ''to include the national public interests noted in the Act, the prevention of fraud and the preservation of the financial integrity of the markets, as well as the promotion of responsible economic or financial innovation and fair competition.'' [181] The Conference Report also states that the reference in Section 4(c) to the ''purposes of the Act'' is intended to ''underscore [the Conferees'] expectation that the Commission will assess the impact of a proposed exemption on the maintenance of the integrity and soundness of markets and market participants.''

As the Commission stated when it adopted the Part 35 swaps exemption, ''swap agreements are important tools that are used by [market participants] to hedge or manage financial risk and accomplish other financial objectives.'' [182] The Commission believes that a centralized swaps clearing facility such as SwapClear may reduce the risks and costs of participation in the swap market and increase transparency in that market without increasing the risk of fraud or market manipulation.

1. Potential Benefits of SwapClear

The Commission believes that a properly managed and adequately capitalized or otherwise secured clearing facility that includes a performance guarantee by a central counterparty, the multilateral netting of payments, positions, and credit exposure, and the other innovative features offered by SwapClear may significantly benefit the OTC derivatives marketplace by diminishing certain risks and costs associated with that market.[183]

For example, by interposing a central counterparty to each swap transaction it clears and by offering LCH's performance guarantee, SwapClear effectively substitutes the credit of a highly capitalized clearing system as a

[171] 7 U.S.C. 6(c)(2).

[172] By this statement, the Commission does not intend to suggest that a price discovery process is absent from the OTC swaps market. It merely notes that the difference between the price discovery functions of the exchange and OTC markets may warrant diverse regulatory treatment.

[173] Accordingly, participants in the OTC market may trade ''off-market.''

[174] LCH Petition at 22.

[175] As discussed above, Part 35 of the Commission's regulations exempts specified persons who offer, enter into or render advice or services with respect to specified swap agreements from certain provisions of the CEA.

[176] 58 FR 5587 at 5592.

[177] LCH Petition at 22.

[178] Only the particular FRAs and interest rate swap agreements described in the LCH Petition are eligible for exemptive relief under the terms of the order granted herein. Accordingly, the exemption that would be provided would be applicable to fewer types of agreements than are covered by the Part 35 exemption.

[179] 58 FR 5587, 5591, n.30.

[180] Exemption for Certain Contracts Involving Energy Products, 58 FR 21286, 21292 (Apr. 20, 1993)(Final Order). *See also* Regulation of Hybrid Instruments, 58 FR 5580, 5582 (Jan. 22, 1993); 58 FR 5587 at 5592.

[181] H.R. Rep. No. 978, *supra* n.24 at 78.

[182] 58 FR 5587, 5592.

[183] Similarly, the Bank for International Settlements concluded that a clearing house for OTC derivatives has the potential to mitigate counterparty risk and to reduce systemic risk if the clearing house manages risk effectively. *See*, Bank for International Settlements, OTC Derivatives: Settlement Procedures and Counterparty Risk Management 36 (Sept. 1998).

whole for the credit of an individual counterparty, thereby mitigating counterparty credit risk. SwapClear's use of a multilateral payment netting system may lessen the risks associated with multiple, redundant settlement payments by potentially reducing the number and the amount of payments that must be made. SwapClear also offers a default procedure designed to permit positions to be closed out with limited impact on other, non-defaulting counterparties. In this way, the effects of a single member default will be isolated, and a chain reaction of consequential defaults by other market counterparties that may, in turn, cause widespread risk to the financial system may be prevented. Moreover, LCH's default rules take precedence over the rights of a liquidator or other insolvency office-holder under relevant insolvency law in the United Kingdom.[184]

The market innovations offered by SwapClear may also reduce the costs of participation in the swaps market. For example, the multilateral clearing offered by SwapClear may reduce the costs of negotiating credit provisions and monitoring the financial condition of multiple counterparties. Multilateral payment netting may reduce the costs of providing margin, collateralizing payment obligations, and transferring several repetitive settlement payments to multiple counterparties. By decreasing these costs, SwapClear may enable swaps market participants to make more efficient use of their capital, collateral, and credit lines.

SwapClear may also benefit the swaps industry by increasing transparency in the marketplace. LCH will have knowledge of each SwapClear participant's transactions and will set daily credit limits to restrict this exposure accordingly. This may send a clear signal regarding the size and risk of a portion of a individual participant's proprietary trading. By requiring positions to be marked-to-market on a daily basis and by requiring variation margin, SwapClear may reduce a trader's ability to maintain large positions without alerting its senior management to the size or risk exposure of those positions. Finally, by granting this exemptive relief, the Commission clearly establishes the legality of SwapClear and the swap instruments to be cleared through it under the CEA insofar as they comply with the terms and conditions of the Commission's order.

[184] LCH Petition at Appendix I, A–2 and A–6–A–7.

2. Financial Safeguards

The Commission has previously indicated that the benefits that might result from the centralized clearing of OTC derivative transactions may come ''at the cost of concentrating risk in the clearing organization.'' [185] Similarly, NYMEX asserted that the centralized clearing of swap agreements would entail concentration of financial and credit risks in one facility and that clearing members would not be privy to or be able to assess the risk being undertaken by the clearing entity. LCH has developed a risk management program designed to control the credit concentration risks associated with its SwapClear operation. SwapClear's risk management program includes the following: imposing admissions standards intended to restrict participation to financially and operationally sophisticated entities; requiring that SCMs post initial margin for each cleared transaction in an amount that has been calculated in accordance with a margin methodology that is fundamentally similar to that successfully in use at LCH with respect to its exchange-traded derivatives; [186] calculating the marked-to-market values of swap agreements on a daily basis; collecting variation margin, in cash, from SCMs each day; and establishing formal intra-day credit exposure limits for each SCM and calculating the effect of each new transaction on an SCM's credit exposure. LCH also has established clearly prescribed procedures governing a member's default and has substantial financial resources to protect it against the consequences of such a default. The adequacy of LCH's member-backed default fund will be tested in daily stress tests. This risk management plan, as detailed in Section III.B above, incorporates the criteria set forth in the Lamfalussy Report,[187] a report that the Commission has indicated may serve as an appropriate touchstone for reviewing a swaps clearing service.[188] NYMEX also recommended that the Commission look to this report for guidance in developing standards for a prudently-managed swaps clearing facility.

Payment netting may also reduce the amount of capital held in reserve by clearing members. Capital reserves act as a buffer against shocks to the market and price volatility. However, the introduction of centralized swaps clearing should result in a reduction in counterparty credit risk and participation costs and a concomitant reduction in the need for capital reserves to address those factors.

3. Potential for Fraud or Manipulation

The Commission does not believe that the LCH Petition raises any particular concerns with respect to fraud, nor did any commenter suggest that the SwapClear operation might increase the opportunity for fraud in the swaps market. LCH will only clear transactions that are entered into by large, sophisticated financial institutions which have dealt with each other on a bilateral basis and have the ability and the resources to judge the overall fairness of the price and contract terms for each transaction.[189] Nevertheless, in its order, the Commission has reserved its authority to act against fraud under the antifraud provisions of Section 4b and 4*o* of the CEA and Rule 32.9. The Commission also believes that it will be able to obtain information needed to investigate any complaints of fraud that are within its jurisdiction involving SwapClear transactions or participants under the terms of the US/UK MOU and the Side Letter between the Commission and the FSA.

[185] 63 FR 26114 at 26122.

[186] The differences between the margin methodology applicable to LCH's exchange-traded and OTC derivatives business may be attributed to the features which distinguish the trading and pricing of non-fungible from fungible derivatives. LCH has requested Freedom of Information Act Confidential Treatment of its margin methodologies pursuant to Rule 145.9. SCMs will have access to SwapClear's margin methodologies.

[187] The Lamfalussy standards include:

1. Netting schemes should have a well-founded legal basis under all relevant jurisdictions;

2. Netting scheme participants should have a clear understanding of the impact of the particular scheme on each of the financial risks affected by the netting process;

3. Multilateral netting systems should have clearly-defined procedures for the management of credit risks and liquidity risks which specify the respective responsibilities of the netting provider and the participants. These procedures should also ensure that all parties have both the incentives and the capabilities to manage and contain each of the risks they bear and that limits are placed on the maximum level of credit exposure that can be produced by each participant;

4. Multilateral netting systems should, at a minimum, be capable of ensuring the timely completion of daily settlements in the event of an inability to settle by the participant with the largest single net-debit position;

5. Multilateral netting systems should have objective and publicly-disclosed criteria for admission which permit fair and open access; and

6. All netting schemes should ensure the operational reliability of technical systems and the availability of back-up facilities capable of completing daily processing requirements. CFTC, OTC Derivatives Report 136–37 (Oct. 1993).

[188] *Id.*

[189] In fact, by calculating daily mark-to-market prices, LCH may decrease potential fraud by reducing the chances that a party, including a ''rogue'' employee, could mislead its counterparty or other person about the current value of a transaction.

The Commission is also unaware of any concerns that use of the SwapClear operation will enable parties to manipulate prices more easily, and no such concerns were raised by the commenters. Swap transactions typically do not raise the same market manipulation concerns under the CEA as do certain exchange-traded contracts because swap prices are not generally widely disseminated or used by persons engaged in buying or selling the underlying commodities to determine prices. Nevertheless, the order granted herein will specifically reserve the Commission's authority under the Act to take action against market manipulation.[190] The Commission believes it will be able to acquire information needed to investigate any market manipulation complaints that are within its jurisdiction involving SwapClear transactions and participants under the terms of the US/UK MOU and the Side Letter between the CFTC and the FSA.

Accordingly, the Commission determines that the exemptive relief granted by this order is consistent with the public interest and the purposes of the Act.

C. Appropriate Persons

The Commission must also determine that a transaction exempted under Section 4(c) of the Act will be entered into only by ''appropriate persons.'' The term ''appropriate person'' is specifically limited to certain persons defined in the Act which are generally institutional investors but may include ''such other persons that the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections.'' [191] The Conference Report states that ''[d]etermining whether particular categories of participants are appropriate for particular instruments will be part of the Commission's responsibility to determine that a proposed exemption is consistent with the public interest.'' [192]

LCH will impose minimum financial and operational admissions criteria intended to ensure that all SDs and SCMs who participate in SwapClear will possess the financial sophistication and resources to understand and to withstand the risks of participation in the swaps market. While LCH represents that every SD and SCM will qualify as an ''appropriate person,'' as that term is defined by the CEA,[193] LCH's eligibility standards will in fact result in all SwapClear participants exceeding that standard because all SwapClear participants will qualify as ''eligible swap participants'' as that term is defined in Commission regulations.[194] The Commission believes that the ''appropriate person'' requirement of Section 4(c) is met by LCH's admission criteria.

LCH will monitor compliance with its participant qualifications on an ongoing basis. To ensure that participation is so limited, the Commission's order explicitly limits the relief provided to transactions in which both the original counterparties and the clearing SCMs are ''eligible swap participants'' as defined in Part 35 of the Commission's regulations.[195]

Thus, the Commission determines that the transactions granted relief pursuant to this order will be entered into solely by appropriate persons.

D. Adverse Effects on Regulatory or Self-Regulatory Duties

In determining that an exemption granted under Section 4(c) of the Act will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties, the Conference Report states that the Commission ''should consider the potential impact of the new product on such regulatory concerns as market surveillance, financial integrity of participants, protection of customers, and trade practice enforcement.''[196] However, the Conference Report also states that ''this provision [is not intended] to allow an exchange or any other existing market to oppose the exemption of a new product solely on grounds that it may compete with or draw market share away from that existing market.'' [197]

As discussed above, the Commission has recognized that regulatory protections related to price discovery, financial integrity, and customer protection may differ between OTC swaps markets and exchange markets because the OTC swap transactions in most markets do not appear to perform the same price discovery function as exchange-traded markets since the prices of OTC instruments are subject to private, bilateral negotiation and because OTC swap transactions are generally conducted on a principal-to-principal basis between financially sophisticated counterparties. For example, in adopting its Part 35 swap exemption, the Commission determined that regulatory concerns regarding financial integrity and customer protection were addressed in large part by the requirement that exempt transactions be carried out by eligible swap participants.[198] The Commission has included compliance with this requirement as a condition of the exemption provided by the order. At the same time, LCH's eligibility

[190] Manipulative activity involving the trading of OTC derivative instruments can have a detrimental impact on commerce in the United States for at least three basic reasons. First, like their exchange-traded counterparts, OTC derivative contracts allow end users to hedge against adverse commodity price fluctuations, changing currency and interest rates, and other marketplace uncertainties. As a consequence, OTC markets are playing an increasingly important role in risk management. If they are to continue to fulfill this vital function, OTC derivative instruments must not be subject to manipulation by unscrupulous traders. Second, the very nature of the participants in the OTC derivatives markets—major investment banks, publicly held companies, pension and hedge funds, and government agencies—dictates that the impact of any distortion in the price of OTC derivative instruments could be widespread, harming many more persons than just the aggrieved party to the contract. Given the enormous size of many derivative transactions in the OTC markets and the high degree of leverage often involved in those transactions, price manipulation could result in significant individual counterparty failures and even generate systemic risk. Finally, the interrelated nature of prices in many cash, futures, and OTC derivative markets makes it likely that price movements in one market will have a corresponding effect on prices in related markets. As a consequence, if the value of an OTC derivative instrument were, for example, based on the closing price of futures traded on a Commission-designated contract market, an unscrupulous trader could seek to enhance the value of his or her OTC derivatives position by attempting to manipulate the price of the relevant futures contract.

[191] 7 U.S.C. 6(c)(3).

[192] H.R. Rep. No. 978, *supra*, n. 24 at 79.

[193] LCH Petition at 23.

[194] 17 CFR 35.1.

[195] Since the Part 35 swaps exemption was adopted pursuant to Section 4(c) of the Act, persons who are ''eligible swap participants'' have already been determined by the Commission to be ''appropriate persons'' as defined in the CEA. *See* 58 FR 5587 at 5589 (the Part 35 adopting release's discussion of ''eligible swap participants'').

[196] H.R. Rep. No. 978, *supra* n.24 at 79.

[197] *Id.*

[198] 58 FR 5587 at 5592. In this respect, the Commission also noted that, in order to qualify for the Part 35 swaps exemption, the creditworthiness of the counterparty must be a material consideration in entering into the exempt transaction. The Commission concluded that the Part 35 criteria as a whole would preclude anonymous transactions and ensure that qualifying swap transactions would be limited to persons who are sophisticated or financially able to bear the risks associated with those transactions. *Id.* While swaps clearing effectively eliminates counterparty creditworthiness as a material consideration in entering into a swap transaction, LCH's admission criteria ensure that parties eligible to use SwapClear will be sophisticated and financially able to bear the risks of the underlying swap transaction, and LCH's risk management procedures and default reserve ensure that LCH will be a highly creditworthy central counterparty to the cleared transactions. In addition, each SD in any LCH-cleared transaction will know its counterparty and its SCM (and LCH will know both the SDs and SCMs involved) so that transactions cleared through SwapClear will not be anonymous at the point where the parties enter into the transaction.

requirements for SDs and SCMs limit participation in SwapClear to a still smaller subset of institutions that should possess the financial sophistication and resources to engage in and bear the risks associated with the transactions in question.

The types of swaps transactions that LCH proposes to clear are already being executed in the OTC derivatives market. The approval of LCH's Petition will potentially reduce certain risks now associated with OTC swaps transactions and add to the soundness and transparency of the OTC swaps market.

Moreover, it is widely acknowledged that the exchange-traded futures and OTC swaps markets are linked, with swaps market participants using certain exchange-traded futures as hedging vehicles. Developments that add to the soundness of the swaps market will also potentially add to the financial security and soundness displayed by the exchange-traded futures markets. In addition, the Side Letter between the FSA and the CFTC will enable the Commission to acquire information regarding LCH, SwapClear, SCMs, and SDs that may allow it to learn of and to respond to financial, operational, and other problems that may negatively affect United States contract markets and market participants on a more timely basis. Finally, no commenter indicated that any self-regulatory organization's ability to fulfill its obligations would be adversely affected by Commission approval of SwapClear.

Accordingly, the Commission determines that issuance of this order will not have a material adverse affect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under the Act.

VII. Explanation of the Order

The order grants an exemption from most provisions of the CEA and the Commission's regulations with respect to any swap agreement submitted for clearing through SwapClear and any person offering, entering into, or rendering advice or other services with respect to such agreements, subject to certain terms and conditions set forth therein. The exemption extends to all provisions of the Act and Commission regulations except for Sections 2(a)(1)(B), 4b and 4o of the Act, Rule 32.9, and the provisions of Sections 6(c) and 9(a)(2) of the Act to the extent that these provisions prohibit manipulation of the market price of any commodity in interstate commerce or for future delivery on or subject to the rules of any contract market. Exemptive relief provided by the order will not become effective until the FSA and the CFTC have executed the Side Letter, and the Commission has received confirmation that the FSA has completed its review of SwapClear and has granted LCH approval to commence SwapClear operations.

The Commission notes that the order specifically enumerates several aspects of SwapClear that it considers relevant to its decision to approve the LCH Petition, regarding SwapClear's admissions criteria, product eligibility requirements, margining system, and other risk management procedures; the applicable regulatory regime; and the reporting, recordkeeping, and information-sharing arrangements. These factors are illustrative of those elements of a swaps clearing operation that the Commission deems pertinent to a request for exemptive relief. The Commission will examine all future petitions based on the circumstances presented.

The Commission has limited the exemptive relief by imposing certain conditions. Section 4(c) of the Act expressly empowers the Commission to issue exemptions subject to terms and conditions. The Commission has included these restrictions to ensure that the participant base, products, and activities of SwapClear are not expanded without Commission consideration of whether the exemption should be so extended. If any of the conditions set forth in the order is not satisfied when a transaction is submitted for clearing through LCH (*e.g.*, LCH is no longer an RCH or the swap agreement is not of the type set forth in the order), the transaction will fall outside the exemption.

The exemptive relief is restricted to those FRAs and interest rate swap agreements described in the LCH Petition that fall within the definition of ''swap agreements'' as set forth in Rule 35.1(b)(1). The Commission intends that the order will provide LCH with flexibility to expand its product eligibility criteria to include, for example, interest rate swaps using currencies, floating rate indices, or maturity dates other than those that will be immediately available. However, the Commission recognizes that transactions other than FRAs and interest rate swap agreements that qualify as ''swap agreements'' under the Commission's rules may raise additional regulatory concerns. Accordingly, it is declining to extend relief to instruments other than those set forth in the order.

In addition, the exemptive relief extends only to those agreements that would already be entitled to exemption under Part 35 of the Commission's regulations except for the fact that they are subject to clearing. Thus, the agreements must have been entered into by ''eligible swap participants'' as that term is defined in Rule 35.1(b)(2). This stricture is intended to ensure that participation is limited to the ''appropriate persons'' pursuant to Section 4(c) of the Act and, more particularly, to those persons possessing the financial sophistication, experience, and resources sufficient for participation in the swaps market.

The Commission is further restricting its relief to non-fungible transactions the material economic terms of which have been individually negotiated and which have not been traded on or through a multilateral transaction execution facility. Once SwapClear receives FSA's regulatory approval, this order contemplates that parties will be allowed to submit to SwapClear previously transacted swap agreements and still claim the relief granted herein as long as such transactions met the terms and conditions of Part 35 at the time that they were first entered into.

Finally, the order expressly conditions the exemptive relief provided upon the requirement that LCH be an RCH with respect to SwapClear at the time the swap agreement for which exemptive relief is sought is submitted for clearing to LCH. This condition is being imposed because the Commission has deferred, in large part, to the FSA's regulation of LCH as an RCH. Thus, parties could not claim the exemption for transactions that were submitted for clearing at a time when LCH did not have RCH status. Swap agreements submitted to SwapClear prior to LCH's loss of status as an RCH would not be affected, however, as long as all other conditions set forth in this order were satisfied.

The Commission recognizes that it may be appropriate to review, revise, or revoke the exemptive relief provided should circumstances or further experience with swaps clearing warrant, and it expressly reserves the power to take such action. The Commission reviewed LCH's request for exemptive relief in its totality with due regard for all representations made in support thereof. Because a change in any one of these representations, in whole or in part, may have led the Commission to reach a different conclusion, the Commission believes it must reserve the right to review, modify and/or revoke its order if it discovers that a material fact or circumstance regarding LCH or SwapClear has been misrepresented, has been found to be untrue, or has ceased to be true. As to the representations outlined in the order, the Commission

believes that LCH possesses an affirmative obligation to notify the Commission in the event it discovers that such information is misleading or untrue. The Commission believes that the reservation of its right to modify or revoke the order will provide an incentive to all parties who may submit petitions for exemptive relief to the Commission to furnish complete and accurate information in support of their respective requests.

The activities of LCH and SwapClear are subject to a comprehensive regulatory regime in the United Kingdom, including capital, reporting, and other regulatory requirements designed to ensure their financial and operational integrity and to ensure that the FSA would receive timely notice of any financial or operational difficulties involving them. In the event that LCH and/or SwapClear are not so regulated or in the event that the FSA or any other relevant authority in the United Kingdom no longer authorizes the operation of SwapClear, the exemptive relief requested may not be appropriate. Accordingly, the order provides that the Commission may modify or revoke the order should either of those events occur.

The Commission believes that an adequate exchange of information between it and the FSA concerning SwapClear and its operations is important to the CFTC's ability to fulfill its domestic regulatory functions. Accordingly, the Commission is reserving the right to revise or revoke the exemption should it be unable to acquire the information it views as necessary to enforce the order, to provide adequate protection to United States contract markets or United States market participants, or otherwise to carry out its regulatory functions.

Finally, LCH has agreed to file a valid, effective, and binding appointment of an agent in the United States for purposes of accepting delivery and service of communications issued by or on behalf of the CFTC, the United States Department of Justice, any self-regulatory organization, or any SwapClear participant. Such communications include any summons, complaint, order, subpoena, request for information, or notice, as well as any other written document or correspondence. As the Commission believes that such an agency arrangement is essential to proper communications between LCH and agencies of the United States or United States participants, it is specifically reserving the right to revise or to revoke the order should such an arrangement become ineffective or cease to exist.

The Commission notes that any revision or revocation of its order will apply prospectively only and will not affect the legal certainty of any swap transaction entered into prior to the revision or revocation.

IX. Conclusion

As demonstrated above, the Commission believes that its order is supported by the appropriate determinations made in accordance with the standards set forth in Section 4(c) of the Act for granting exemptions and that a centralized swap clearing operation such as SwapClear may provide substantial benefits to the OTC derivatives industry.

Order Granting Relief

Order of the Commodity Futures Trading Commission Pursuant to Section 4(c) of the Commodity Exchange Act Exempting Certain Swap Agreements to be Cleared Through the London Clearing House Limited's SwapClear Operation and Certain Persons Who Engage in Specified Activities With Respect to Such Transactions From Specified Provisions of the CEA.

By a petition dated June 15, 1998, the London Clearing House Limited (''LCH'') requested that the Commodity Futures Trading Commission (''CFTC'' or ''Commission'') grant an exemption pursuant to Section 4(c) of the Commodity Exchange Act (''CEA'' or ''Act'') to qualified persons using SwapClear, LCH's proposed service for the centralized clearing of certain swap transactions (''LCH Petition''). The LCH Petition requested that the Commission exempt such persons from all provisions of the CEA and the Commission's regulations except for Sections 2(a)(1)(B), 4b, and 4o of the Act, the provisions of Sections 6(c) and 9(a)(2) of the Act to the extent that such provisions prohibit the manipulation of the market price of any commodity in interstate commerce or for future delivery on or subject to the rules of any contract market, and Rule 32.9.

LCH Representations

LCH has made a number of representations in support of its Petition. The Commission has relied upon these representations in its evaluation of the LCH Petition and in its decision to grant the exemptive relief provided by this order. LCH's representations include, but are not limited to, the following:

(1) LCH is a recognized clearing house (''RCH'') under the laws of the United Kingdom and is authorized under United Kingdom law to clear over-the-counter instruments. In order to obtain recognition as a clearing house, LCH was required to demonstrate to the appropriate regulatory authorities in the United Kingdom that it had, among other things:

(a) Sufficient financial resources to carry out its business as a clearing house;

(b) Adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules;

(c) An ability and willingness to share information with its regulators; and

(d) Default rules that enable action to be taken to close out a member's position in relation to all unsettled contracts to which such member is a party where a member appears unable to meet its obligations to the clearing house.

(2) As an RCH, LCH is subject to direct regulatory oversight by the Financial Services Authority (''FSA'') and is subject to reporting, recordkeeping, and other regulatory requirements.

(3) Among other things, LCH is required to provide the FSA with an annual regulatory plan that includes a statement of objectives and targets. LCH is also required to provide the FSA with information relating to its governance, personnel, and business activities and changes in its rules. The information that LCH must provide to the FSA includes information relating to:

(a) Its annual audited reports and accounts;

(b) Its quarterly and annual budgets;

(c) The presentation of a petition for winding up, the appointment of a receiver or liquidator, or the making of a voluntary arrangement with creditors;

(d) The institution of any legal proceedings against it;

(e) Changes in its constitution, fees and charges, key personnel, independent arbitrator, ombudsman, complaints investigator, auditors, and persons to whom it provides clearing services;

(f) The presentation of a petition for bankruptcy by any of its key personnel;

(g) The dismissal of or any disciplinary actions taken against or relating to any of its officers or employees;

(h) Admissions or deletions from membership;

(i) Any disciplinary action taken against a member or an employee of a member;

(j) Persons appointed by another regulatory body to investigate the affairs of a member or its clearing services;

(k) Evidence indicating any person has been carrying on unauthorized investment business or has committed a criminal offense under the Financial Services Act (''FSAct''); and

(l) The open positions, margin liability, and cash and collateral balances of a defaulting member's account.

(4) The FSA will continually monitor LCH's compliance with its annual regulatory plan and other regulatory requirements.

(5) As an extension of LCH's activities as an RCH, the SwapClear operation will be subject to regulation and oversight by the FSA, and LCH will be required to provide the FSA with certain information regarding its SwapClear operation.

(6) Among other things, LCH will be required to provide the FSA with information concerning:

(a) The range in mark-to-market values of the swap agreements it clears;

(b) Counterparty positions;

(c) Counterparty margining levels;

(d) Changes in the credit standing of SwapClear Clearing Members (''SCMs'');

(e) LCH's counterparty exposure; and

(f) The results of stress testing.

(7) Only transactions entered into by persons who have been approved by LCH as SwapClear Dealers (''SDs'') will be eligible for clearing through SwapClear. To qualify for designation as an SD under LCH Rules, a person must:

(a) Be a financial institution that is active in the wholesale market for the type of forward rate agreements and interest rate swap agreements to be cleared by SwapClear;

(b) At all times such person is carrying on ''investment business'' in the UnitedKingdom, as that term defined in the FSAct, be either:

(i) An authorized or exempted person under the FSAct or

(ii) A ''European investment firm'' as that term is defined in the United Kingdom's Investment Services Regulations 1995 (''U.K. Investment Services Regulations'');

(c) Be of investment grade caliber or be guaranteed by an investment grade parent; and

(d) Satisfy certain operational standards.

(8) LCH will require that all agreements to be cleared through SwapClear be submitted through a person that has been approved by LCH as an SCM. Accordingly, an SD must have a clearing arrangement in place with a SCM or be approved as an SCM itself before it will be permitted to participate in SwapClear. To qualify for designation as an SCM, a person must:

(a) Be an LCH shareholder;

(b) At all times such person is carrying on ''investment business'' in the United Kingdom, as that term is defined in the FSAct, be either:

(i) An authorized or exempt person under the FSAct or

(ii) A ''European investment firm,'' as that term is defined in the U.K. Investment Services Regulations;

(c) Satisfy minimum financial requirements;

(d) Contribute to LCH's Default Fund (''DF'');

(e) Submit regular financial reports to LCH; and

(f) Satisfy specified operational and staffing standards.

(9) LCH will not permit end-users or members of the general public who do not satisfy LCH's criteria for designation as an SD or SCM to participate in SwapClear.

(10) LCH will monitor the compliance of SDs and SCMs with SwapClear's admission standards on an ongoing basis.

(11) All SDs and SCMs will be bound by LCH rules, regulations, and requirements (collectively, ''LCH Rules'').

(12) LCH will permit only forward rate agreements and interest rate swap agreements that satisfy the product eligibility standards set forth in the LCH Petition to be cleared by SwapClear.

(13) Material economic terms of all transactions to be cleared by SwapClear will be bilaterally negotiated between SDs.

(14) LCH will not provide counterparties with any form of transaction execution facility.

(15) LCH will register agreements for clearing only after it has verified that:

(a) Both counterparties satisfy LCH's participant eligibility criteria;

(b) That the agreement satisfies SwapClear's product eligibility requirements; and

(c) The transactions will not exceed the submitting SCM's respective intra-day credit limit.

(16) LCH will register all agreements to be cleared by SwapClear in the name of an SCM, and the SCM will be fully liable for ensuring performance to LCH with respect to each swap agreement registered in its name. An SD may clear an agreement for itself if it has also received approval from the LCH to act as an SCM.

(17) Where the SCM is not the same party as the SD, back-to-back transactions will also arise between the SD and the SCM. In these cases, upon registration of those agreements for clearing by LCH, the original bilateral forward rate agreements or interest rate swap agreements between the SDs will be replaced by four new transactions: one between each SD and its SCM, contracting as principals, and one between each SCM and LCH, contracting as principals.

(18) LCH will become the central counterparty with respect to all swap agreements to be cleared through SwapClear and, as such, will be responsible to the SCMs for the performance of the obligations thereunder.

(19) LCH represents that United Kingdom law would permit LCH to commingle segregated client funds relating to an SCM's exchange-traded business in the United Kingdom and client funds relating to an SCM's SwapClear business. However, LCH represents further that it anticipates that LCH clearing members who are also SCMs will carry their non-proprietary futures positions and associated margin funds in their ''client'' account at LCH, but likely will carry their non-proprietary SwapClear positions and associated margin funds in their ''house'' account at LCH. Accordingly, LCH believes that United States persons who do not engage in SwapClear transactions, but who clear their exchange-traded futures through the ''client'' account of a member of LCH who is also an SCM are unlikely to be exposed to a greater likelihood of loss in the event of a default by a SwapClear participant than would exist prior to the implementation of a SwapClear facility.

(20) LCH will implement certain risk management mechanisms and procedures to control the risks arising from its role as central counterparty to all agreements cleared through SwapClear. LCH's risk management program will include:

(a) A requirement that the terms of a swap agreement be confirmed by the original counterparties before the agreement will be accepted for clearing by SwapClear.

(b) A requirement that SDs and SCMs submit certain information to LCH including information relating to:

(i) Their ongoing ability to satisfy SwapClear's participant eligibility criteria;

(ii) Their status as a licensee;

(iii) Their authority to conduct investment business in the United Kingdom;

(iv) Their solvency;

(v) Their dissolution;

(vi) Their conviction of a crime;

(vii) Disciplinary or enforcement judgment involving them; and

(viii) Material changes to their business.

(c) The establishment of intra-day limits on credit exposure with respect to each SCM. LCH will monitor its credit exposure to each SCM on an ongoing basis and will be able to reject any transaction for registration or impose liquidation orders with respect to transactions that exceed assigned credit limits.

(d) The establishment of initial margin requirements to cover adverse market movements and the cost of liquidating positions in the event of a default by an SCM. Subject to the approval of the FSA, the initial margin requirements will be set using a scenario-based method analogous to London SPAN®. LCH will accept margin only in cash, bank guarantees, and specified government securities. LCH will retain the discretion to require a SwapClear participant to post initial margin in excess of that calculated using its margin methodology.

(e) The calculation of mark-to-market values for all cleared agreements on a daily basis and a requirement that SCMs pay variation margin equivalent to any change in the value of an SCM's position from the previous day, each day, in cash.

(f) The maintenance of financial resources of sufficient size and liquidity to cover the cost of closing out or transferring a defaulting member's position where those costs exceed the initial margin collected by LCH from the defaulting member, including cash, lines of credit, a default fund to which each SCM must contribute, and the maintenance of an insurance policy to cover any shortfall in the default fund.

(g) The maintenance of rules which permit LCH to declare an SCM in default in appropriate circumstances and to take appropriate, clearly-defined action in the event of an SCM default.

(h) Daily stress testing of the initial margin LCH holds from each member to ensure the adequacy of its daily funding level in the event of a member default and daily review of the stress testing results.

(i) Internal and third party testing of the operational systems upon which LCH relies.

(j) The maintenance of back-up and business recovery facilities to ensure the reliability and security of SwapClear's operations.

(21) LCH will forward a copy of the annual report that it is required to file with the FSA to the CFTC upon submission of that document to the FSA.

(22) LCH will provide a copy of the LCH Rules applicable to its SwapClear operation to the CFTC, prior to the onset of SwapClear's operations.

(23) LCH will maintain a valid, effective, and binding agency agreement with a person located in the United States whereby it authorizes that person to act as its agent for purposes of accepting delivery and service of communications at all times during which this order is in effect. Such communications include any summons, complaint, order, subpoena, request for information, notice or any other written document or correspondence issued by or on behalf of the CFTC, the United States Department of Justice, any self-regulatory organization, or any SwapClear participant. LCH will provide immediate, written notice to the Commission of any change concerning the status of the party identified as the agent for the service of process or the effectiveness of any agreement with such party.

Terms and Conditions

Based upon the representations that have been made, the Commission has determined that granting the Petition for Exemption Pursuant to Section 4(c) of the Act dated June 15, 1998 submitted by LCH, subject to the terms and conditions below, would be consistent with the standards set forth in Section 4(c) of the CEA.

Accordingly, any swap agreement submitted for clearing to LCH through its swap clearing facility known as SwapClear is exempt from all provisions of the Act and any person or class of person offering, entering into, rendering advice or rendering other services, including clearing services, with respect to such agreement, is exempt for such activity from all provisions of the Act (except in each case, sections 2(a)(1)(B), 4b and 4o of the Act, and Rule 32.9 of the Commission's regulations, and the provisions of sections 6(c) and 9(a)(2) of the Act to the extent these provisions prohibit manipulation of the market price of any commodity in interstate commerce or for future delivery on or subject to the rules of any contract market), provided that each of the following terms and conditions is met:

(1) The transaction would constitute a ''swap agreement,'' as that term is defined in Section 35.1(b)(1) of the Commission's regulations, and the transaction is a forward rate agreement or interest rate swap agreement as defined in the LCH Petition.

(2) The transaction has been entered into solely between ''eligible swap participants,'' as that term is defined in Section 35.1(b)(2) of the Commission's regulations, which have been approved as SDs by LCH.

(3) The transaction is not part of a fungible class of agreements that are standardized as to their material economic terms.

(4) The transaction is not entered into and traded on or through a multilateral transaction execution facility.

(5) At the time such agreement is submitted to LCH for registration by SwapClear, LCH is an RCH under the applicable laws of the United Kingdom with respect to the clearing services offered by SwapClear.

This order, and the exemption provided herein, shall not become effective until the FSA and the Commission have executed the Bilateral Side Letter to the Memorandum of Understanding dated September 25, 1991 on the Mutual Assistance and Exchange of Information between the SEC, the CFTC, the United Kingdom's Department of Trade and Industry, HM Treasury, and the FSA (formerly the Securities and Investments Board), and the FSA has provided the Commission with written notification that it has reviewed the SwapClear operation and has approved the commencement of the SwapClear operation.

The Commission reserves the right to review and, prospectively, to modify and/or to revoke this order and the exemption contained therein, including the conditions imposed upon the exemptive relief, in certain circumstances, including, but not limited to, the following:

(1) The Commission discovers that a material representation made by LCH or its counsel or representatives is materially misleading, is untrue, or has ceased to be true.

(2) LCH ceases to satisfy the criteria for designation as an RCH under the applicable laws of the United Kingdom.

(3) The FSA or any relevant authority in the United Kingdom no longer authorizes the operation of SwapClear.

(4) LCH fails to maintain a valid, effective, and binding agreement appointing an agent in the United States for purposes of accepting delivery and service of communications, as defined above, issued by or on behalf of the CFTC, the United States Department of Justice, any self-regulatory organization, or any SwapClear participant.

(5) The Commission determines that it is unable to obtain sufficient information including, but not limited to, information that the FSA and LCH have agreed to provide to the Commission or to which the Commission believes it is entitled to receive under the terms of the US/UK MOU, the Side Letter thereto or any other information-sharing arrangement.

(6) Any revocation of this order or the exemption provided herein by the Commission would be prospective only and would not affect the status of any transaction entered into in reliance on this order prior to the revocation.

Issued in Washington, DC on March 23, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–25605 Filed 9–30–99; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Availability of the National Missile Defense Deployment Draft Environmental Impact Statement

AGENCY: Ballistic Missile Defense Organization.

ACTION: Notice of Availability.

SUMMARY: The Ballistic Missile Defense Organization (BMDO) announces the availability of the National Missile Defense Deployment Draft Environmental Impact Statement (DEIS). The DEIS assesses the potential impacts associated with the possible deployment of the NMD system. The NMD system would be a fixed, land-based, non-nuclear missile defense system with a land and space-based detection system capable of responding to limited strategic ballistic missile threats to the United States from a rogue nation. Potential deployment locations for the NMD elements include sites in Alaska and North Dakota. In addition, as the operational requirements are refined other regions may be identified.

PROPOSED ACTION AND ALTERNATIVES: The alternatives considered in the EIS are the No-Action Alternative and the Proposed Action. A No-Action Alternative would be a DoD recommendation not to deploy an NMD system at the time a decision is made but to continue NMD system development to improve NMD system capabilities. With the Proposed Action Alternative, a decision would be made to deploy the NMD system and the NMD element locations would be selected from the range of locations studied in the EIS.

PUBLIC HEARINGS: Public hearing locations and dates are as follows: (1) October 26, 6–9 PM; Langdon Activity Center, 516 10th Avenue, Langdon, North Dakota; (2) October 27, 6–9 PM; Civic Auditorium, 615 1st Avenue North, Grand Forks, North Dakota; (3) November 1, 6–9 PM; Carlson Community Activity Center, 2010 2nd Avenue, Fairbanks, Alaska; (4) November 2, 7–10 PM; Anderson School, 116 West 1st Street, Anderson, Alaska; (5) November 3, 6–9 PM; Delta High School, School Road, Delta Junction, Alaska; (6) November 4, 6–9 PM; WestCoast International Inn, 3333 W. International Airport Rd., Anchorage, Alaska; and (7) November 9, 6–9 PM; Days Inn, 2000 Jefferson Davis Highway, Arlington, Virginia.

COMMENTS: Comments on the DEIS should be received by November 15, 1999. Written comments and inquiries of the DEIS should be directed to SMDC–EN–V (Ms. Julia Hudson), U.S. Army Space and Missile Defense Command, PO Box 1500, Huntsville, AL 35807–3801, telephone (256) 955–4822. Public reading copies of the DEIS will be available for review at the public libraries within the communities where the public hearings will be held and at the BMDO internet site at www.acq.osd.mil/bmdo/bmdolink/html/nmd.html.

Dated: September 24, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–25400 Filed 9–30–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

ACTION: Notice of revised meeting times.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Date of Meeting: October 19, 1999 from 0830 to 1710 and October 20, 1999 from 0800 to 1700.

Place: Holiday Inn Arlington at Ballston, 4610 North Fairfax Drive, VA 22203.

Matters to be Considered: Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Kelly, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2124.

Dated: September 27, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 99–25549 Filed 9–30–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Active Duty Service Determinations for Civilian or Contractual Groups

On August 27, 1999, the Secretary of the Air Force, acting as Executive Agent of the Secretary of Defense, determined that the service of the group known as ''The Operational Analysis Group of the Office of Scientific Research and Development, Office of Emergency Management, which served overseas with the U.S. Army Air Corps from December 7, 1941 through August 15, 1945'' shall be considered ''active duty'' under the provisions of Public Law 95–202 for the purposes of all laws administered by the Department of Veterans Affairs (VA).

To be eligible for VA benefits, members of the group must establish each of the following:

1. He or she was employed as a civilian employee of the Office of Scientific Research and Development for a period of time during the period December 7, 1941 to August 15, 1945; and

2. He or she was assigned as a civilian operations analyst or scientific consultant to duty with an operations analysis section or operational research section at a headquarters of an Army Air Force field force or command outside the continental limits of the United States; and

3. He or she served for a period of time outside the continental limits of the United States as a civilian operations analyst or scientific consultant at that field force or command between December 7, 1941 and August 15, 1945; and

4. He or she completed honorably the period for which the applicant contracted with the Office of Scientific Research and Development and completed honorably his or her obligations to the Army Air Force unit to which he or she was assigned outside the continental limits of the United States.

Qualifying periods of time are computed from the date of departure from the continental United States to the date of return to the continental United States.

Application Procedures

Before an individual can receive any VA benefits, the person must first apply for an Armed Forces Discharge Certificate (Department of Defense Form 214) by filling out a Department of Defense (DD) Form 2168, Application for Discharge of Member or Survivor of

Member of Group Certified to Have Performed Active Duty With the Armed Forces of the United States, and sending it to the U.S. Air Force Personnel Center at the following address: AFPC/DPPRP, 550 C Street West, Suite 11, Randolph AFB, TX 78150–4713.

Important: Applicants must attach supporting documents to their DD Form 2168 application. Of primary importance will be any employment records from the Operational Analysis Group of the Office of Scientific Research and Development, Office of Emergency Management. Other supporting documentation might include copies of passports with appropriate entries, military or civilian orders posting the applicant to an overseas assignment, reports signed by or mentioning the work of the applicant at the Operational Analysis unit overseas, Army Air Force (AAF) Identification Forms 133, any personal employment records such as commendations regarding performance, employee expense reports of charges to AAF contracts, medical certifications prior to departure from the U.S., AAF passes to leave the limits of an overseas base, miscellaneous AAF papers, etc. Additionally, the overseas Operational Analysis unit chief may provide written confirmation for the service of other members in his unit.

Applicants having difficulty establishing all of the eligibility criteria mentioned above, should recognize the nature and character of documents addressing each criteria need not be the same. For example, an applicant may establish employment with the Operational Analysis Group of the Office of Scientific Research and Development through official employment records, but find that proving assignment to an Army Air Force field force or command outside the continental United States more difficult. In such a case, an applicant may be able to prove assignment and service at that location through other evidence, such as, dated, postmarked (or other sign of authenticity) correspondence (official or personal) to or from the applicant at that assignment outside the United States.

Upon confirmation of an applicant's eligibility, the DD Form 214 will be passed from AFPC/DPPRP to the Awards and Decorations office to determine which ribbons the applicant is eligible to receive (campaign ribbons, theater ribbons, victory medal, etc.). Specific awards (*i.e.*, Silver Star, Purple Heart, etc.) need separate justification detailing the act, achievement, or service believed to warrant the appropriate medal/ribbon. DD Forms 2168 are available from VA offices or from the U.S. Air Force offices in this notice. An electronic version is also available in Adobe Acrobat (the reader is free) on the Internet at ''DefenseLINK, publications.''

For further information contact Mr. James D. Johnston at the Secretary of the Air Force Personnel Council (SAFPC), 1535 Command Drive, EE Wing, 3rd Floor, Andrews AFB, MD 20762–7002.

Benefit Information

A determination of ''active duty'' under Public Law 95–202 is ''for the purposes of all laws administered by the Department of Veterans Affairs'' (38 U.S.C. 106). Benefits are not retroactive and do not include such things as increased military or Federal Civil Service retirement pay, or a military burial detail, for example. Entitlement to state veterans benefits vary and are governed by each state. Therefore, for specific benefits information, contact your nearest Veterans Affairs Office and your state veterans service office after you have received your Armed Forces discharge documents.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–25482 Filed 9–30–99; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Grant an Exclusive or Partially Exclusive License to BONTEX

AGENCY: U.S. Army, DoD.

ACTION: Notice of intent.

SUMMARY: In compliance with 37 CFR 404 *et seq.*, the Department of the Army hereby gives notice of its intent to grant to BONTEX, a corporation having its principle place of business at One BONTEX Drive, Buena Vista, VA 24416–0751, an exclusive or partially exclusive license relative to an ARL patented elastomeric compound (Foreign patent#'s: European patents EP326394A1 issued on 2 Aug, 1989; EP326394B1 issued on 5 May 1993; German patent #P68906275, issued on 5/5/93; Canada Patent #1308832 issued 13 Oct, 1992; Israel Patent #89074 issued 16 Feb, 1993; Australian Patent #8930655 issued 25 Aug, 1989. Anyone wishing to object to the granting of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–CS–TT/Bldg. 433, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–25530 Filed 9–30–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Prospective Grant of Exclusive Patent License

AGENCY: U.S. Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with the provisions of 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), SBCCOM hereby gives notice that it is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Number 5,918,254 issued June 29, 1999, entitled, ''Low Concentration Aerosol Generator'' to Dycor, U.S.A., Inc. having a place of business in Havre de Grace, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Albert, Technology Transfer Office, U.S. Army SBCCOM, ATTN: SCBRD–ASC, 5183 Blackhawk Road (Bldg E3330/245), APG, MD 21010–5423, Phone: (410) 436–4438 or E-Mail: rcalbert@sbccom.apgea.army.mil.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted, unless within sixty days from the date of this publication Notice, SBCCOM receives written evidence and argument to establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

U.S. Patent 5,918,254 relates to an apparatus useful in generating and counting aerosol particles. The apparatus is capable of generating and counting low concentrations of individual aerosol particles.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–25529 Filed 9–30–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: U.S. Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patent for non-exclusive, partially exclusive or exclusive licensing. The listed patent has been assigned to the United States of America as represented by the Social Security of the Army, Washington, DC.

This patent covers a wide variety of technical arts including: A new type of fire extinguisher, a new type of shaped charge.

Under the authority of section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Public Law 99–502) and section 207 of Title 35, United States Code, the Department of the Army as represented by the U.S. Army Research Laboratory wish to license the U.S. patent listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by this patent.

Title: Apparatus for Preparing and Disseminating Novel Fire Extinguishing Agents.

Inventors: Anthony E. Finnerty, Warren W. Hillstorm and Lawrence J. Vande Kieft.

Patent Number: 5,934,380.

Issued Date: August 10, 1999.

Title: Method for Dispersing a Jet from a Shaped Charge Liner Via Multiple Detonators.

Inventors: William Walters and Richard Summers.

Patent Number: 5,939,663.

Issued Date: August 17, 1999.

FOR FURTHER INFORMATION CONTACT: Michael Rausa, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research Laboratory, Aberdeen Proving Ground, MD 21005–5055; tel: (410) 278–5028; fax: (410) 278–5820.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–25532 Filed 4–30–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: U.S. Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patent for non-exclusive, partially exclusive or exclusive licensing. The listed patent has been assigned to the United States of America as represented by the Secretary of the Army, Washington, D.C.

This patent covers a wide variety of technical arts including: An Ulta-Wide Bandwidth Field Stacking Balun.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and Section 207 of Title 35, United States Code, the Department of the Army as represented by the U.S. Army Research Laboratory wish to license the U.S. patent listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by this patent.

Title: Ulta-Wide Bandwidth Field Stacking Balun.

Inventor: John W. McCorkle.

Patent Number: 5,945,890.

Issued Date: August 31, 1999.

FOR FURTHER INFORMATION CONTACT: Norma Cammaratta, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research, Laboratory, Adelphi, MD 20783–1197 tel: (301) 394–2952; fax: (301) 394–5818.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–25531 Filed 9–30–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Availability of the Draft Environmental Impact Statement for the New York and New Jersey Harbor Navigation Study

AGENCY: U.S Army Corps of Engineers, DoD.

ACTION: Notice of Availability.

SUMMARY: The New York District of the U.S. Army Corps of Engineers has prepared a Draft Environmental Impact Statement (DEIS) for the New York and New Jersey Harbor Navigation Study. The purpose of the study is to establish and evaluate the range of navigation channel development alternatives and to identify the National Economic Development (NED) and recommend a plan. The Draft Environmental Impact Statement (DEIS) was prepared to evaluate those alternatives identified in the Feasibility Report. Additional information on the study is provided in the **SUPPLEMENTARY INFORMATION** section as indicated below.

DATES: The DEIS will be available for public review on or about October 1, 1999. The review period of the document will be for forty five days from the publication date of the DEIS. To request a copy of the DEIS please call (212) 264–5746.

FOR FURTHER INFORMATION CONTACT: For further information regarding the DEIS, please contact Jenine Gallo, Project Biologist, telephone (212) 264–0912, Planning Division, ATTN: CENAN-PL-EA, Corps of Engineers, New York District, 26 Federal Plaza, New York, New York, 10278–0090.

SUPPLEMENTARY INFORMATION:

1. A DEIS for the New York and New Jersey Harbor Navigation Study was prepared and the study was authorized by Section 435 of the Water Resources Development Act (WRDA) of 1996. The section reads: The Secretary shall conduct a comprehensive study of navigation needs at the Port of New York-New Jersey (including the South Brooklyn Marine and Red Hook Terminals, Staten Island, and adjacent areas) to address improvements, including deepening of existing channels to depths of 50 ft or greater, that are required to provide economically efficient and environmentally sound navigation to meet current and future requirements.

2. The existing depths of the Harbor's navigation channels, anchorages, and berthing areas are insufficient to allow the safe and timely passage of economically efficiently loaded containerships and liquid bulk vessels (tankers) willing to call on container terminals and bulk cargo facilities in the region, and the oil refineries/terminals, located primarily on the Arthur Kill. The current mode of operation calls for the tankers to lighter off in anchorages or at sea and, at reduced operating draft, and enter the channel during high tides. Containerships must be loaded to less than their design capacity at their prior ports of call and sail without a full load, or off-load at deeper-draft ports prior to calling on the Harbor. The proposed project plans were analyzed in the Feasibility Report, which is included

with the Draft Environmental Impact Statement. The Recommended Plan (also the NED plan) for the New York and New Jersey Harbor Navigation Study has been divided into the following paths which have the Ambrose and Anchorage Channels as common elements and is as follows:

a. The Ambrose and Anchorage channels combined form the main entrance channels to the Port of New York and New Jersey. Extending from the Atlantic Ocean through the Lower Bay; they are currently maintained at depths of 45-ft MLW. The District recommends deepening the Ambrose channel to a depth of 53-ft MLW and the Anchorage channel to a depth of 50-ft MLW.

b. The Kill Van Kull and Newark Bay Channels are currently maintained at a depth of 40-ft MLW, and are under construction to 45-ft MLW. The evaluation of the navigation alternatives assumes these channels will be at a depth of 45-ft MLW. The District recommends deepening the Kill Van Kull and Newark Bay channels to a depth of 52-ft MLW.

c. The Port Jersey Channel extends from the Upper Bay's Anchorage Channel to the Global Marine Terminal and the Military Ocean Terminal in Bayonne, New Jersey. Some of the Port Jersey Channel is currently at a depth of 38-ft MLW, although the present study assumes that the channel will be dredged to its authorized depth of 41-ft MLW. The District recommends a depth of 52-ft MLW.

d. The Bay Ridge Channel, which extends along the western shore of Brooklyn, allows ship access to the South Brooklyn Marine Terminal. This channel is currently maintained at a depth of 40-ft MLW and the District recommends deepening this channel to a depth of 50-ft MLW.

e. The Arthur Kill Channel is currently at a depth of 35-ft MLW, although the present study assumes that the channel will be dredged to its authorized depth of 41-ft MLW. The District recommends deepening this Channel to the Howland Hook Marine Terminal to a depth of 52-ft MLW.

3. Following excavation, with the exception of the Ambrose Channel, all project channels will be maintained at a depth of 50-ft MLW. The Ambrose Channel will be maintained at a depth of 53-ft MLW.

4. Potential impacts, including indirect and cumulative impacts, were evaluated in the DEIS for the proposed action and the other action alternatives. The analysis indicates that short-term adverse environmental impacts, such as benthic habitat disruption, would be balanced by beneficial impacts, such as revitalization of the maritime industry and permanent removal of contaminated material from the aquatic ecosystem.

5. The DEIS has been prepared under the direction of the USACE in accordance with the National Environmental Policy Act (NEPA) of 1969 and is submitted in compliance with NEPA and USACE regulations. The USACE is the Federal agency responsible for preparation of the DEIS because the project involves improvements and/or modifications to Federal navigation channels. The DEIS will be available for public review on or about October 1, 1999. The review period will be for forty-five (45) days from publication of this notice. The document may be obtained from the Army Corps of Engineers, Planning Division at the above address.

6. The New York and New Jersey Harbor portion of the Hudson-Raritan Estuary is located at the apex of the New York Bight. It serves as the port for the greater metropolitan New York area, providing maritime access to shipping via a network of channels and anchorages that have historically been dredged and maintained throughout the harbor. The Harbor is shallow, with natural depths of less than 30 ft, and has dredged areas as deep as 45 ft. The shoal and channel areas provide diverse habitats that are used by different species on a seasonal basis. The rivers and tidal straits that form part of the Harbor offer habitat with higher tidal currents. Taken together, the different habitat types provide a complex estuarine system that has been greatly influenced by human activities.

7. The Harbor comprises four large embayments: Upper New York Bay, Newark Bay, Lower New York Bay, and Raritan Bay. Upper New York Bay and Lower New York Bay are separated by a constriction: the Verrazano Narrows. Newark Bay, the smallest of the four, is linked to the other embayments by narrow, natural channels. Newark Bay is connected to Upper New York Bay by the Kill Van Kull, and to Raritan Bay/ Lower New York Bay by the Arthur Kill. The Harbor also contains a network of public and private channels and berths, including those constructed and maintained by agencies of Federal, state, and local governments and by private companies.

8. The New York and New Jersey Harbor is an estuary, a semi-enclosed coastal body of water having a free connection with the open sea. It is thus strongly affected by tidal action, and within it seawater is mixed (and usually measurably diluted) with fresh water from land drainage. Estuaries are transition zones between freshwater and marine habitats. The core area of the New York and New Jersey Harbor estuary is the Hudson-Raritan estuary, which extends from the Piermont Marsh in New York State to the Sandy Hook-Rockaway Point Transect. This region of the Harbor includes the bi-state waters of Raritan Bay, Lower New York Bay, Upper New York Bay, Hudson River, Kill Van Kull, Arthur Kill, and smaller New Jersey tributaries such as the Passaic and Hackensack Rivers, which enter Newark Bay; the Raritan River, which enters Raritan Bay; and New York's East River, which enters Upper New York Bay at the southern end of Manhattan. The estuary, which includes approximately 298 square miles of surface water, has an average depth of 21 ft.

9. Habitat types found in the Harbor include; tidal rivers, salt and freshwater tidal marshes, woodlands, shallow bays, barrier beaches, and sand dunes. Water is the predominant habitat type. Salt and freshwater tidal marshes cover 180,000 acres in New Jersey and 25,000 acres in New York. The greatest percentage of the Harbor's marshes is located outside the proposed study area. The New York and New Jersey Harbor supports diverse and productive finfish, crustacean, and shellfish populations, with over 100 species of fish (many of commercial and recreational importance, commercially important crustaceans (including lobster and blue crab), and commercially important shellfish populations (including the clam, Mercenaria mercenaria). Over the last 100 years aquatic populations have experienced dramatic declines due to overfishing, deteriorating water quality, and loss of habitat. The leading commercial fisheries in the estuary are winter flounder, menhaden, bluefish, weakfish, blue crab, and baitfish. Ocean quahogs (clams), sea scallops, and blue mussels are commercially valuable shellfish.

10. The waterways are intensively used navigation channels, and with the recent dredging and re-opening of the Howland Hook Marine Terminal and deepening of the Kill Van Kull/Newark Bay Channels, there is no reason to believe that the level of maritime activity in the Harbor will decrease in the immediate future.

Joseph Vietri,

Acting Chief, Planning Division.

[FR Doc. 99–25533 Filed 9–30–99; 8:45 am]

BILLING CODE 3710–06–P

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education, Meeting

AGENCY: National Advisory Council on Indian Education, ED.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Indian Education. The purposes of this meeting are to discuss the President Executive Order 13096 on American Indian and Alaska Native Education, and to discuss the reauthorization of programs under the Elementary and Secondary Education Act of 1965 (ESEA), of which the Title IX Indian Education Program is included. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES AND TIMES: October 18, 1999, 1:00 p.m.–5:00 p.m. and October 19, 1999, 9:00 a.m.–4:30 p.m.

PLACE: Westin Hotel, Oklahoma City, OK, (405) 235–2780.

FOR FURTHER INFORMATION CONTACT: Dr. David Beaulieu, Director, Office of Indian Education, 400 Maryland Avenue, SW, Washington, DC 20202. Telephone: (202) 260–3774; Fax: (202) 260–7779.

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Indian Education is a presidential appointed advisory council on Indian education established under Section 9151 of Title IX of the Elementary and Secondary Education Act of 1965, as amended, (20 U.S.C. 7871). The Council advises the Secretary of Education and the Congress on funding and administration of programs with respect to which the Secretary has jurisdiction and that includes Indian children and adults as participants from which they benefit. The Council also makes recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs. The meeting of the Council is open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the Council for its consideration. Written statements should be submitted to the address listed above.

A summary of the proceedings and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting, and are available for public inspection at the Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202 from the hours of 8:30 a.m. to 5:00 p.m.

Judith Johnson,

Acting Assistant Secretary, Office of Elementary and Secondary Education.

The Westin Hotel

Oklahoma City, OK

405–235–2780

Monday, October 18, 1999

1:00 p.m. Roll Call
Review Agenda and Purpose of Meeting
1:30–2:00 Presidential Executive Order 13096 on American Indian and Alaska Native Education
Update on ESEA Reauthorization
2:00–4:00 Draft NACIE Charter and Work Plan
Annual Report Review
OIE Staff Updates
4:30–5:00 Summarize Discussion & Set Agenda for Next Day

Tuesday, October 19, 1999

9:00 a.m. Call to Order
9:15–10:30 Continue Business Meeting
10:30–12:00 Open Meeting On:
Reauthorization of Indian Education Programs Executive Order 13906
12:00–1:00 Lunch
1:00–4:00 Open Meeting Continued
4:00–4:30 Summarize Meeting Accomplishments
4:30 p.m. Adjourn NACIE Meetings

[FR Doc. 99–25643 Filed 9–30–99; 8:45 am]
BILLING CODE 4000–02–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP99–15–000]

Burlington Resources Oil & Gas Company; Notice of Petition for Dispute Resolution or, Alternatively, for Staff Adjustment Relief From Refund Obligation

September 27, 1999.

Take notice that, on May 12, 1998, Burlington Resources Oil & Gas Company (Burlington) requested that the Commission resolve Burlington's dispute with Northern Natural Gas Company (Northern) over the Kansas *ad valorem* tax reimbursement refunds that Northern claims Burlington owes as a result of tax reimbursements that Northern paid to Burlington's predecessor—Southland Royalty Company (Southland).[1] Burlington requests that the Commission find that it has no such refund liability to Northern, due to a February 28, 1989 Take-or-Pay Settlement Agreement (1989 Settlement) between Southland and Northern that settled certain claims involving over 30 separate gas purchase contracts, covering properties located in three different states, including the State of Kansas. Burlington's petition is on file with the Commission and is open to public inspection.

In its September 10, 1997 order in Docket No. RP97–369–000, *et al.*,[2] the Commission required First Sellers to refund the Kansas *ad valorem* tax reimbursements to the pipelines (with interest) for the period from 1983 to 1988. In its January 28, 1998 Order Clarifying Procedures [82 FERC ¶61,059 (1998)], the Commission stated that producers (*i.e.*, First Sellers) could file dispute resolution requests with the Commission, asking the Commission to resolve disputes with the pipeline over the amount of Kansas ad *valorem tax* refunds owed.

In its petition, Burlington asserts that the 1989 Settlement between Southland and Northern explicitly resolved all disputes between the parties regarding the affected contracts, and that the parties mutually agreed to release and discharge each other and their respective successors and assigns from any and all liabilities claims and causes of action relating to those contracts, whether at law or in equity, and whether known or unknown, for all periods through January 31, 1989. Burlington contends that, under the 1989 Settlement, all claims for additional monies associated with the subject contracts, for any time period prior to January 31, 1989, were intended by the parties to be resolved as of February 28, 1989. Thus, Burlington contends that Northern, by contract, has agreed to release Burlington from any responsibility regarding additional monies owed with respect to the Kansas contracts, and that Northern is contractually bound to indemnify Burlington, as Southland's successor, with respect to any claims, including

[1] Burlington's May 12, 1998 dispute resolution request was originally filed in Docket No. SA99–1–000, Burlington's petition for staff adjustment with respect to Panhandle Eastern Pipe Line Company's Kansas *ad valorem* tax reimbursement refund claim. Burlington's May 12 request is now being docketed separately as a petition for dispute resolution, under Docket No. GP99–15–000, because it pertains to a different Kansas ad valorem tax reimbursement refund claim, levied by a different pipeline.

[2] See: 80 FERC ¶ 61,264 (1997); rehearing denied, 82 FERC ¶ 61,058 (1998).

Northern's Kansas *ad valorem* tax reimbursement refund claim.

Burlington adds, however, that it is not claiming that the tax reimbursement refunds should not be made to the ultimate consumers, only that Southland entered into an arms-length contractual agreement with Northern, and that Northern, by agreeing to release Southland from any and all future liability with regard to the Kansas contracts, assumed the obligation to make such payments on behalf of Southland, as consideration for value received from Southland pursuant to the 1989 Settlement, including the mutual release and indemnification, and the termination of Northern's take-or-pay obligations under numerous contracts.

Burlington also contends that, to the extent its predecessor (Southland) received any value in excess of the applicable maximum lawful price for the gas Northern purchased under the Kansas contract, Southland has already reimbursed Northern for that value through the consideration provided to Northern pursuant to the release of Northern from its take-or-pay liability under the numerous contracts covered by the 1989 Settlement.

Burlington also asserts that the Natural Gas Policy Act of 1978 (NGPA) does not prohibit a pipeline from contractually assuming a producer's refund liability under the NGPA. Burlington contends that, since the Commission has found that the consumers are bound by their contractual agreements that relinquished their rights to Kansas *ad valorem* tax reimbursement refund from El Paso Natural Gas Company, Natural Gas Pipeline Company of America, and ANR Pipeline Company,[3] there is no justification for not holding a pipeline to its contractual agreements to release and indemnify gas sellers from the obligation to refund tax reimbursements.

In the event that the Commisison finds that Northern's indemnification of Southland is not applicable to the actual Kansas *ad valorem* tax reimbursement refund amounts (*i.e.*, the principal portion of Northern's refund claim), Burlington contends that the Commisison should nevertheless find, at a minimum, that Northern has indemnified Burlington from paying the interest on the principal. In the event that the Commisison finds that Northern has not assumed Burlington's refund liability, as a result of entering into the 1989 Settlement, Burlington requests relief from having to pay both the principal and interest to Northern, pursuant to section 502(c) of the NGPA, based on Burlington's contention that it would be inequitable to absolve Northern of its contractual commitment to release Burlington from all liabilities associated with the Kansas contracts. In this regard, Burlington claims that the release Northern obtained was for value in exchange for its indemnification, and that it would be inequitable to allow Northern to now be relieved of its *quid pro quo* under the 1989 Settlement, solely because the indemnification obligation would require Northern to assume Burlington's liability for Kansas *ad valorem* tax reimbursement refunds.

Any person desiring to comment on or make any protest with respect to the above-referenced petition should, on or before October 18, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commisison's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to the proceeding, or to participate as a party in any hearing therein, must file a motion to intervene in accordance with the Commission's Rules.

David P. Boergers,

Secretary.

[FR Doc. 99–25586 Filed 9–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2566–010]

Consumers Energy Company; Notice Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

September 27, 1999.

The license for the Webber Hydroelectric Project No. 2566, located on the Grand River near the City of Portland, in Ionia County, Michigan, will expired on March 31, 2001. On March 30, 1999, an application for new major license was filed. The following is an approximate schedule and procedures that will be followed in processing the application:

Date	Action
August 16, 1999	Commission issues notice of the accepted application establishing October 15, 1999, for filing motions to intervene and protests.
November 26, 1999	Commission's deadline for applicant to file a final amendment, if any, to its application.
February 29, 2000	Commission notifies all parties and agencies that the application is ready for environmental analysis.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Tom Dean at (202) 219–2778.

David P. Boergers,

Secretary.

[FR Doc. 99–25588 Filed 9–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–510–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes to FERC Gas Tariff

September 27, 1999.

Take notice that on September 22, 1999, Koch Gateway Pipeline Company

[3] *El Paso Natural Gas Co.* 85 FERC ¶ 61,003 (1998); *Natural Gas Pipeline Company of America*, 85 FERC ¶ 61,004 (1998); and *ANR Pipeline Co.*, 85 FERC ¶ 61,005 (1998).

(Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, First Revised Sheet No. 1415, and Original Sheet No. 1416, to become effective October 22, 1999.

The proposed tariff sheets were filed to make revisions to Koch's tariff with respect to the generic types of rate discounts that may be granted. Specifically, the proposed tariff revisions include a new Section 7.7(a) of the General Terms and Conditions that specifies the types of transportation discounts that will not constitute material deviations to Koch's proforma transportation agreements. The proposed tariff provision will be applicable only to Koch's FT, IT and NNS rate schedules.

In accordance with Section 154.208 of the Commission's Regulations, copies of this filing have been served upon Koch's customers, state commissions and other interested parties. In addition, copies of the instant filing are available during regular business hours for public inspection in Koch's offices in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–25591 Filed 9–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–1–31–000]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 27, 1999.

Take notice that on September 22, 1999, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective November 1, 1999:

First Revised Sheet No. 5
First Revised Sheet No. 6
Second Revised Sheet No. 7

REGT states that the purpose of this filing is to adjust REGT's fuel percentages and Electric Power Costs Tracker pursuant to Sections 27 and 28 of its General Terms and Conditions.

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 in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be reviewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–25592 Filed 9–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–2495–012, et al.]

AEP Power Marketing, Inc., et al.; Electric Rate and Corporate Regulation Filings

September 24, 1999.

Take notice that the following filings have been made with the Commission:

1. AEP Power Marketing, Inc.

[Docket No. ER96–2495–012]

Take notice that on September 21, 1999, AEP Power Marketing, Inc. (AEP Marketing), tendered for filing with the Federal Energy Regulatory Commission an updated market analysis and a request to remove a self-imposed limitation that it not sell power at market-based rates to entities that are directly connected with any of the AEP Operating Companies or are separated from any of the AEP Operating Companies by one intervening system.

Comment date: October 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Sunbury Generation, LLC

[Docket No. ER99–3420–001]

Take notice that on September 21, 1999, Sunbury Generation, LLC (Sunbury Generation), tendered for filing its compliance filing in the above-captioned proceeding.

Comment date: October 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. EML Power, L.L.C.

[Docket No. ER99–4262–000]

Take notice on September 22, 1999, EML Power, L.L.C. (EML Power), tendered for filing a letter with the Federal Energy Regulatory Commission (Commission) in the above-captioned docket to amend the August 27, 1999 filing therein by withdrawing Appendix A, containing EML Power, L.L.C., FERC Electric Rate Schedule No. 1, to such filing and requesting that the Commission accept a revised EML Power, L.L.C. FERC Electric Rate Schedule No. 1, which omits references to an agreement between EML Power and Florida Power Corporation.

EML Power has sought a shortened notice period and expedited approval for its filing.

Comment date: October 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp

[Docket No. ER99–4390–000]

Take notice that on September 21, 1999, PacifiCorp tendered for filing its request for a withdrawal of its filing letter in FERC Docket No. ER99–4390–000 and a termination of any further Commission action therein.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Gas and Electric Company

[Docket No. ER99–4484–000]

Take notice that on September 21, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing a proposed Amended Imbalance Energy Agreement between the Sacramento Municipal Utility District (SMUD) and PG&E (Amended Agreement). The Amended Agreement will replace the Interim Short Term Coordination Agreement, dated July 28, 1998 (Agreement). The Agreement and its appendices were originally accepted for filing by the Commission in FERC Docket No. ER98–4067–000 and designated as PG&E Rate Schedule FERC No. 201.

PG&E has requested certain waivers.

Copies of this filing were served upon Sacramento Municipal Utility District, the California Independent System Operator and the California Public Utilities Commission.

Comment date: October 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER99–4493–000]

Take notice that on September 21, 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 New York State Electric & Gas Corporation (NYSEG), dated September 16, 1999. This Service Agreement specifies that NYSEG 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 NYSEG 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 September 16, 1999, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: October 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

[Docket No. ER99–4495–000]

Take notice that on September 21, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Market Rate Sales Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Allegheny Power Service Corporation as agent for Monongahela Power Company, The Potomac Edison Company and West Penn Power Company, collectively d/b/a Allegheny Power, for the sale of power under Entergy Services' Rate Schedule SP.

Comment date: October 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Company

[Docket No. ER99–4511–000]

Take notice that on September 23, 1999, Arizona Public Service Company (APS), tendered for filing Service Agreement to provide Long-Term Firm Point-to-Point Transmission Service to PacifiCorp under APS' Open Access Transmission Tariff.

A copy of this filing has been served PacifiCorp, Oregon Public Utility Commission, and the Arizona Corporation Commission.

Comment date: October 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. The Montana Power Company

[Docket No. ER99–4512–000]

Take notice that on September 23, 1999, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 executed Firm and Non-Firm Point-To-Point Transmission Service Agreements with Western Area Power Administration under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff), replacing previously filed unexecuted service agreements.

A copy of the filing was served upon Western Area Power Administration.

Comment date: October 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Alliant Energy Corporate Services, Inc.

[Docket No. ER99–4513–000]

Take notice that on September 23, 1999, Alliant Energy Corporate Services, Inc., on behalf of IES Utilities Inc. (IES), Interstate Power Company (IPC) and Wisconsin Power and Light Company (WPL), tendered for filing with the Commission an amendment to Schedule 4 of its Open Access Transmission Tariff to facilitate the retail access program initiated by the Illinois deregulation legislation.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, the Public Service Commission of Wisconsin, its transmission customers and all parties in Illinois Commerce Commission Docket Nos. 99–0124, 99–0125, 99–0132 and 99–0133.

Comment date: October 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Open Access Same-Time Information System (OASIS) and Standards of Conduct

[Docket No. RM95–9–003]

Take notice that on August 31, 1999, the How Working Group (How Group), tendered for filing a report on the OASIS Phase IA Audit Reporting Experiment. The filing of the report was directed by the Commission in its Order on Transition From OASIS Phase I to OASIS Phase IA and Authorizing Proposed Phase IA Audit Reporting Experiment, issued February 10, 1999, in the above-docketed proceeding. The How Group requests that waiver of compliance with the original OASIS Phase IA auditlog templates be extended until the How Group submits and the Commission approves a revised Standards & Communications Protocols Document incorporating the experimental audit reporting facilities.

Comment date: October 22, 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, 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 or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–25503 Filed 9–30–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–236–000, et al.]

Armstrong Energy LLC, et al.; Electric Rate and Corporate Regulation Filings

September 27, 1999.

Take notice that the following filings have been made with the Commission:

1. Armstrong Energy LLC

[Docket No. EG99–236–000]

Take notice that on September 22, 1999, Armstrong Energy LLC (Armstrong) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Armstrong is owned by Dominion Armstrong, Inc, a Delaware corporation, and CNG Power Services Corporation, also a Delaware corporation. Dominion Armstrong, Inc. is a wholly owned subsidiary of Dominion Energy, Inc. which in turn is a wholly owned subsidiary of Dominion Resources, Inc. CNG Power Services Corporation is a wholly owned subsidiary of Consolidated Natural Gas Company, a Delaware corporation. Armstrong will be engaged directly and exclusively in the business of developing eligible facilities that it will own and/or operate and from which it will sell electric energy at wholesale.

Comment date: October 18, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Troy Energy LLC

[Docket No. EG99–237–000]

Take notice that on September 22, 1999, Troy Energy LLC (Troy) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Troy is owned by Dominion Troy, Inc, a Delaware corporation, and CNG Power Services Corporation, also a Delaware corporation. Dominion Troy, Inc. is a wholly owned subsidiary of Dominion Energy, Inc. which in turn is a wholly owned subsidiary of Dominion Resources, Inc. CNG Power Services Corporation is a wholly owned subsidiary of Consolidated Natural Gas Company, a Delaware corporation. Troy will be engaged directly and exclusively in the business of developing eligible facilities that it will own and/or operate and from which it will sell electric energy at wholesale.

Comment date: October 18, 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.

3. Jefferson Energy LLC

[Docket No. EG99–238–000]

Take notice that on September 22, 1999, Jefferson Energy LLC (Jefferson) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Jefferson is owned by Dominion Jefferson, Inc, a Delaware corporation, and CNG Power Services Corporation, also a Delaware corporation. Dominion Jefferson, Inc. is a wholly owned subsidiary of Dominion Energy, Inc. which in turn is a wholly owned subsidiary of Dominion Resources, Inc. CNG Power Services Corporation is a wholly owned subsidiary of Consolidated Natural Gas Company, a Delaware corporation. Jefferson will be engaged directly and exclusively in the business of developing eligible facilities that it will own and/or operate and from which it will sell electric energy at wholesale.

Comment date: October 18, 1999, in accordance with Standard E at the end of this notice.

4. Pleasant Energy LLC

[Docket No EG99–239–000]

Take notice that on September 22, 1999, Pleasants Energy LLC (Pleasants) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Pleasants is owned by Dominion Pleasants, Inc, a Delaware corporation, and CNG Power Services Corporation, also a Delaware corporation. Dominion Pleasants, Inc. is a wholly owned subsidiary of Dominion Energy, Inc. which in turn is a wholly owned subsidiary of Dominion Resources, Inc. CNG Power Services Corporation is a wholly owned subsidiary of Consolidated Natural Gas Company, a Delaware corporation. Pleasants will be engaged directly and exclusively in the business of developing eligible facilities that it will own and/or operate and from which it will sell electric energy at wholesale.

Comment date: October 18, 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.

5. PP&L Great Works, LLC

[Docket No. EG99–240–000]

Take notice that on September 23, 1999, PP&L Great Works, LLC (Great Works), with its principal place of business at 11350 Random Hills Road, Suite 400, Fairfax, VA 22030, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations and Section 32 of the Public Utility Holding Company Act of 1935 as amended. Great Works is a wholly-owned indirect subsidiary of PP&L Resources, Inc. Great Works will own and operate a hydroelectric generating facility located on the Penobscot River in Old Town, Maine and will sell electricity exclusively at wholesale.

Comment date: October 18, 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.

6. UGI Development Company

[Docket No. EG99–241–000]

Take notice that on September 23, 1999, UGI Development Company filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

UGI Development Company is a wholly owned subsidiary of UGI Utilities, Inc. formed under the laws of the State of Pennsylvania for the

primary purpose of owning and operating the Hunlock Power Station, a coal-fire electric generation facility with a continuous net capacity of 43 MW located at Hunlock Creek, Pennsylvania and owning a 1.11% interest in the Conemaugh Power Station, a coal-fired electric generation facility consisting of two 850 MW units located near Indiana, Pennsylvania.

Comment date: October 18, 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.

7. Shamrock Trading, LLC

[Docket No. ER98–3526–004]

Take notice that on September 24, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only.

8. MidAmerican Energy Company

[Docket No. ER99–4496–000]

Take notice that on September 22, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Suite 800, Des Moines, Iowa 50303 tendered for filing a rate schedule change consisting of the Second Amendment dated August 27, 1999 to the Electric Interconnection Agreement dated November 1, 1991 and entered into by a predecessor of MidAmerican with Northwest Iowa Power Cooperative (NIPCO).

MidAmerican states that the Second Amendment provides for an additional point of interconnection at the MidAmerican Hospers Substation. MidAmerican proposes that the Second Amendment become effective on the sixtieth day after the date of filing.

Copies of the filing were served on representatives of NIPCO, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public utilities Commission.

Comment date: October 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Northeast Utilities Service Company

[Docket No. ER99–4497–000]

Take notice that on September 22, 1999, Northeast Utilities Service Company (NUSCO) tendered for filing, Service Agreement to provide Non-Firm Point-To-Point Transmission Service to North Carolina Electric Membership Corporation under the NU System Companies' Open Access Transmission Service Tariff No. 9.

NUSCO states that a copy of this filing has been mailed to North Carolina Electric Membership Corporation.

NUSCO requests that the Service Agreement become effective October 1, 1999.

Comment date: October 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Northeast Utilities Service Company

[Docket No. ER99–4498–000]

Take notice that on September 22, 1999, Northeast Utilities Service Company (NUSCO), on tendered for filing, a Service Agreement to provide Firm Point-To-Point Transmission Service to North Carolina Electric Membership Corporation under the NU System Companies' Open Access Transmission Service Tariff No. 9.

NUSCO states that a copy of this filing has been mailed to North Carolina Electric Membership Corporation.

NUSCO requests that the Service Agreement become effective October 1, 1999.

Comment date: October 12, 1999, in accordance with Standard Paragraph E at the end of this notice:

11. PP&L, Inc.

[Docket No. ER99–4499–000]

Take notice that on September 22, 1999, PP&L, Inc. (PP&L) filed a Service Agreement dated August 6, 1999 with OGE Energy Resources (OGE) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds OGE as an eligible customer under the Tariff.

PP&L requests an effective date of September 22, 1999 for the Service Agreement.

PP&L states that copies of this filing have been supplied to OGE and to the Pennsylvania Public Utility Commission.

Comment date: October 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk

[Docket No. ER99–4500–000]

Take notice that on September 22, 1999, Niagara Mohawk filed a Notice of Cancellation of its Form Transmission Service Agreement, designated at FERC Rate Schedule No. 199, effective November 1, 1989, and any supplements thereto with Cornwall Street Railway Light and Power Company Limited, operating as Cornwall Electric (CE).

The cancellation is effective March 5, 1999.

Comment date: October 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. New Century Services, Inc.

[Docket No. ER99–4501–000]

Take notice that on September 22, 1999, New Century Services, Inc., on behalf of Public Service Company of Colorado (PSCo), filed the Power Sale Agreement between UtiliCorp United Inc., d.b.a. WestPlains Energy—Colorado Division (UtiliCorp) and PSCo (Agreement). The Agreement provides for the sale of capacity and energy by PSCo to UtiliCorp at negotiated rates, terms, and conditions for the period January 1, 2002 through December 31, 2006.

Comment date: October 12, 1999, in accordance with Standard Paragraph E at the end of the notice.

14. Central Power and Light Company

[Docket No. ER99–4502–000]

Take notice that on September 22, 1999, Central Power and Light Company (CPL) submitted for filing an Interconnection Agreement, dated September 2, 1998, between CPL and South Texas Electric Cooperative, Inc. (STEC) and an interconnection agreement, dated December 11, 1980 between CPL and STEC. The September 2, 1998 Interconnection Agreement supersedes a number of present interconnections and interchange agreements between CPL, STEC and, in some instances, Medina Electric Cooperative, Inc. (Medina), including the December 11, 1980 interconnection agreement.

CPL seeks an effective date of September 2, 1998 for the September 2, 1998 Interconnection Agreement and of December 11, 1980 for the December 11, 1980 interconnection agreement, and, accordingly, seeks waiver of the Commission's notice requirements.

CPL served copies of the filing on STEC, Medina and the Public Utility Commission of Texas.

Comment date: October 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Boston Edison Company

[Docket No. ER99–4518–000]

Take notice that on September 22, 1999, Boston Edison Company filed its quarterly transaction report.

Comment date: October 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Alcoa Power Generating Inc., et al.

[Docket No. OA99–3–000]

Take notice that on September 13, 1999, Alcoa Power Generating Inc., on behalf of its power subsidiaries, Tapoco, Inc., Yadkin, Inc., Aloca Generating Corporation, Long Sault, Inc., and

Colockum Transmission Company, Inc. filed standards of conduct under Order Nos. 889 *et seq.*[1]

Comment date: October 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–25584 Filed 9–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4055–024 Idaho]

Vernon Ravenscroft; Notice of Availability of Final Environmental Assessment

September 27, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, the Office of Hydropower Licensing has reviewed the application requesting the Commission's authorization to amend the Ravenscroft Ranch Project's exemption. The amendment would increase the crest elevation of the canal spillway by six inches and the height of the operating penstock intake structures by two feet and would also increase the operating water level on the project canal by six inches. The Ravenscroft Ranch Project is located on the Malad River, in Gooding County, Idaho.

The Office of Hydropower Licensing has prepared a final Environmental Assessment (FEA) finding that approval of the proposed amendment would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the FEA can be viewed at the Commission's Public Reference Room, Room 2A, 888 First Street, N.E., Washington, DC 20426, or by calling (202) 208–1371. The FAA also may be viewed on the Web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. For further information, please contact Sean Murphy at (202) 219–2974.

David P. Boergers,

Secretary.

[FR Doc. 99–25589 Filed 9–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–284–000]

Koch Gateway Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Index 1 Pipeline and Laterals Abandonment Project and Request for Comments on Environmental Issues

September 27, 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 Index 1 Pipeline and Laterals Abandonment Project by Koch Gateway Pipeline Company (Koch) in Kaufman, Dallas and Tarrant Counties, Texas.[1] The project would involve abandonment of about 101.6 miles of various diameter pipeline and appurtenances. 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.

Summary of the Proposed Project

Koch Gateway pipeline Company (Koch) wants to abandon in place its Index 1 Pipeline System and appurtenant facilities in Kaufman, Dallas, and Tarrant Counties, Texas because continued operation and maintenance of the pipeline system is neither economically feasible nor desirable due to the age of the pipeline and U.S. Department of Transportation class locations changes resulting from adjacent development. Koch seeks authority to:

- abandon in place about 72.4 miles of 10-, 16-, 18-, and 20-inch-diameter Index 1 pipeline in Kaufman, Dallas, and Tarrant Counties, Texas;
- abandon in place the following lateral pipelines totaling about 29.2 miles in Dallas and Tarrant Counties, Texas:
- 7.3 miles of 12-inch-diameter Index 1–31 pipeline;
- 0.9 miles of 18-inch-diameter Index 1–32 pipeline;
- 5.6 miles of 20-inch-diameter Index 1–37 pipeline;
- 10.6 miles of 16-inch-diameter Index 4 pipeline;
- 4.7 miles of 20-inch-diameter Index 6 pipeline; and
- 0.1 miles of 4-inch-diameter Index 808 pipeline.
- Replace and run pigs at 39 launching and receiving facilities on the pipelines proposed for abandonment; and
- abandon by removal appurtenant facilities consisting of 6 meter stations, 39 blow-off assemblies, 12 by-pass valves, 15 block valves, 8 tap valves, 40 segments of pipeline of various diameters totaling about 429 feet, about 1,690 feet of pipeline of various diameters at four waterbody crossings, 63 farm taps, 5 industrial taps, and certain other minor facilities.

The location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Installation and operation of the pig launching and receiving facilities, the cutting and capping of the pipelines proposed for abandonment in place, and abandonment by removal of the appurtenant facilities would require the digging of about 48 bell-holes of various sizes, that would disturb a total of about 0.32 acre on existing Koch right-of-way. Upon the grant of abandonment, all project related rights-of-way would revert to the landowners.

[1] Open Access Same-Time Information System (Formerly Real-Time Information network) and Standards of Conduct, 61 FR 21737 (May 10, 1996), FERC Stats. & Regs., Regulations Preambles January 1991–1996 ¶ 31,035 (April 24, 1996); Order No. 889–A, *order on rehearing*, 62 FR 12484 (March 14, 1997), III FERC Stats. & Regs. ¶ 31,049 (March 4, 1997); Order No. 889–B, *rehearing denied*, 62 FR 64715 (December 9, 1997), III FERC Stats. & Regs. ¶ 31,253 (November 25, 1997).

[1] Koch's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[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, N.E., Washington, DC, 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

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 the public comments on the scope of the issue sit 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:

- Soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Hazardous waste.
- Land use.
- Endangered and threatened species.
- Cultural resources.
- Public safety.

We will also evaluate possible alternatives to the proposed project 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 below.

Currently Identified Environmental Issue

We have already identified an issue that we think deserves attention based on a preliminary review of the proposed facilities and the environmental information provided by Koch. Additional issues may arise based on your comments and our analysis.

- If the Commission grants Koch its request for abandonment authority, the leases upon which the rights-of-way are located would revert to the landowners. Therefore, we will also evaluate whether or not Koch should abandon its facilities in-place or by removal.

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 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., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1;
- Reference Docket No. CP98–284–000; and
- Mail your comments so that they will be received in Washington, DC on or before October 27, 1999.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right 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 Procedure (18 CFR 385.214) (see appendix 3). Only intervenors have the right to seek rehearing of the Commission's decision.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention.

You do not need intervenor status to have your 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'' link, 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.

David P. Boergers,

Secretary.

[FR Doc. 99–25585 Filed 9–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

September 27, 1999.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Applications Type:* Transfer of License.

b. *Project Nos.:* 1889–034, 2485–012, 2576–023, 2597–018, and 2662–004.

c. *Dated Filed:* August 31, 1999.

d. *Applicants:* The Connecticut Light and Power Company (CL&P)—transferor for projects nos. 2576–023, 2597–018, 2662–004, and co-transferor for project

no. 2485–012, Western Massachusetts Electric Company (WMECO)—transferor for project no. 1889–034 and co-transferor for project no. 2485 and Northeast Generation Company (NGC)—transferee for all five projects.

e. *Names of Projects:* Turner Falls (1889–034), Northfield (2485–012), Housatonic (2576–023), Falls Village (2597–018), and Scotland (2662–004).

f. *Locations:* Turner Falls—on the Connecticut River, in Franklin County, Massachusetts and Windham County Vermont; Northfield—on the Connecticut River, in Franklin County, Massachusetts; Housatonic—on the Housatonic River in Fairfield, New Haven, and Litchfield Counties, Connecticut; Falls Village—on the Housatonic River in Litchfeild County, Connecticut; and, Scotland—on the Shetucket River in Windham County, Connecticut. The projects do not utilize federal or tribal lands.

g. *Filed pursuant to:* 18 CFR 4.200.

h. *Applicants Contacts:* For transferors and co-transferors—Ms. Donna M. Gilbane and Ms. Cynthia Brodhead, Senior Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141, tel. (860) 665–5000, e-mail addresses: *gilbadm@nu.com.brodhed@nu.com*. For transferee—Mr. Philip M. Small, Assistant General Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141, tel. (860) 665–5000, e-mail address: *smallpm@nu.com* and Mr. James B. Vasile, Steptoe & Johnson LLP, 1330 Connecticut Avenue, NW, Washington, DC 20036, e-mail address: *jvasile@steptoe.com*.

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Papsidero at (202) 219–2715, e-mail address: *Thomas.Papsidero@ferc.fed.us*.

j. *Deadline for filing comments and/or motions:* October 12, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

Please include the project numbers (1889–034, 2485–012, 2576–023, 2597–018, and/or 2662–004) on any comments or motions filed.

k. *Description of Transfer:* CL&P and WMECO request to transfer the licenses related to the sale of generating assets to NCG as a result of corporate restructuring and divestiture of assets in accordance with the retail restructuring order of the Massachusetts Department of Telecommunications and Energy.

The transfer application was filed within five years of the expiration of the licenses for Project Nos. 2576 and 2597, which are subject to a pending application for new license, filed August 31, 1999. In Hydroelectric Relicensing Regulations Under the Federal Power Act, 54 Fed. Reg. 23,756 (June 2, 1989); FERC Statutes and Regulations, Regulations Preambles 1986–1900 ¶ 30,854 at p. 31,438 n. 318 (May 17, 1989) (Order No. 513), the Commission declined to forbid all license transfers during the last five years of an existing license, and instead indicated that it would scrutinize all such transfer requests to determine if the transfer's primary purpose was to give the transferee an advantage in relicensing.

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. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at each address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–25587 Filed 9–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

September 27, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and available for public inspection:

a. *Type of Application:* Original Minor License.

b. *Project No.:* 11685–001.

c. *Dated filed:* September 10, 1999.

d. *Applicant:* The Stockport Mill Country Inn.

e. *Name of Project:* Stockport Mill Country Inn Water Power Project.

f. *Location:* On the Muskingum River, near the town of Stockport, in Morgan County, Ohio. The project would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* David Brown Kinloch, Soft Energy Associates, 414 South Wensel Street, Louisville, KY 40204, (502) 589–0975.

i. *FERC Contact:* Tom Dean, thomas.dean@ferc.fed.us, (202) 219–2778.

j. *Deadline for filing additional study request:* November 9, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commisison, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a

particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The proposed project would consist the following facilities: (1) the exiting 20-foot-high, 482-foot-long Muskingum Lock and Dam No. 6; (2) an existing 476-acre reservoir with a normal pool elevation of 640.1 feet msl; (3) an exiting 20 foot by 24 foot forebay with a 19-foot-wide vertical trashrack; (4) an existing powerhouse in the basement of the mill containing two proposed generating units with a total installed capacity of 235 kW; and (5) other appurtenances. The lock and dam is owned by the Ohio Department of Natural Resources, Division of Parks and Recreation.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commisison's Public Reference Room, located 888 First Street, NE, Room 2A, Washington, DC 20246, or by calling (202) 208–1371. The application 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. With this notice, we are initiating consultation with the State Historic Preservation Officer as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. Under Section 4.32(b)(7) of the Commission's regulations (18 CFR 4.32(b)(7)), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commisison, not later than 60 days after the date application is filed, and must serve a copy of the request on the applicant.

David P. Boergers,

Secretary.

[FR Doc. 99–25590 Filed 9–30–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00279; FRL–6383–3]

Voluntary Cover Sheet for TSCA Submissions; Request for Comment on Renewal of Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following existing Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collection. The ICR is a renewal ICR entitled ''Voluntary Cover Sheet for TSCA Submissions,'' EPA ICR No. 1780.02, OMB No. 2070–0156. The use of this ICR will enable the Agency more easily to collect, process, store, retrieve and disseminate information on health and environmental risks associated with toxic chemicals. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

DATES: Written comments, identified by the docket control number OPPTS–00279 and administrative record number 219 must be received on or before November 30, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–00279 and administrative record number 219 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Christine M. Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (202) 554–1404; TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: John Myers, Information Management Division (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone number: 202–260–3543; fax number: 202–260–2347; e-mail address: meyers.john@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture, process, use, import or distribute in commerce chemical substances that are subject to reporting requirements under sections 4, 8(d) or 8(e) of the Toxic Substances Control Act (TSCA). Potentially affected categories and entities may include, but are not limited to:

Type of business	SIC codes
Industrial organic chemicals	2819
Adhesives and sealants	2891
Paints and allied products	2851
Textile goods	2299
Petroleum products	5172

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The Standard Industrial Classification (SIC) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT.''

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

A. Electronically

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**-Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

B. Fax-on-Demand

Using a faxphone call (202) 401–0527 and select item 4072 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPPTS–00279. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

III. How Can I Respond to this Notice?

A. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–00279 and administrative record number 219 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Officer (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Officer (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified in Units III.A.1. and 2. of this document. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 5.1/6.1 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–00279 and administrative record number 219. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person identified in the ''FOR FURTHER INFORMATION CONTACT.''

C. What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of Paperwork Reduction Act (PRA), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: Voluntary Cover Sheet for TSCA Submissions.

ICR numbers: EPA ICR No. 1780.02, OMB No. 2070–0156.

ICR status: This ICR is currently scheduled to expire on December 31, 1999.

Abstract: TSCA requires industry to submit information and studies for existing chemical substances under sections 4, 6, and 8. Under normal reporting conditions, EPA receives approximately 1,700 submissions each year; each submission represents on average three studies. In addition, specific data call-ins can be imposed on industry.

As a follow-up to industry experience with a 1994 TSCA data call-in, the Chemical Manufacturers Association (CMA), the Specialty Organics Chemical Manufacturers Association (SOCMA), and the Chemical Industry Data Exchange (CIDX), in cooperation with EPA, took an interest in pursuing electronic transfer of TSCA summary data and of full submissions to EPA. In particular, CMA developed a standardized cover sheet for voluntary use by industry as a first step to an electronic future and to begin familiarizing companies with standard requirements and concepts of electronic transfer. This form is designed for voluntary use as a cover sheet for submissions of information under TSCA

sections 4, 8(d) and 8(e). The cover sheet facilitates submission of information by displaying certain basic data elements, permitting EPA more easily to identify, log, track, distribute, review and index submissions, and to make information publicly available more rapidly and at reduced cost, to the mutual benefit of both the respondents and EPA.

Responses to the collection of information are voluntary. Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this collection of information is estimated to average 0.5 hours per response. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Entities potentially affected by this action are companies that manufacture, process, use, import or distribute in commerce chemical substances that are subject to reporting requirements under TSCA sections 4, 8(d) or 8(e).

Estimated total number of potential respondents: 2,240.

Frequency of response: On occasion.

Estimated total/average number of responses for each respondent: 1–2 (average).

Estimated total annual burden hours: 910 hours.

Estimated total annual burden costs: $68,250.

VI. Are There Changes in the Estimates from the Last Approval?

The burden hours included in this request represent a decrease of 438 hours in the annual burden, from 1,348 hours to 910 hours, from the request most recently approved by OMB. This decrease reflects a net decrease in the estimated number of submissions under the reporting requirements of TSCA sections 4, 8(d) and 8(e). Since the use of the Voluntary TSCA Cover Sheet directly reflects the number of submissions received under TSCA sections 4, 8(d) and 8(e), any change in the estimated numbers of submissions under those requirements will result in a parallel change in the burden hours associated with this information collection.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed in the ''FOR FURTHER INFORMATION CONTACT.''

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: September 25, 1999.

Susan H. Wayland,

Deputy Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–25576 Filed 9–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6246–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or (202) 564–7153.

Weekly receipt of Environmental Impact Statements

Filed September 20, 1999 Through September 24, 1999 Pursuant to 40 CFR 1506.9.

EIS No. 990335, Final EIS, COE, AZ, Alamo Lake Reoperation and Ecosystem Restoration Feasibility Study, Implementation, Reoperation of Alma Dam on the Bill Williams River, La Paz and Mohave Counties, AZ, Due: November 01, 1999, Contact: Timothy Smith (213) 452–3854.

EIS No. 990336, Final EIS, NRS, HI, Lower Hamakua Ditch Watershed Plan, To Provide a Stable and Affordable Supply of Agricultural Water to Farmers and Other, COE Section 404 Permit, Watershed Protection and Flood Prevention, Hawaii County, HI, Due: November 01, 1999, Contact: Kenneth Kaneshiro (808) 541–2600.

EIS No. 990337, Draft EIS, IBR, NM, Elephant Butte and Caballo Reservoirs, Resource Management Plan (RMP), Implementation, Sierra and Socorro Counties, NM, Due: November 23, 1999, Contact: Clay McDermeit (505) 248–5391.

EIS No. 990338, Final EIS, IBR, CA, Contra Loma Reservoir Project, Future Use and Operation of Contra Costa Water District, COE Section 404 Permit, Contra Costa County, CA, Due: November 01, 1999, Contact: Bob Eckart (916) 978–5051.

EIS No. 990339, Final EIS, AFS, OR, Mill Creek Watershed Timber Sales Project, Implementation, Ochoco National Forest, Crook County. OR, Due: November 01, 1999, Contact: Dave Owens (541) 416–6425.

EIS No. 990340, Draft EIS, NPS, ID, MT, WY, Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr. Memorial Parkway Winter Use Plan, Implementation, Fremont County, ID, Gallatin and Park Counties, MT and Park and Teton Counties, WY, Due: November 15, 1999, Contact: Clifford Hawkes (303) 969–2262.

EIS No. 990341, Final EIS, FHW, MS, Airport Parking/Mississippi 25 Connectors, Construction at Intersection of High Street/ Interstate 55 (I–55) in the City of Jackson, Hinds and Rankin Counties, MS, Due: November 01, 1999, Contact: Cecil W. Vick, Jr. (601) 965–4217.

EIS No. 990342, Final EIS, FHW, MN, Phalen Boulevard Project, Construction of a new 4.3 Kilometer Roadway, from I35E to Johnson Parkway, Funding, in the City of St. Paul, Ramsey County, MN, Due: November 01, 1999, Contact: Bill Lohr (651) 291–6100.

EIS No. 990343, Final EIS, AFS, ID, Long Prong Project, Timber Harvesting, Road Construction and Reconstruction, Boise National Forest, Cascade Ranger District, Valley County, ID, Due: November 01, 1999,

Contact: David D. Rittenhouse (208) 373–4100.

EIS No. 990344, Final EIS, BLM, WY, Wyodak Coal Bed Methane Project, Implementation of Road Construction, Drilling Operation, Electrical Distribution Line, Powder River Basin, Campbell and Converse Counties, WY, Due: November 01, 1999, Contact: Richard Zander (307) 684–1161.

EIS No. 990345, Draft EIS, DOD, AK, ND, AS, National Missile Defense (NMD) Deployment System, Selection of Possible Deployment Sites: AK, AS and ND, Due: November 15, 1999, Contact: Julia Hudson (256) 955–4822.

EIS No. 990346, Final EIS, DOE, WA, Hanford Remedial Action, Revised and New Alternatives, Comprehensive Land Use Plan, Hanford Site lies in the Pasco Basin of the Columbia Plateau, WA, Due: November 01, 1999, Contact: Thomas W. Ferns (509) 376–4360.

EIS No. 990347, Draft EIS, SFW, CA, San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, Issuance of Incidental Take Permit, San Joaquin County, CA, Due: November 15, 1999, Contact: Ben Harrison (503) 231–2068.

EIS No. 990348, Draft EIS, COE, NY, NJ, New York and New Jersey Harbor Navigation Study, Identify, Screen and Select Navigation Channel Improvements, NY and NJ, Due: November 15, 1999, Contact: Jenine Gallo (212) 264–0912.

Amended Notices

EIS No. 990163, Draft EIS, BLM, CA, Soledad Canyon Sand and Gravel Mining Project, Proposal to Mine, Produce and Sell, ''Split Estate'' Private Owned and Federally Owned Lands, Transit Mixed Concrete, Los Angeles County, CA, Due: January 03, 2000, Contact: Ms Elena Misquez (760) 251–4804.

Published FR 05–21–99—Review Period Reestablished.

EIS No. 990266, Draft EIS, AFS, WY, Squirrel Meadows—Grand Targhee Land Exchange Proposal, Implementation, Targhee National Forest, Teton County, WY, Due: October 20, 1999, Contact: Patty Bates (208) 354–2312.

Published FR 08–06–99—Review Period extended. from 09–20–99 to 10–20–99.

Dated: September 28, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–25631 Filed 9–30–99 8:45 pm]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6246–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 23, 1999 Through September 17, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1999 (63 FR 17856).

Draft EISs

ERP No. D–AFS–L65302–AK Rating EC2, Kuakan Timber Sale, Timber Harvesting in the Kuakan Project Area, Implementation, Deer Island within the Wrangell Ranger District, Stikine Area of the Tongass National Forest, AK.

Summary

EPA expressed environmental concerns related to potential impacts to fish habitat, water quality, wildlife security, and visual quality for four of the alternatives under consideration. EPA recommended that additional information be included in the EIS regarding the methods to be used and the goals to be achieved with the use of a proposed ''overstory removal'' management prescription.

ERP No. D–USN–K11104–CA Rating EC2, Marine Corp Air Station (MCAS) Tustin Disposal and Reuse Plan, Cities of Tustin and Irvine, Orange County, CA.

Summary

EPA expressed concern regarding the mitigation of impacts to waters of the United States, including approximately 3.6 acres of wetlands, and on mitigating potential impacts from fertilizer and pesticide use associated with future golf course operations.

Final EISs

ERP No. F–AFS–K65273–AZ—Grand Canyon/Tusayan Growth Area Improvements, General Management Plan (GMP), Special-Use-Permit, Approvals and Licenses Issuance, Coconino County, AZ.

Summary

No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65321–00—Douglas-fir Beetle Project, Harvest Tree, Regenerated Forest, Aquatic Restoration and Fuels Reduction, Idaho Panhandle National Forest, Coeur d'Alene River and Priest Lake Ranger District and Colville National Forest, Newport Ranger District, Kootenai, Shoshone and Bonner Counties, ID and Pend Orielle County, WA.

Summary

No formal comment letter was sent to the preparing agency.

ERP No. F–FAA–B51016–CT—Sikorsky Memorial Airport, Proposed Runway 6–24 Improvements, Construction, Stratford, CT.

Summary

EPA expressed concerns that the EIS continues to lack a clear discussion of the safety benefits associated with each alternative and how environmental losses of each alternative are justified. EPA requested that additional information be presented in the Record of Decision pertaining to the above and stormwater management.

ERP No. F–FAA–J11016–00—Adoption—Colorado Airspace Initiative, Modifications to the National Airspace System, such as the F–16 Aircraft and Aircrews of the 140th Wing of the Colorado Air National Guard, also existing Military Operations Area (MOAs) and Military Training Routes (MTRs), CO, NM, KS, NB and WY.

Summary

No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–F40369–WI—US 141 Highway Transportation Project, Improvement between WI–22 and WI–64 (LeMere Road-6th Road), Funding and COE Section 4 Permit, Marinette and Oconto Counties, WI.

Summary

EPA reiterated concurrence with the preferred alternative while retaining the concern expressed in a April 9, 1997 letter regarding the large amount of wetland impacts associated with the preferred alternative. Additional mitigation methods such as reduced median widths and the steepening of slopes should be considered during the design.

ERP No. F–NRS–F36162–MN—Snake River Watershed Plan, Watershed Protection and Flood Prevention, NPDES Permit and COE Section 404 Permit, Marshall Pennington and Polk Counties, MN.

Summary

The FEIS provides adequate information and analysis to address the

environmental concerns we expressed in our DEIS comment letter in the following areas: (1) Alternatives, (2) Characterization of the affected environment, (3) Impacts to wetlands and waters of the United States, and (4) Mitigation.

ERP No. FR–AFS–J65287–UT—South Spruce Ecosystem Rehabilitation Project, Implementation, Dixie National Forest, Cedar City Ranger District, Iron and Kane Counties, UT.

Summary

No formal comment letter was sent to the preparing agency.

ERP No. FS–FAA–F51040–IN—Indianapolis International Airport Master Plan Development, Updated/New Information, Establishing New Air Traffic Procedures to Restore, Construct and Operate, Runway 5L/23R Parallel to existing Runway 14/32 and connecting to Runways 5R/23L and 5L/23R, Airport Layout Plan Approval, Funding and US COE Section 404 Permit, Marion County, IN.

Summary

Based on EPA's review, the environmental concerns previously expressed in the review of the Draft Supplemental EIS have been resolved.

Dated: September 28, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–25632 Filed 9–30–99 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6450–1]

Invitation for Proposals; National Environmental Education Training Program (Referred to as ''Training Program'')

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

Section I. Summary of Important Application Information

Application Deadline: Applications must be postmarked no later than December 15, 1999.

Where to Mail Applications: U.S. EPA, Office of Environmental Education, Training Program, 401 M Street SW (MC: 1704, RM: 366WT), Washington, DC 20460.

Eligible Applicants: U.S. institutions of higher education or not-for-profit institutions or a consortia of such institutions.

Purpose: To build on existing efforts that deliver environmental education training and related support services to education professionals across the U.S.

Funding: One cooperative agreement of approximately $1.4 million per year for a three year project period (for a total of approximately $4.2 million), subject to annual performance reviews and Congressional appropriations. The program may be extended to a maximum of five years subject to these conditions. Matching funds of at least 25% (approximately $350,000 per year) are required. This requirement may be met with in-kind contributions.

Project Period: October 1, 2000–September 30, 2003 (with a possible extension to 2005).

Award Date: By September 30, 2000.

Section II. Purpose of Notice and Relationship to Other Programs

A. What is the Purpose of This Notice?

The purpose of this notice is to invite eligible institutions to submit proposals to operate the Training Program as authorized under section 5 of the National Environmental Education Act of 1990 (the Act) (Pub. L. 101–619).

B. What Is the Relationship Between the Training Program and the Environmental Education Grants Program?

This notice applies only to the Training Program authorized under section 5 of the Act. This notice does not apply to the Environmental Education Grants Program authorized under section 6 of the Act. The grants program funds approximately 200 individual projects annually. Please visit our web site at <www.epa.gov/enviroed/grants.html> to obtain information on the grants program or contact Diane Berger, U.S. EPA, Office of Environmental Education (1704), Environmental Education Grants Program, 401 M Street, SW, Washington, DC 20460, berger.diane@epa.gov, 202–260–8619.

C. What Is the Relationship Between the Training Program and the Environmental Education and Training Partnership (EETAP) and Its Predecessor the National Consortium for Environmental Education and Training (NCEET)?

In 1995, EPA awarded a cooperative agreement to a consortium led by the North American Association for Environmental Education (NAAEE) to operate the training program authorized under section 5 of the Act. This program, titled the Environmental Education and Training Partnership (EETAP), will operate from October 1, 1995 through September 30, 2000. Additional information on EETAP can be obtained by accessing EPA's web site at <www.epa.gov/enviroed/educate.html> or EETAP's web site at <www.eetap.org>. NCEET as a separate entity no longer exists. However, some key elements of NCEET's program have been incorporated into EETAP (e.g., promotion of the ''EE Toolbox'' and expansion of the World Wide Web Site ''EE-Link'' (<www.eelink.net>)).

This solicitation notice requests proposals that build on the current EETAP program. This new program can be viewed as an evolution of EETAP which reflects the progress the environmental education field has made over the past few years. This means that EETAP's core themes of building state capacity, linking environmental education to education reform, reaching out to diverse audiences, ensuring quality, utilizing technology, and promoting synergy in the environmental education field will remain key components of the new program (see section III.E.1–6. below).

Section III. Definitions

D. What Is ''Environmental Education Training''?

Environmental education (EE) increases public awareness and knowledge about environmental issues and provides the skills needed to make informed and responsible decisions. It enhances critical-thinking, problem-solving, and effective decision-making skills and teaches individuals how to weigh various sides of an environmental issue before making decisions. Environmental education does not advocate a particular viewpoint or course of action. Training refers to activities such as classes, workshops, seminars, conferences, programs, and other forums which are designed to prepare education professionals to teach about the environment.

E. How Are the Training Program's ''Core Themes'' Defined?

(1) *Building state capacity* refers to the development of effective leaders and organizations that ensure the quality and long-term sustainability of coordinated and comprehensive EE programs across a state or states. Effective efforts address both leadership and organizational needs as well as coordination issues that decrease fragmentation and duplication across programs. ''Coordination'' refers to the involvement of all major education and environmental education providers in a state or across states (*e.g.*, especially

state and local education, environmental protection, natural resource, and related government agencies as well as schools and school districts, professional education associations, and nonprofit education and environmental education organizations). Coordination efforts are also encouraged to include tribal entities where tribal lands are involved, as appropriate. ''Comprehensive'' refers to EE programs that have multiple components such as an EE coordinator, master plan, curriculum and instruction requirements, and frameworks and assessments as determined by each state or tribe.

(2) *Linking EE to education reform* refers to using EE as a catalyst to advance state, local, or tribal education reform goals for improving student academic achievement. Reform efforts often focus on changes in curriculum, instruction, assessment or how schools are organized. EE can be used to advance these changes by providing a real-world, interdisciplinary context for learning; developing critical-thinking and problem-solving skills; promoting ''hands-on,'' cooperative, and learner-centered instruction methods; and setting, measuring, and meeting high academic standards.

(3) *Reaching diverse audiences* refers to targeting traditionally under-served education professionals, especially educators who work with low-income and culturally-diverse audiences. Other traditionally under-served audiences include non-formal educators, high school teachers, community college faculty, pre-service education institutions, and state, local, and tribal education, environmental protection, natural resource, and other related agency officials.

(4) *Ensuring quality* refers to the development, use, and dissemination of guidelines on what constitutes quality EE that is, among other things, scientifically-sound, educationally-appropriate, and inclusive of diverse perspectives.

(5) *Utilizing technology* refers to using the latest computer and World Wide Web technologies to provide education professionals with increased opportunities for accessing EE information and resource materials, communicating and networking, and learning.

(6) Promoting synergy refers to forming and encouraging partnerships among key EE providers and educational institutions to leverage resources, improve efficiency, and reduce duplication of effort.

F. Are There Priorities Among the ''Core Themes''?

EPA believes that addressing all six ''core themes'' is essential to a successful Training Program. However, to enable the field of EE to become more unified and sustainable over the long-term, the state capacity building ''core theme'' will serve as the ''umbrella'' for guiding all training and support activities that encompass the other five ''core themes.'' Over the past few years, tremendous progress has been made with respect to several other ''core themes'' such as promoting quality through the development of EE guidelines and furthering communication and access to information and resources through the World Wide Web. These efforts as well as those to promote synergy among EE providers should be continued. Regarding efforts to link with education reform (and the education community in general) and in reaching low income and culturally-diverse communities, progress has been made but a significant amount of additional work needs to be done. Thus, greater emphasis needs to be placed on meeting the needs of the education community as well as low-income and culturally-diverse audiences.

Section IV. Purpose of Training Program and Eligible Participants

G. What Is the Purpose of the Training Program?

The purpose of this program is to provide training and related support services to education professionals who are or can become leaders in ensuring the quality and long-term sustainability of coordinated and comprehensive EE efforts across a state or states. Such state capacity building efforts must support all of the Training Program's five other ''core themes'' of education reform, diversity, quality, technology, and synergy as described under section III.E. and F. Ultimately, through this Training Program, education professionals will be better able to develop and deliver more effective programs that will enable students and communities to make informed and responsible environmental decisions.

H. Who Should Be Targeted for Training and Related Support Services Under This Program?

The education professionals who may receive training and related support services under this program are:

(1) Teachers, faculty, curriculum specialists, administrators and others who are employed by or impact decision-making in schools and school districts, community colleges, and four-year colleges and universities;

(2) Employees of federal, state, local, and tribal education, environmental protection, natural resource, and related agencies; and (3) Employees of not-for-profit organizations, including non-formal educators, as well as businesses and their professional trade groups and associations who are involved in EE and education efforts.

Training and related support services must include opportunities for both formal and non-formal education professionals and address both pre-service and in-service education needs, as appropriate. In addition, as required under the Act, training opportunities must also include education professionals from Mexico and Canada. Note that federal employees may be included in training opportunities, but can not receive funds for any travel related expenses.

Section V. Program Activities

I. What Activities Must Be Carried Out Under This Program?

Activities must, at a minimum, include the following:

(1) Training

The continuation and expansion of existing EE training efforts that support the ''core themes'' and the priorities among them as defined under section III.E. and F. Such training must, at a minimum, include classes, workshops, seminars, conferences, programs or other forums which provide education professionals with knowledge and skills on the following:

a. Leadership and organizational development issues such as how to effectively recruit board members and volunteers, raise funds, communicate, develop partnerships, as well as reach low-income and culturally-diverse audiences;

b. Educational approaches such as how to effectively integrate environmental problem-solving into existing science, social science, and other subject areas, use existing and future EE guidelines and link them to national and state academic standards and curriculum frameworks, as well as use specific instructional methods or practices to teach effectively; and

c. Environmental education approaches such as how to effectively identify, evaluate, adapt, and expand existing materials and programs that are, among other things, scientifically-sound, inclusive of diverse perspectives, and use an investigative, problem-solving, and critical-thinking approach to learning and decision-making.

(2) Information

The collection, evaluation, and dissemination of information, especially through the World Wide Web, regarding quality EE materials, programs, and teaching methods as well as the benefits, challenges, techniques, and progress made in using the ''core themes'' identified under section III.E. to advance the field of EE. The goal is to ensure that a wide array of education professionals have access to such information and are able to replicate such efforts, as appropriate. Information collection, evaluation, and dissemination activities must, at a minimum, include the following:

a. An existing EE resource library (or libraries), primarily based on the World Wide Web, which provides information on quality materials, programs, and teaching methods and links libraries across the country (and in Mexico and Canada, as appropriate);

b. An existing World Wide Web site (or sites) with state-of-the-art communication technology that enables education professionals to share information, to network, and to learn;

c. The continued development, use, and dissemination of EE guidelines (including existing guidelines for EE materials, learners, and educator preparation as well as new guidelines for programs and professional development) and their correlation to national and state education standards and curriculum frameworks, as appropriate;

d. The continued development, use, and dissemination of existing and new assessment tools to evaluate the effectiveness of addressing the ''core themes'' identified under section III.E. and F.; and

e. Support for the development and dissemination of newsletters and other publications which communicate the successes and challenges of addressing the ''core themes'' identified under section III.E. and F.

(3) Partnerships and Networks

Continuation and expansion of existing EE partnerships and networks, especially those which seek to include organizations, institutions, or agencies that represent the education community, low-income and culturally-diverse audiences, and state and local government agencies. The goal is to improve the effectiveness of the EE community by facilitating communication, sharing information, leveraging scarce resources, and expanding partnerships and networks beyond existing relationships. Various important partnership and networking activities have already been identified under the training and information activities identified above such as leadership conferences and electronic communications.

J. Are All Three Types of Activities Discussed Above of Equal Importance?

EPA believes that all three types of activities identified above are inter-related and, therefore, essential to an effective program. Note that in designing and implementing these activities, special emphasis must be placed on:

(1) Continuing and expanding existing quality state capacity building training programs, partnerships, and networks;

(2) Improving linkages between the EE and education communities;

(3) Expanding the inclusion of low-income and culturally-diverse education professionals, audiences, organizations, and programs;

(4) Designing classes, workshops, seminars, conferences, programs or other forums that can be broadly disseminated to education professionals; and

(5) Including opportunities for teachers and other education professionals from Canada and Mexico to participate in training along with their U.S. counterparts.

Section VI. Eligible Institutions

K. What Types of Institutions Are Eligible To Apply To Operate This Program?

Only U.S. institutions of higher education or not-for-profit institutions (or a consortia of such institutions) may apply to operate the Training Program as specified under the Act.

L. What Approach or Organizational Structure Has the Best Chance of Being Selected To Operate the Training Program?

EPA strongly encourages institutions to form a consortium to manage and implement this program, as appropriate. EPA believes that an effective consortium would build upon existing national, regional, and state capacity building training efforts as well as the other ''core themes'' discussed under section III.E. and F. Under this scenario, a lead institution would provide strong leadership in setting the direction of the entire consortium, select other institutions as partners that would implement specific activities, manage the overall implementation of the program, and ensure the program meets the goals and requirements in this notice. To be most effective, the lead institution should have experience in delivering state capacity building training and in addressing other ''core themes.'' Partners may include not-for-profit organizations, institutions of higher education, and Federal, state, local, and/or tribal education, environmental protection, natural resource, and related agencies. Partners may not necessarily have prior experience in addressing the ''core themes,'' but their addition to a consortium should strengthen these themes. Note that a balance needs to be reached between the benefits of including a large number of partners with a broad range of programs and the administrative costs of managing a large, broad-based consortium.

EPA believes that a cooperative approach is important because strong partnerships can expand current networks, help leverage scarce resources, improve effectiveness, and avoid duplication of effort in a field which remains fragmented. Cooperation is also important to ensure that the program reaches low-income and culturally-diverse audiences and reaches both formal and non-formal education professionals. Thus, the lead institution and its partners would be working cooperatively to deliver a cohesive training program which benefits education professionals in all geographic regions of the U.S. and includes training opportunities for education professionals from Canada and Mexico.

M. May an Institution Be Part of or Submit More Than One Application?

Yes, eligible institutions may appear in more than one application as a member of a consortium. However, such institutions may not apply as the sole applicant or as the lead institution in a consortium in more than one application.

Section VII. Funding and Project Period

N. How Much Money Is Available To Fund This Program? When Will the Award Be Made?

To implement this program over the past five years, EPA awarded between $1.4 and $1.95 million each year from FY 1995—FY 1999 for a total of $8.875 million. Funding levels for this program are subject to annual Congressional appropriations. For planning purposes, EPA suggests that applicants plan for approximately $1.4 million per year for three years. EPA expects to announce the award by September 30, 2000.

O. How Many Awards Will Be Made? What Is the Expected Project Period for This Program?

EPA will award only one cooperative agreement, with annual amendments, on or about September 30 of each year for an estimated three year project period. The agreement may be extended to a maximum of five years. Funding for any given year is subject to Congressional appropriations and annual performance reviews. The award will be made to only one institution (or to the lead institution in a consortium) which is responsible for managing the entire Training Program. EPA expects to award this cooperative agreement, and its annual amendments, to the same institution (or the same lead institution in a consortium) over the three to five year project period. Thus, EPA expects to fund this program for a project period which runs from approximately October 1, 2000 through September 30, 2003 (or to September 30, 2005 if the program is extended to five years).

P. What Is a Cooperative Agreement? How Is a Cooperative Agreement Different From a Grant?

Under the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95–224), both a grant and cooperative agreement are legal instruments in which the Federal government transfers money to a state or local government or other recipient for the benefit of the public. A grant is used when ''no substantial involvement'' is anticipated between the federal agency and the recipient during the performance of the project. By contrast, a cooperative agreement is used when ''substantial involvement'' is anticipated between the federal agency and the recipient of the funds.

Because EPA will award a cooperative agreement to fund this program, applicants should expect EPA to have ''substantial involvement'' in the recipient's overall implementation of this program to ensure that it meets the goals of this notice. EPA's involvement will include active participation in planning meetings, review and approval of annual work plans, as well as review of all major draft and final products and publications prior to use and dissemination. Specific conditions regarding the relationship of EPA and the recipient will be identified in the award document.

Q. When Should Proposed Activities Start?

Proposed activities cannot begin before the funds are awarded and the first year's annual work plan is approved by the EPA Project Officer. The project period is expected to begin October 1, 2000. However, actual training and related activities may not begin immediately, if the recipient and the EPA Project Officer need additional time to finalize the work plan. Work plans must be submitted to and approved by the EPA Project Officer annually.

R. How Will Funds Be Awarded in Years Two and Three of the Program?

The institution which received funding for the first year of the program must submit a new application, work plan, and other required forms to obtain funding for each of the subsequent years of the program. The actual award of funds for subsequent years is subject to annual Congressional appropriations and annual performance reviews.

S. Are Matching Funds Required?

Yes, non-federal matching funds of at least 25% of the total cost of the program are required. The matching funds must be from a non-federal source. For planning purposes, applicants should estimate a matching share of approximately $350,000 per year. The source of matching funds must be identified in the application and may be provided in cash or by in-kind contributions. All in-kind contributions must be verifiable costs that are carefully documented.

T. What Cannot Be Funded Under This Program?

As specified by the Act, no funds shall be used for (1) the acquisition of real property (including buildings) or construction or substantial modification of any building, (2) technical training for environmental management professionals, or (3) non-educational research and development. In addition, funds may not be used to pay for any travel related expenses for federal employees.

Section VIII. The Application

U. What Must Be Included in the Application?

To qualify for review, the application must include the following three components. Note that only finalists will be asked to submit additional federal forms needed to process the application (e.g., certification regarding debarment and lobbying).

(1) Application for Federal Assistance (SF 424)

A form which requests basic information about proposals such as the name of the project and the amount of money requested. This form is required for all federal grants and cooperative agreements. A completed SF 424 for the first year of the program must be submitted as part of the application. See section VIII.W. below for information on how to obtain this form.

(2) Budget Information: Non-Construction Programs (SF 424A)

A form which requests budget information by object class categories such as personnel, travel, and supplies. This form is also required for all federal grants and cooperative agreements. A completed SF 424A for the first year of the program must also be submitted as part of the application. See section VIII.W below for information on how to obtain this form. Note that additional budget information describing how the funds will be used for all major activities during the first year is also required under the budget section of the work plan as discussed under section VIII.V.3.e.1. below.

(3) Work Plan

A detailed plan of no more than 20 pages (not including the appendices) which describes how the applicant proposes to operate the Training Program during the first year. The work plan must also discuss in general terms what the goals, objectives, and major activities will be for the second and third years. Note that the recipient of the award may be asked to revise their first year's work plan once the award is made subject to the discretion of the EPA Project Officer. Work plans must contain all four sections discussed below, in the format presented. Note that each section of the work plan includes a brief discussion of some of the factors that will be considered in reviewing and scoring applications.

a. Summary: A brief synopsis of no more than two pages identifying:

1. The institution requesting funding and its key partners, if applicable, and the mission of each organization;

2. The primary goals, objectives, and activities of the proposed program, how it will be implemented, and how it builds on existing programs;

3. The total number of education professionals to be reached as well as the expected demographics of such education professionals and the audiences they reach;

4. The expected results of the project by the end of years one, two, and three; and

5. How the funds will be used.

Scoring: The summary will be scored on its overall clarity and the extent to which all five of the elements identified above are addressed. (Maximum Score: 5 points)

b. Mission Statement: A discussion of the short (first year) and long-term (3 to 5 years) goals and objectives of the program and how such goals and objectives will meet the requirements of this notice. Also include a discussion about the needs of the EE and education communities and how these needs will be met.

Scoring: The mission statement will be scored based upon factors that include its overall clarity as well as the extent to which the applicant demonstrates their capability to meet the goals of the Training Program identified in this notice and the stated needs of the EE and education communities. (Maximum Score: 5 points)

c. Management and Implementation Plan: A detailed plan of how the project will be managed and implemented in the first year (*i.e.*, what steps will be taken to reach the goals of the program), along with a summary of the project in the second and third years. The plan must discuss how the proposed program continues and expands existing national, regional, and state capacity building training efforts. The plan must also indicate how the proposed program will address other five ''core themes'' and priorities among them as identified under section III.E. and F., audiences identified under section IV.H., and activities identified under section V.I. The plan must also identify all key activities and deliverables/products as well as describe the major responsibilities of the Program Director, key staff, and key partners in the consortium, if applicable. The plan must include a matrix or table identifying all key activities and deliverables/products as well as a precise schedule for conducting these activities and completing these deliverables/products during the first year. The plan must also include an organizational chart which clearly shows the responsibilities and relationships of the Program Director, key staff, and various partners, if applicable.

Scoring: The management and implementation plan will be scored based upon factors that include its overall clarity as well as the extent to which the applicant demonstrates their capability to:

1. Continue and expand existing national, regional, and state capacity building training efforts and address all other ''core themes'' identified under section III.E. and F.;

2. reach audiences identified under section IV.H.;

3. conduct the training and other activities identified under section V.; and

4. effectively staff and manage the program, including effectively managing the lead institution's relationship with key partners, if applicable. (Maximum Score: 30 points)

d. Evaluation Plan: A detailed plan on how the effectiveness of the program will be evaluated (*i.e.*, how the applicant will know whether the goals and objectives of the program are being met, the program meets the requirements of this notice, and the program meets the needs of the EE and education communities). The evaluation plan must discuss the strengths and anticipated challenges expected in implementing the program. It must also discuss the approach, mechanisms, and amount of money that will be used to conduct independent annual evaluations of the program. This evaluation must be conducted by an institution that is independent of the lead institution and key partners and has appropriate credentials and experience in evaluating education programs.

Scoring: The evaluation plan will be scored based upon factors that include its overall clarity as well as the extent to which the proposal demonstrates that an effective evaluation process will be used to strengthen the program. (Maximum Score: 20 points)

e. Appendices: Important attachments to the work plan which contain information on the budget, qualifications and experience of key personnel, and letters of commitment from key partners, if applicable.

1. Budget: A statement describing how funds will be used in the first year, including budget milestones for each major proposed activity and a timetable showing the month/year of completion. Estimates must include the allocation of funding for all major activities. Budget estimates are for planning and evaluation purposes only, recognizing that FY 2000 funds have not yet been appropriated by Congress for this program. Minor deviations from these amounts are expected. Include estimates of overhead costs as well as a statement on the relative economic effectiveness of the program in terms of the ratio of overhead costs to direct services. Note that competitive proposals are expected to use a relatively low overhead rate. For example, the current training program uses an overhead rate of 17% of the total cost of the project. Also note that additional budget information is also required on the SF 424A which must be submitted as part of the application as discussed under section VIII.U.2.

Scoring: The budget will be scored based upon factors that include its overall clarity as well as the extent to which the budget is clearly and accurately linked to the project's goals and objectives, shows how the funds will be used, and demonstrates effective use of public funds. (Maximum Score: 20 points)

2. Key Personnel and Letters of Commitment: Include resumes of up to three pages for the Program Director and each key staff member with major responsibilities for implementing the program. Resumes should describe the educational, administrative, management, and professional qualifications and experience. In addition, include up to three page resumes and one page letters of commitment from key partners with a significant role in the program, if applicable. Letters of endorsement from individuals or organizations who are not partners will not be considered in the evaluation process.

Scoring: Personnel and partner commitment will be scored on the extent to which the Project Director, key staff, and key partners are identified in the proposal as well as qualified to manage and implement the program. In demonstrating the capability of key personnel, EPA strongly encourages applicants to provide examples of relevant experience in designing and delivering environmental education training on a large scale. In addition, the score will reflect whether letters of commitment are included from key partners and whether a firm commitment is made, if applicable. (Maximum Score: 20 points)

V. Where May I Obtain an Application and How Must the Application Be Submitted?

Institutions may obtain an application (SF424 and SF424A) by downloading it from EPA's web site at <http://www.epa.gov/enviroed/educate.html> or contacting U.S. EPA, Office of Environmental Education (MC:1704; RM 366WT), Training Program, 401 M Street, SW, Washington, DC 20460, 202–260–4965. The applicant must submit one original and three copies of the application (a signed SF 424, SF 424A, and a work plan). Applications must be reproducible. Do not submit bound copies of the application. They must be on white paper and stapled or secured in the upper left hand corner and include page numbers.

Work plans must be no more than 20 pages (not including the appendices). A ''page'' refers to one side of a single-

spaced typed page. The pages must be letter sized (8 x 11 inches), with normal type size (10 or 12 cpi) with at least 1 inch margins. To conserve paper, please provide double-sided copies of the work plan and appendices, where possible.

W. When Are Applications Due to EPA and Where Must They Be Submitted?

Applications must be mailed to EPA postmarked no later than December 15, 1999. Do not hand deliver applications due to restricted access to federal buildings. ''Mail'' refers to delivery by the U.S. Postal Service or any commercial overnight service. Any application postmarked after this date will not be considered for funding. All applications must be mailed to U.S. EPA, Office of Environmental Education, Training Program, 401 M St, SW (MC:1704, Rm 366WT), Washington, DC 20460.

Section IX. Review and Selection Process

X. What Will Be the Basis for Selection and Award?

Applications will be evaluated on factors that include those identified under section VIII.U.3. Especially important will be the extent to which the proposed program builds on the existing training program, effectively incorporates all ''core themes,'' is able to deliver training and related support services early in the first year, and is able to hire management and staff that have the experience to successfully manage the program.

Y. How Will Applications Be Reviewed and the Final Selection Made?

Applications will be reviewed by federal officials and external experts who are qualified to evaluate environmental education programs. EPA's Office of Environmental Education (OEE) will conduct an initial screening of all applications to identify those which meet the basic requirements of this document. OEE will then forward all eligible applications to federal and external experts for review and comment. Such reviewers may include individual members of the Federal Task Force on Environmental Education and the National Environmental Education Advisory Council. Reviewers' comments will be reviewed by OEE who will make recommendations for funding to the Associate Administrator of the Office of Communications, Education, and Public Affairs and the Administrator of EPA. EPA may conduct site visits to provide an opportunity for further discussion about the strengths and weaknesses of the top proposals, if needed.

Section X. Additional Information

Z. Where Do I Get Additional Information?

Please contact Kathleen MacKinnon, U.S. EPA, Office of Environmental Education, 401 M St, SW (MC:1704; RM 366WT), Washington, DC, 20460, 202–260–4965 or mackinnon.kathleen@epa.gov if you have any questions. Also, to obtain additional information about the existing training program, visit EPA's environmental education web site at <www.epa.gov/enviroed/educate.html> or EETAP's web site at <www.eetap.org>.

Dated: September 24, 1999.

David L. Cohen,

Acting Associate Administrator, Office of Communications, Education, and Media Relations.

BILLING CODE 6560–50–P

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction	Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code)*:	Name and telephone number of person to be contacted on matters involving this application *(give area code)*. Also include fax.

6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*: ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Non-Profit Organization
O. Other(specify)

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify)*:

9. NAME OF FEDERAL AGENCY:

U.S. Environmental Protection Agency

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

66 – 950

TITLE: Environmental Education Training Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project
10/1/00	9/30/01		

15. ESTIMATED FUNDING:

a. Federal	$ 1,400,000.00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☒ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.		NOTE: DO NOT COMPLETE SECTION A -		BUDGET SUMMARY		
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$ NOTE: DO NOT COMPLETE	$	$
b. Fringe Benefits			COLUMNS 3	or 4	
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction	-0-	-0-	-0-	-0-	-0-
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

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[FR Doc. 99-25567 Filed 9-30-99; 8:45 am]
BILLING CODE 6560-50-C

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6449–9]

National Drinking Water Advisory Council, Right-to-Know Working Group; Notice of Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Under section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the Right-to-Know Working Group of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq*.), will be held on October 14, from 9:00 a.m.–5:00 p.m. and on October 15 from 8:30 a.m.–12:00 p.m., at the Holiday Inn National Airport, 2650 Jefferson Davis Highway, Arlington, Virginia. The meeting is open to the public, but due to past experience, seating will be limited.

The purpose of this meeting is to share new materials which have been developed to support Consumer Confidence Reports and other public drinking water information provisions of the Safe Drinking Water Act (SDWA); to recommend ways to use and to share those materials; to discuss public information and public education as a part of the SDWA 25th Anniversary Futures Forum; and to recommend other materials or activities to facilitate and support public information and involvement in drinking water at the federal, state, and local levels.

The meeting is open to the public to observe. The working group members are meeting to gather information and to analyze relevant issues and facts, as noted above. Statements from the public will be taken if time permits.

For more information, please contact Marjorie Jones, Designated Federal Officer, Right-to-Know Working Group, U.S. EPA, Office of Ground Water and Drinking Water, Mail Code 4601, 401 M Street SW, Washington, DC 20460. The telephone number is 202–260–4152 or E-mail *jones.marjorie@epa.gov*.

Dated: September 23, 1999.

Charlene E. Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 99–25558 Filed 9–30–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6450–3]

Board of Scientific Counselors, Executive Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C., App. 2) notification is hereby given that the Environmental Protection Agency, Office of Research and Development (ORD), Board of Scientific Counselors (BOSC), will hold a Programmatic Review of ORD's Particulate Matter 2.5 Research Program.

DATES: The Review will be held on October 28–29, 1999. On Thursday, October 28, the Review will begin at 9:00 a.m., and will recess at 4:45 p.m. On Friday, October 29, the Review will reconvene at 8:45 a.m. and conclude at 9:45 a.m. A writing session will begin at 10:00 a.m. and will adjourn at approximately 3:15 p.m. All times noted are Eastern Time.

ADDRESSES: The meeting will be held at the Hilton Durham Hotel, 3800 Hillsborough Road, Durham, North Carolina.

SUPPLEMENTARY INFORMATION: Agenda items will include, but not limited to: Discussion on ORD's Particulate Matter 2.5 Research Program and subcommittee writing sessions on Particulate Matter. Anyone desiring a draft BOSC agenda may fax their request to Shirley R. Hamilton, (202) 565–2444. The meeting is open to the public. Any member of the public wishing to make a presentation at the meeting should contact Shirley Hamilton, Designated Federal Officer, Office of Research and Development (8701R), 401 M Street, SW., Washington, DC 20460; or by telephone at (202) 564–6853. In general, each individual making an oral presentation will be limited to a total of three minutes.

FOR FURTHER INFORMATION CONTACT: Shirley R. Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Office of Research and Development, NCERQA (MC 8701R), 401 M Street, SW., Washington, DC 20460, (202) 564–6853.

Dated: September 27, 1999.

Peter W. Preuss,

Director, National Center for Environmental Research and Quality Assurance.

[FR Doc. 99–25565 Filed 9–30–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6448–8]

Carolina Creosoting Site; Notice To Rescind Federal Register Notice Dated September 9, 1999

AGENCY: Environmental Protection Agency.

ACTION: Notice to Rescind Previous **Federal Register** Notice.

SUMMARY: On September 9, 1999, (64 FR 49014), the Environmental Protection Agency (EPA) published a Notice of Proposed Settlement for response costs incurred by the EPA at the Carolina Creosoting Site located in Leland, North Carolina. The purpose of this notice is to rescind EPA's September 9, 1999 **Federal Register** Notice regarding the settlement of response costs at the Site. The Notice of Proposed Settlement for the Site may be republished in the future.

FOR FURTHER INFORMATION CONTACT: Paula Butchelor at 404–562–8887.

Dated: September 16, 1999.

Franklin E. Hill,

Chief, Program Services Branch, Waste Management Division.

[FR Doc. 99–25574 Filed 9–30–99; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 99-24884) published on page 51761 of the issue for Friday, September 24, 1999.

Under the Federal Reserve Bank of Kansas City heading, the entry for Samuel Mark Saunders, Gillette, Wyoming, is revised to read as follows:

A. Federal Reserve Bank of Kansas City. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Samuel Mark Saunders and Lisa Ann Saunders, both of Gillette, Wyoming; to acquire voting shares of First National Bank of Gillette Holding Company, Gillette, Wyoming, and thereby indirectly acquire voting shares of First National Bank, Gillette, Wyoming.

Comments on this application must be received by October 8, 1999.

Board of Governors of the Federal Reserve System, September 27, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–25494 Filed 9–30–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 15, 1999.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. George Don Briant; D'Ruth Crosgrove; and Frank R. and Polly Farrar; all of Canadian, Texas; to retain voting shares of First Canadian Bancorp, Inc., Canadian, Texas, and thereby indirectly retain voting shares of The First National Bank of Canadian, Canadian, Texas.

2. Harlan R. Heitkamp, Corpus Christi, Texas; R. Scott Heitkamp, Corpus Christi, Texas; and James M. May, M.D. , Corpus Christi, Texas; to acquire additional voting shares of First International Bancshares, Inc., Corpus Christi, Texas, and thereby indirectly acquire additional voting shares of Valuebank, Corpus Christi, Texas.

Board of Governors of the Federal Reserve System, September 27, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–25497 Filed 9–30–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 25, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Banco Portugues do Atlantico, S.A., Oporto, Portugal, and its affiliates, Banco Comerical Portugues, S.A. Oporto, Portugal, BCP-IF S.G.P.S., LDA, Lisbon, Portugal, and its subsidiaries, BPA International, S.G.P.S. Sociedade Unipessoal LDA, Maderia, Portugal, and Banco Portugues do Atlantico (USA), Inc., Newark, New Jersey; to become bank holding companies by acquiring 100 percent of the voting shares of Banco Portugues do Atlantico, National Association, Newark, New Jersey.

B. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. F.N.B. Corporation, Hermitage, Pennsylvania; to acquire 20 percent of the voting shares of Sun Bancorp, Inc., Selinsgrove, Pennsylvania, and thereby indirectly acquire Sun Bank, Selinsgrove, Pennsylvania.

C. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Uwharrie Capital Corp., Albemarle, North Carolina; to merge with Anson Bancorp, Inc., Wadesboro, North Carolina, and thereby indirectly acquire Anson Savings Bank, Inc., Wadesboro, North Carolina.

D. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. First Manitowoc Bancorp, Inc., Manitowoc, Wisconsin; to acquire 100 percent of the voting shares of capital stock of Dairy State Financial Services, Plymouth, Wisconsin, by merging Dairy State Financial Services into FMB Interim Corp., a wholly owned subsidiary of First Manitowoc Bancorp, Inc. and thereby acquire 100 percent of Dairy State Bank, Plymouth, Wisconsin.

E. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Arvest Bank Group, Inc., Bentonville, Arkansas; to acquire 100 percent of the voting shares of The First National Bank of Huntsville, Huntsville, Arkansas.

F. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Rivers Ridge Holding Company, Edina, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of BankVista, Sartell, Minnesota, a *de novo* bank.

Board of Governors of the Federal Reserve System, September 27, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–25496 Filed 9–30–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225), to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless

otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 15, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Landesbank Baden-Wurttemberg, Stuttgart, Federal Republic of Germany; to engage *de novo* through its subsidiary, SuedLeasing (USA) Corp., New York, New York, in leasing activities in North America, pursuant to § 225.28 (b)(3) of Regulation Y.

B. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. PAB Bankshares, Inc., Valdosta, Georgia; to acquire Baxley Federal Savings Bank, Baxley, Georgia, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y. Comments regarding this application must be received not later than October 25, 1999.

C. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Iowa State Bank Holding Company, Des Moines, Iowa; to engage *de novo* through its subsidiary, Capitol Partners, L.C., Des Moines, Iowa, in community development activities, pursuant to § 225.28(b)(12) of Regulation Y.

Board of Governors of the Federal Reserve System, September 27, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–25495 Filed 9–30–99; 8:45 am]

BILLING CODE 6210–01–F

Notice of Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Thursday, October 21, 1999. The meeting, which will be open to public observation, will take place at the Federal Reserve Board's offices in Washington, D.C., in the Board Room of the Eccles Building (2nd floor). The meeting will begin at 8:45 a.m. and is expected to conclude at 1:00 p.m. The Eccles Building is located on C Street, Northwest, between 20th and 21st Streets.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

Electronic Delivery of Disclosures Proposals. The Depository and Delivery Systems and the Consumer Credit Committees will lead a discussion about the proposals to permit electronic delivery of federally mandated disclosures under certain consumer financial services and fair lending laws such as the Truth in Lending and Equal Credit Opportunity Acts.

Regulation B Proposal. The Bank Regulations Committee will lead a discussion of proposed revisions to Regulation B which implements the Equal Credit Opportunity Act.

Subprime Lending. The Community Affairs and Housing Committee will lead a discussion of issues regarding lenders' subprime lending practices.

Members Forum. Individual Council members will present views on economic conditions present within their industries or local economies.

Committee Reports. Council committees will report on their work.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit views to the Council regarding any of the above topics may do so by sending written statements to Ann Bistay, Secretary of the Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Information about this meeting may be obtained from Ms. Bistay, 202-452-6470. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, 202-452-3544.

Board of Governors of the Federal Reserve System, September 27, 1999.

Jennifer J. Johnson

Secretary of the Board

[FR Doc. 99–25490 Filed 9–30–99; 8:45AM]

Billing Code 6210–01–F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. (EDT) October 12, 1999.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the September 13, 1999, Board member meeting.

2. Thrift Savings Plan activity report by the Executive Director.

3. Review of KPMB Peat Marwick audit reports:

''Pension and Welfare Benefits Administration Review of the Thrift Savings Plan System Enhancements and Software Change Controls at the United States Department of Agriculture, National Finance Center and Federal Retirement Thrift Investment Board''

''Pension and Welfare Benefits Administration Year 2000 Program Analysis of the Thrift Savings Plan at the Federal Retirement Thrift Investment Board and the U.S. Department of Agriculture, National Finance Center''

''Pension and Welfare Benefits Administration Data Security Vulnerability Review at the United States Department of Agriculture, National Finance Center''

''Pension and Welfare Benefits Administration Review of U.S. Department of Treasury Operations relating to the Thrift Savings Plan Investments in the Government Securities Investment Fund''

''Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Annuity Operations at the Metropolitan Life Insurance Company''

''Pension and Welfare Benefits Administration Review of the Policies and Procedures of the Federal Retirement Thrift Investment Board Administrative Staff''

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: September 27, 1999.

Elizabeth S. Woodruff,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 99–25665 Filed 9–28–99; 4:47 pm]

BILLING CODE 6760–01–M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Virginia Avenue Border Crossing/San Ysidro Port of Entry, San Diego, California; Notice of Intent; Environmental Impact Statement

AGENCY: Public Buildings Service, GSA.

ACTION: Pursuant to the Council on Environmental Quality Regulations (40 CFR 1500–1508) implementing procedural provisions of the National Environmental Policy Act (NEPA), the United States General Services Administration (GSA) hereby gives notice that said agency intends to prepare an EIS on the Virginia Avenue Border Crossing/San Ysidro Port of Entry in San Diego, California. The proposed project would include construction of a small facility, four to six inspection lanes and inspection booths. The site compliments the Government of Mexico's planned new facility located at El Chaparral adjacent to Virginia Avenue to the south.

Alternatives: In addition to the proposed action, the EIS will examine two alternatives; realignment of Inter-State Highway 5 and no action or continued use of the existing San Ysidro Port Entry. Also, reasonable alternatives that may or may not be within the authority of GSA will be examined. If there are potentially a large number of alternatives, only a reasonable number of examples covering the full spectrum of alternatives shall be analyzed.

Public Involvement: There will be several public meetings including, Scoping, Critical Issue(s), Draft Review and Final EIS. There will also be public review and comment periods of the Draft EIS. Further information may be obtained from: Ms. Sheryll White, U.S. General Services Administration, Portfolio Management Division (9PT), 450 Golden Gate Avenue, 3rd Floor East, San Francisco, CA 94102–2799, Telephone: (415) 522–3488.

Dated: September 23, 1999.

Aki K. Nakao,

Deputy Regional Administrator, (9AD).

Notice of Intent To Prepare an EIS

The General Services Administration intends to prepare an Environmental Impact Statement (EIS) on the following project: Virginia Avenue Border Crossing/San Ysidro Port of Entry San Diego, California

The General Services Administration of the United States Government is proposing to expand the United States Border Crossing at Virginia Avenue in San Diego, California in order to provide southbound vehicular inspection and to convert the existing southbound lanes at the United States San Ysidro Port of Entry at San Diego, California to northbound.

Alternatives to the proposed action include:

A. Proposed Action: Construction of a small facility, four to six inspection lanes (initially) and inspection booths. The site complements the Government of Mexico's planned new facility at El Chaparral adjacent to Virginia Avenue to the south.

B. Realignment of Inter-State Highway 5 to increase northbound inspection lanes at the San Ysidro Port of Entry. This action could affect an historical residential area in Tijuana as well as traffic access to newly aligned lanes. The site is located to the east of the Government Mexico's planned new facility El Chaparral.

C. No action-space for functions now located at the San Ysidro Port of Entry will continue.

D. Reasonable alternatives which may or may not be within the authority of GSA. If there are potentially a large number of alternatives, only a reasonable number of examples covering the full spectrum of alternatives shall be analyzed.

Public scoping will include:

Scoping Meeting
Critical Issue(s) Meeting(s)
Public Review and Comment to Draft EIS
Draft EIS Review Meeting
Final EIS Meeting

FOR FURTHER INFORMATION CONTACT: Sheryll White, General Services Administration, Portfolio Management Division (9PT), 450 Golden Gate Avenue, 3rd Floor East, San Francisco, California 94102, (415) 522–3488, Fax: (415) 522–3215.
Email:sheryll.white@gsa.gov.

[FR Doc. 99–25538 Filed 9–30–99; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–4166]

Agency Information Collection Activities: Proposed Collection; Comment Request; Electronic Records; Electronic Signature

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection provisions relating to FDA's electronic records and electronic signatures.

DATES: Submit written comments on the collection of information by November 30, 1999.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (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. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of

information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Electronic Records; Electronic Signatures—Part 11 (21 CFR Part 11) (OMB Control Number 0910–0303)–Extension

The Food and Drug Administration (FDA) regulations in part 11 (21 CFR part 11) provide criteria for acceptance of electronic records, electronic signatures, and handwritten signatures executed to electronic records as equivalent to paper records. Under these regulations, records and reports may be submitted to FDA electronically, provided the agency has stated its ability to accept the records electronically in an agency-established public docket and that the other requirements of part 11 are met.

The recordkeeping provisions in part 11 (§§ 11.10, 11.30, 11.50, and 11.300) require standard operating procedures to assure appropriate use of, and precautions for, systems using electronic records and signatures: (1) § 11.10 specifies procedures and controls for persons who use closed systems to create, modify, maintain, or transmit electronic records; (2) § 11.30 specifies procedures and controls for persons who use open systems to create, modify, maintain, or transmit electronic records; (3) § 11.50 specifies procedures and controls for persons who use electronic signatures; and (4) § 11.300 specifies controls to ensure the security and integrity of electronic signatures based upon use of identification codes in combination with passwords. The reporting provision (§ 11.100) requires persons to certify in writing to FDA that they will regard electronic signatures used in their systems as the legally binding equivalent of traditional handwritten signatures.

The burden created by the information collection provision of this regulation is a one-time burden associated with the creation of standard operating procedures, validation, and certification. The agency anticipates the use of electronic media will substantially reduce the paperwork burden associated with maintaining FDA required records.

The respondents will be businesses and other for-profit organizations, state or local governments, Federal agencies, and nonprofit institutions.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
11.100	4,500	1	4,500	1	4,500

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Record-keepers	Annual Fre-quency of Rec-ordkeeping	Total Annual Records	Hours per Rec-ordkeeper	Total Hours
11.10	2,250	1	2,250	20	45,000
11.30	2,250	1	2,250	20	45,000
11.50	4,500	1	4,500	20	90,000
11.300	4,500	1	4,500	20	90,000
Total					270,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 24, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–25491 Filed 9–30–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–1651]

Guidance for Industry: Chemistry, Manufacturing and Control Changes to an Approved NADA or ANADA; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Guidance for Industry: Chemistry, Manufacturing and Control Changes to an Approved NADA or ANADA.'' This draft guidance is intended to provide recommendations to holders of new animal drug applications (NADA's) and abbreviated new animal drug applications (ANADA's) on how they should report changes to such applications in accordance with proposed amended regulations that are found elsewhere in this issue of the **Federal Register**.

DATES: Written comments should be submitted by December 15, 1999.

ADDRESSES: Submit written requests for single copies of this draft guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine (CVM), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist the office in processing your requests. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the full title of the draft guidance and the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section of this document for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Dennis M. Bensley, Office of New Animal Drug Evaluation (HFV–140), Center for Veterinary Medicine, Food

and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6956.

SUPPLEMENTARY INFORMATION:

I. Background

Section 116 of the Food and Drug Administration Modernization Act (the Modernization Act) amended the Federal Food, Drug, and Cosmetic Act (the act) by adding section 506A (21 U.S.C. 356a). This section provides requirements for making and reporting manufacturing changes to an approved application and for distributing a drug product made with such change. Elsewhere in this issue of the **Federal Register**, FDA is proposing to amend its regulations on supplements and other changes to an approved application § 514.8 (21 CFR 514.8) to conform to section 506A of the act.

The purpose of this draft guidance is to provide recommendations to holders of NADA's and ANADA's who intend to make postapproval changes in accordance with section 506A of the act and the proposed amended regulations at § 514.8. The draft guidance covers recommended reporting categories for postapproval changes for new animal drugs. Recommendations are provided for postapproval changes in: (1) Components and composition, (2) sites, (3) manufacturing process, (4) specification(s), (5) package, and (6) miscellaneous changes. This draft guidance does not provide recommendations on the specific information that should be developed by an applicant to validate the effect of the change on the identity, strength (e.g., assay, content uniformity), quality (e.g., physical, chemical, and biological properties), purity (e.g., impurities and degradation products), or potency (e.g., biological activity, bioavailability, bioequivalence) of a product as they may relate to the safety or effectiveness of the product. FDA has published guidances, including the Scale-up and Postapproval Changes (SUPAC) guidances, that provide recommendations on reporting categories and/or the type of information that should be developed by the applicant to validate the effect of the change on the identity, strength, quality, purity, or potency of a product as they may relate to the safety or effectiveness of the product. The draft guidance, which cites proposed § 514.8, will be revised based on public comments and implemented for use as a companion document when § 514.8 is finalized.

This draft guidance represents the agency's current thinking on this subject. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both.

II. Comment

Interested persons may, on or before December 15, 1999, submit to the Dockets Management Branch (address above) written comments regarding the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance using the World Wide Web (WWW). For WWW access, connect to CVM at ''http://www.fda.gov/cvm''.

Dated: June 23, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–25492 Filed 9–30–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–3025–N]

Medicare Program; Notice of the Implementation of the Medicare Lifestyle Modification Program Demonstration Project

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces our implementation of the Medicare Lifestyle Modification Program Demonstration. Lifestyle modification programs are increasingly becoming an approach to the secondary prevention of coronary disease morbidity. Such programs may reduce the incidence of hospitalizations and invasive procedures among patients with substantial coronary occlusion.

FOR FURTHER INFORMATION CONTACT: Armen Thoumaian, Ph.D. at (410) 786–6672, or Athoumaian@HCFA.GOV.

SUPPLEMENTARY INFORMATION: The purpose of this demonstration is to test the feasibility and effectiveness of providing payment for cardiovascular lifestyle modification program services to Medicare beneficiaries. This demonstration will test a proven and intensive program designed to reduce or reverse the progression of cardiovascular disease (CAD) of patients at risk for invasive treatment procedures. The demonstration will be conducted over a 4-year period at an estimated 15 sites. Enrollment is limited to 1,800 Part B eligible Medicare beneficiaries who satisfy clinical admission criteria.

We are preparing to expand this demonstration to at least one additional nationwide, multi-site cardiovascular lifestyle modification program. An announcement of this expanded demonstration to solicit interested programs is expected within the next several weeks.

We will conduct an independent evaluation of both demonstrations to compare the short-term and long-term outcomes and costs in providing this type of service for Medicare beneficiaries.

Authority: 42 U.S.C. 1395b–1(a)(1)(G) and (a)(2).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 14, 1999.

Michael M. Hash,

Deputy Administrator, Health Care Financing Administration.

[FR Doc. 99–25416 Filed 9–28–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1058–FN]

RIN 0938–AJ60

Medicare Program; Sustainable Growth Rate for Fiscal Year 2000

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This final notice announces the fiscal year 2000 Sustainable Growth Rate (SGR) for expenditures for physicians' services under the Medicare Supplementary Medical Insurance (Part B) program as required by section 1848(f) of the Social Security Act (the Act). The SGR for fiscal year 2000 is 2.1 percent.

EFFECTIVE DATE: The provisions of the Medicare SGR for fiscal year 2000 contained in this notice are effective on October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Raymond Bulls, (410) 786–7267.

SUPPLEMENTARY INFORMATION:

I. Background

A. Medicare Sustainable Growth Rate

Section 1848(f) of the Social Security Act (the Act), as amended by section 4503 of the Balanced Budget Act of 1997 (BBA) (Public Law 105–33), enacted on August 5, 1997, replaces the volume performance standard with a Sustainable Growth Rate (SGR) standard. It specifies the formula for establishing yearly SGR targets for physicians' services under Medicare. The use of SGR targets is intended to control the actual growth in Medicare expenditures for physicians' services.

The SGR targets are not limits on expenditures. Payments for services are not withheld if the SGR target is exceeded. Rather, the appropriate fee schedule update, as specified in section 1848(d)(3)(A) of the Act, is adjusted to reflect the success or failure in meeting the SGR target.

Amended section 1848(f)(2) of the Act states that ''* * * the sustainable growth rate for all physicians' services for a fiscal year (beginning with fiscal year 1998) shall be equal to the product of—

(A) 1 plus the Secretary's estimate of the weighted-average percentage increase (divided by 100) in the fees for all physicians' services in the fiscal year involved;

(B) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than Medicare+Choice plan enrollees) from the previous fiscal year to the fiscal year involved;

(C) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the year involved; and

(D) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law or regulations, determined without taking into account estimated changes in expenditures resulting from the update adjustment factor determined under subsection (d)(3)(B), minus 1 and multiplied by 100.''

B. Physicians' Services

Because the scope of physicians' services covered by the SGR is the same as the scope of services that was covered by the Medicare volume performance standards, we are using the same definition of physicians' services for the SGR in this notice as we did for the Medicare volume performance standards published in the **Federal Register** (61 FR 59717) on November 22, 1996. That final notice announced the fiscal year 1997 volume performance standard rates and contained a detailed description of the scope of physicians' services.

II. Provisions of This Notice

Under the requirements in sections 1848(f)(2)(A) through (D) of the Act, as amended by section 4503 of the BBA, we have determined that the SGR for physicians' services for fiscal year 2000 is 2.1 percent. Our determination is based on the following statutory factors:

Statutory factors	Percent change
Fees	2.1
Enrollment	−1.6
Increase in Gross Domestic Product	1.8
Legislation	−0.2
Total	2.1

The specific calculations to determine the 2.1 percent SGR for physicians' services for fiscal year 2000 are explained below.

III. Calculation of the Fiscal Year 2000 Sustainable Growth Rate

Our explanation of how we determined the values for each of the four factors used in determining the SGR for fiscal year 2000 is as follows:

Factor 1—Changes in Fees for Physicians' Services (Before Applying Legislative Adjustments) for Fiscal Year 2000

This factor was calculated as a weighted average of the calendar year 1999 and 2000 fee increases that apply during fiscal year 2000.

Most of the fees for physicians' services (as defined in section I. B. of this final notice) are updated by the Medicare Economic Index (MEI). However, the BBA provided for a 0.0 percent update in 1999 and 2000 for laboratory services, which represents about 11 percent of the Medicare-allowed charges for physicians' services. The following table, therefore, shows both the MEI and laboratory service updates that were used in determining the percentage increase in physicians' fees for fiscal year 2000.

MEDICARE ECONOMIC INDEX AND LABORATORY SERVICE UPDATE FOR CALENDAR YEARS 1999 AND 2000

	1999	2000
Medicare Economic Index	2.3	2.3
Laboratory Service	0.0	0.0

After taking into account all the elements described above, we estimate that the weighted-average increase in fees for physicians' services in fiscal year 2000, before applying any legislative adjustments to the MEI, will be 2.1 percent for all physicians' services.

Factor 2—The Percentage Change in the Average Number of Part B Enrollees From Fiscal Year 1999 to Fiscal Year 2000

Due to the growth in Medicare+Choice plan enrollees (whose Medicare-covered medical care is outside the scope of the SGR), we estimate that the average number of Medicare Part B enrollees, excluding those in Medicare+Choice plans, will decline by 1.6 percent. This decline was derived as follows:

Fiscal year	Average Medicare Part B enrollment (in millions)		
	Overall	Medicare+Choice	Overall, excluding Medicare+Choice
1999	36.866	6.116	30.750
2000	37.178	6.917	30.261
Percent change	.....	.....	−1.6

Factor 3—Estimated Real Gross Domestic Product Per Capita Growth in Fiscal Year 2000

Section 1848(f)(2)(C) of the Act, as amended by section 4503 of the BBA, requires the Secretary to project real gross domestic product per capita growth for the coming fiscal year. In calculating the SGR, we estimate that this growth will be 1.8 percent in fiscal year 2000.

Factor 4—Percentage Change in Expenditures for Physicians' Services Resulting From Changes in Law or Regulations in Fiscal Year 2000 Compared With Fiscal Year 1999

Legislative changes contained in the BBA will have some residual effects on expenditures for physicians' services in fiscal year 2000. In addition, there are some miscellaneous provisions that will have a small impact.

Taking into account all of the changes in law or regulation that may affect expenditures for physicians' services, the decrease in expenditures for physicians' services is estimated to be −0.2 percent.

IV. The Use of Estimates in Computing the Sustainable Growth Rate

Section 1848(f) of the Act clearly requires that each year, the Secretary establish the SGR for the upcoming fiscal year beginning October 1 based on the Secretary's estimate[s] of four factors: The percentage increase in physicians' fees, the percentage increase in fee-for-service enrollment, the projected percentage growth in per capita gross domestic product, and the percentage change in expenditures for physicians' services resulting from changes in law or regulations. Because the calculation of the SGR for a given year is based on projected values, updates may be either lower or higher than they would have been if we had used later data. Thus, we initially considered revising estimates of the factors used in setting the SGR when later data had become available. However, as we indicated in the notice with comment period published in the **Federal Register** (63 FR 59188) on November 2, 1998, we had concerns about whether we had the statutory authority to make these revisions under current law and invited comments regarding how an adjustment could be made consistent with the law. The comments we received and our response are discussed below.

Comment: The American Medical Association and numerous physician organizations suggested that congressional intent should be interpreted to authorize adjustments for projection error. These commenters also suggested a number of different approaches for making such adjustments. The various approaches suggested rely on later data.

Response: We do not believe that we have the authority to make adjustments based on Congressional intent because the statutory language clearly requires that estimated values be used for computing the SGR and there is no provision for revising the estimates to reflect later data. Our actions are controlled by the clear statutory language. Thus, we will not be able to make adjustments to the SGR based on later data.

However, the Administration's legislative package for fiscal year 2000, released in February 1999, contains a legislative proposal to adjust the SGR if later data are different from earlier estimates, as well as to address issues relating to the instability of the SGR discussed below. The changes proposed are all budget neutral. If Congress enacts this proposal for fiscal year 2000, we would revise the SGR for fiscal year 2000 as appropriate.

V. Technical Problems With the Sustainable Growth Rate System

We have begun to forecast the SGR for future years, and it appears that there is some instability in the SGR system. In the long-term, updates could oscillate between the maximum increase and decrease adjustments due to the use of mismatched time periods and the lag between measurement periods. The solution would be technical and would involve the matching of time periods for the SGR calculation, the actual versus target measurement, and the update adjustment. As discussed above the Administration has submitted a legislative proposal to the Congress that will address these factors and result in less oscillation in the physician fee schedule update.

VI. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless we certify that a notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all physicians and suppliers as small entities. Individuals and States are not included in the definition of a small entity.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. That analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

Legislative changes contained in the BBA will affect expenditures for physicians' services in fiscal year 2000, although the impact will be slight, and residual effects will result in fiscal year 2000 from the calendar year implementation of these changes.

We are not preparing an analysis for either the RFA or section 1102(b) of the Act because we have determined, and the Secretary certifies, that this notice will not have a significant economic impact on a substantial number of small entities or on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

We have reviewed this final notice under the threshold criteria of Executive Order 13132 of August 4, 1999, and have determined that it does not significantly affect the rights, roles, and responsibilities of States.

(Sections 1848(d) and (f) of the Social Security Act) (42 U.S.C. 1395w–4(d) and (f))

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 1, 1999.

Michael M. Hash,

Deputy Administrator, Health Care Financing Administration.

Approved: September 20, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99–25527 Filed 9–28–99; 9:58 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed

for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1891.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Uniform Reporting System Client Demonstration Project (URS): NEW

The Uniform Reporting System Client Demonstration Project (URS) was established in 1994 to collect information from several Title I and Title II grantees and their subcontracted service providers about their individual clients. Demographic information, service utilization, and health indicators of all clients receiving services at providers funded by the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act are collected twice each year. A unique identifier is used to protect the anonymity of the clients, and as a further safeguard, this unique identifier is encrypted before it is sent to HRSA.

HRSA initiated the URS to demonstrate (1) the feasibility of collecting client level demographic and service data on HIV/AIDS infected/affected clients across a network of service providers and (2) the usefulness of these data for planning and evaluation purposes at both the local and national levels. Through this system, HRSA sought to overcome the limitations of the Annual Administrative Report (AAR), the national reporting system for the Ryan White CARE Act. The AAR collects data aggregated at the grantee level and has duplicated counts of clients. The number of clients reported in the AAR overestimates by approximately the true number of clients. In addition, AAR data are not tied to any clinical or service outcome information at the client level. The feasibility of collecting client data has been demonstrated. The usefulness of these data for planning and evaluation purposes at both the local and national level has become increasingly evident. A number of client level analyses that were not possible with the AAR have been undertaken.

In addition to meeting the goal of accountability to Congress, clients, advocacy groups, and the general public, the URS supports critical efforts by HRSA, state and local grantees, and providers to assess the health outcomes and the service utilization patterns of the individuals at these sites who are infected or affected by HIV/AIDS and receive care at a provider funded by the Ryan White CARE Act.

Outcome specific and treatment measures are collected in the data system; these will be asked only of medical providers. These data elements seek to document whether current standards of care as established by the Public Health Service are being adhered to at these Ryan White CARE Act facilities. The core set of data elements are largely unchanged from the AAR. Minor changes in the demographic data elements have been made as a result of meetings and input from the current URS grantees and their providers.

The estimated response burden is as follows:

Medical records source	Number of respondents	Responses per respondent	Burden hour	Total burden hours
Medical Providers	27,000	1	4	108,000
Case Managers, Mental Health, Substance Abuse Providers	32,000	1	1	32,000
Other Providers	35,000	1	.5	17,500
Total	94,000	.....	.....	157,500

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: September 24, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–25555 Filed 9–30–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4446–N–07]

Announcement of OMB Approval Number for Community Development Block Grant (CDBG) Urban Country and New York Towns Qualification/ Requalification Processes

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

ACTION: Announcement of OMB Approval Number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to Community Development Block Grant (CDBG) Urban Country and New York Towns Qualification/ Requalification Processes.

FOR FURTHER INFORMATION CONTACT: Ms. Sue Miller, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1577. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to Community Development Block Grant (CDBG) Urban Country and New York Towns Qualification/Requalification Processes. The OMB approval number for this information collection is 2506–0170, which expires on September 30, 2002.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information,

unless it displays a currently valid OMB control number.

Dated: September 27, 1999.

Kenneth Williams,

Deputy Assistant Secretary for Grant Programs.

[FR Doc. 99–25633 Filed 9–30–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–49]

Submission for OMB Review: Personal Financial and Credit Statement

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of proposed information collection requirement.

SUMMARY: The proposed information collection requirement described has been submitted to the Office of Management and Budget (OMB) to review, as required by the Paperwork Reduction Act. The Department is soliciting comments on the public comments on the subject proposal.

DATES: *Comments Due Date:* November 1, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–2374 (This is not a toll-free number) or e-mail to Wayne__Eddins@HUD.gov. Copies of the available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION:

The Department has submitted the proposal for the collection of information, as described below, to OMB for review as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). An agency may not conduct or

SUPPLEMENTARY INFORMATION: This notice contains the following information:

(1) The title for the collection of information;

(2) A summary of the collection of information;

(3) A brief description of the need for the information and proposed use of the information;

(4) A description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information;

(5) An estimate of the total annual reporting and recordkeeping burden that will result from the collection of information;

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

Title: Personal Financial and Credit statement.

OMB Control Number: 2502–0001.

Type of submission: Reinstate without Change.

Need and use of the information: The information to be collected describes the financial capacity, reputation, experience and ability of the project sponsor. The information is used to determine whether the sponsor will be able to develop a successful project.

Form Number: HUD–92417.

Respondents: Individuals of business entities, private non-profit corporations, and general contractors.

Reporting Burden:

Number of respondents	x	Frequency of response	x	Hours per response	=	Total burden hours
8,000	....	1	....	8	....	64,000

Contact: Peter Giaquinto, HUD (202) 708–4162, Joseph Lackey, OMB, (202) 395–7316.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 24, 1999.

Wayne Eddins,

Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 99–25634 Filed 9–30–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–39]

Federal Property Suitable as Facilities To Assist the Homeless

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

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unitilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Adminstration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for

homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication of the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contract the appropriate landholding agencies at the following addresses: ENERGY: Mr. Tom Knox, Department of Energy, Office of Contract & Resource Management, MA–53, Washington, DC 20585; (202) 586–8715; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–0052; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: September 23, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 10/1/99

Suitable/Available Properties

Buildings (by State)

Missouri

Bldg. 82
Kansas City Plant
Bannister Road
Kansas City Co: MO 00000–
Landholding Agency: Energy
Property Number: 41199930031
Status: Excess
Comment: 128 sq. ft., concrete, off-site use only

Bldg. 83
Kansas City Plant
Bannister Road
Kansas City Co: MO 00000–
Landholding Agency: Energy
Property Number: 41199930032
Status: Excess
Comment: 166 sq. ft., concrete, off-site use only

Pennsylvania

Rices Landing
Tracts A–L, & 1–4
Old Lock & Dam #6
Rices Landing Co: Greene PA 15357–
Landholding Agency: GSA
Property Number: 54199930009
Status: Excess
Comment: 2 residences—1400 sq. ft. ea., need repairs, 1 metal warehouse, 1 shed, possible asbestos/lead paint
GSA Number: 4–D–PA–0786

Land (by State)

Louisiana

Sulphur Mines Well Site
Highway 90–W
Sulphur Co: Calcasieu Parish LA 70663–
Landholding Agency: GSA
Property Number: 54199930026
Status: Surplus
Comment: 68.02 acres w/4 capped brine injection wells, majority of land densely wooded, located on Gulf Coastal Plain
GSA Number: 7–B–UT–431–M

Unsuitable Properties

Buildings (by State)

California

Bldg. 206
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930105
Status: Unutilized
Reason: Extensive deterioration

Bldg. 432
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930106
Status: Unutilized
Reason: Extensive deterioration

Bldg. 433
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930107
Status: Unutilized
Reason: Extensive deterioration

Bldg. 435
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930108
Status: Unutilized
Reason: Extensive deterioration

Bldg. 456
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930109
Status: Unutilized
Reason: Extensive deterioration

Bldg. 921
Naval Weapons Station Seal Beach
Seal Beach Co: CA 90740–5000
Landholding Agency: Navy
Property Number: 77199930110
Status: Unutilized
Reason: Extensive deterioration

Colorado

Bldg. 714 A/B
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930021
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 717
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930022
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 770
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930023
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 771
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930024
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 771B
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy

Property Number: 41199930025
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 771C
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930026
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 772–772A
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930027
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 773
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930028
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 774
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930029
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Missouri

Bldg. 81
Kansas City Plant
Bannister Road Kansas City Co: MO 00000–
Landholding Agency: Energy
Property Number: 41199930030
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

New Jersey

Units C33 and C34
Princeton Plasma Physics Lab
Princeton Co: Mercer NJ 08540–
Landholding Agency: Energy
Property Number: 41199930020
Status: Excess
Reason: Extensive deterioration

Washington

Bldg. 166
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930101
Status: Excess
Reason: Secured Area

Bldg. 287
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930102
Status: Excess
Reason: Secured Area

Bldg. 418
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930103
Status: Excess
Reason: Secured Area

Bldg. 858
Puget Sound Naval Shipyard
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77199930104
Status: Excess
Reason: Secured Area

[FR Doc. 99–25260 Filed 9–30–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4434–N–04]

Notice of Obsolete Public Housing Documents

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Notice of obsolete Public Housing documents pursuant to section 503(d) of the Public Housing Reform Act.

SUMMARY: The purpose of this notice is to publish a list of the documents issued or promulgated under the United States Housing Act of 1937 that are or will be obsolete because of the enactment of the Public Housing Reform Act.

FOR FURTHER INFORMATION CONTACT: Rod Solomon, Deputy Assistant Secretary for Policy, Program and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4116, Washington, DC 20410, telephone (202) 708–0713. 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: This list of documents relating to public housing and Section 8 tenant-based assistance is published in accordance with Section 503(d) of the Quality Housing and Work Responsibility Act of 1998 (Title V of Pub.L. 105–276, 112 Stat. 2461, approved October 21, 1998) (Public Housing Reform Act). Section 503(d) requires the Secretary of HUD to publish in the **Federal Register** a list of all rules, regulations, and orders (including all handbooks, notices and related requirements) pertaining to public housing or section 8 tenant-based programs issued or promulgated under the United States Housing Act of 1937 before the date of the enactment of the Public Housing Reform Act that became or will become obsolete because of the enactment of the Public Housing Reform Act, or are otherwise obsolete.

In identifying requirements as ''obsolete,'' this notice lists not only those that are completely eliminated and removed, but also those that are significantly changed but not removed. For example, the regulatory parts, subparts and sections listed in this notice include regulatory provisions and requirements that are no longer in use or applicable at all as a result of the Public Housing Reform Act, as well as regulatory requirements that are still generally applicable to HUD programs but that are significantly changed by the Public Housing Reform Act and are being revised through rulemaking.

Regulations

A. Portions of the following regulations in title 24 of the CFR were made obsolete by the Public Housing Reform Act and have been or are being revised to reflect the changes:

Part 5—General HUD Program Requirements; Waivers.
Part 761—Drug Elimination Program.
Part 904—Low Rent Housing Homeownership Opportunities (Turnkey III)—obsolete except as to existing projects.
Part 906—Section 5(h) Homeownership Program—obsolete except as to existing projects.
Part 945—Designated Housing—obsolete; superseded by statutory changes made by the Housing Opportunity Program Extension Act of 1996. Now being administered by Notice. The Public Housing Reform Act made a few changes.
Part 960—Admission to, and Occupancy of, Public Housing.
Part 964—Tenant Participation and Tenant Opportunities in Public Housing.
Part 965—PHA Owned or Leased Projects, General Provisions.
Part 966—Lease and Grievance Procedures.
Part 969—PHA-owned Projects, Continued Operation.
Part 970—Demolition or Disposition of Public Housing.
Part 982—Section 8 Tenant-based Assistance.
Part 984—Section 8 and Public Housing Self-Sufficiency.
Part 985—Section 8 Management Assessment Program.

B. The Public Housing Reform Act also has the following effects:

Part 941 (Development) and Part 968 (Modernization), although made obsolete for future years, remain in effect pending issuance of final regulations to implement the Public Housing Reform Act changes. Once regulations for the Capital Fund are issued, Parts 941 and 968 will be discontinued. Part 969 (PHA-Owned

Projects—Continued Operation as Low-Income Housing After Completion of Debt Service) also may be covered by the new Capital Fund regulation.

Part 990, Annual Contributions for Operating Subsidy, remains in effect pending negotiated rulemaking on the Operating Fund and issuance of pertinent revisions to the regulations.

Handbooks

A. The following program handbooks, made obsolete by the Public Housing Reform Act, remain in effect but ultimately will be revised, replaced or eliminated:

1. 7417.1 Public Housing Development Handbook.
2. 7420.3 Section 8 Housing Assistance Payments Program.
3. 7420.6 Housing Assistance Payments Program Accounting.
4. 7420.6 Section 8 Rental Certificate, Rental Voucher and Moderate Rehabilitation.
5. 7430.1 Low-Income Leased Housing (guide).
6. 7410.1 Public and Indian Housing Low-Rent Technical Accounting Guide.
7. 7460.5 Public Housing Management Assessment Program.
8. 7485.1 Public and Indian Housing Comprehensive Improvement Assistance Program.
9. 7485.3 Public and Indian Housing Comprehensive Grant Program Handbook.
10. 7560.1 Public and Indian Housing Development and Modernization Fund.
11. 7465.1 Public Housing Occupancy Audit Handbook.
12. 7465.2 Public Housing Occupancy Reporting Handbook.
13. 7475.1 Financial Management Handbook (guide).

B. The Department, in its effort to simply program administration for its partners, previously discontinued the following handbooks:

1. 7401.1 Low-Rent Housing Administration of Programs Handbook.
2. 7401.2 Low-Rent Housing Administrative Practices Guide.
3. 7401.5 Low-Income Housing Property/Casualty Insurance Handbook.
4. 7401.7 Public Housing Agency Personnel Policies (Part I).
5. 7401.7 Public Housing Agency Personnel Policies (Part II).
6. 7420.7 Public Housing Agency Administrative Practices Handbook (except section 4–5.d.1, chapters 5 and 8).
7. 7430.1 Low-Rent Lease Housing Handbook.
8. 7460.5 The Public Housing Management Handbook.
9. 7465.1 Public Housing Occupancy Handbook.
10. 7475.1 Low-Income Housing Financial Management Handbook.
11. 7475.2 Performance Funding System.
12. 7476.1 Audits of Public Housing Agencies and Indian Housing Authorities.
13. 7486.1 Public Housing Demolition, Disposition and Conversion.
14. 7495.3 Low-Rent Homeownership Opportunities Handbook.

Notices

Notices generally expire within a year from the date of issuance. Notices necessary for implementing changes made by the Public Housing Reform Act have been or will be issued and those made obsolete have expired. Program guides and documents are being revised as necessary or discontinued to meet the requirements of the Public Housing Reform Act.

Dated: September 29, 1999.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–25706 Filed 9–29–99; 2:36 pm]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Impact Statement/Environmental Impact Report and Receipt of an Application for an Incidental Take Permit for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan in California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The San Joaquin Council of Governments has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The San Joaquin Council of Governments has applied on behalf of the cities of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, and Tracy; San Joaquin County; the East Bay Municipal Utility District; California Department of Transportation-District 10 within San Joaquin County; San Joaquin Council of Governments; San Joaquin Area Flood Control Agency; Stockton East Water District; and the South San Joaquin Irrigation District (applicants). The proposed permit would authorize incidental take of 16 federally listed species. The proposed taking of these species would be incidental to the implementation of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, which provides, in part, for the conversion of open space to non-open space uses. The proposed permit also would authorize future incidental take of 84 currently unlisted species, should any of them become listed under the Act during the life of the permit. The proposed permit duration is 50 years. The permit application, available for public review, includes a Habitat Conservation Plan (Plan) which describes the proposed program and mitigation, and the accompanying Implementing Agreement.

The Service also announces the availability of a joint draft Environmental Impact Statement/Environmental Impact Report (Impact Statement/Report) for the incidental take permit application. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

PUBLIC HEARING: A public hearing will be held November 9, 1999, from 6:00 p.m. to 8:00 p.m. at the Hutchens Street Square, 125 South Hutchens St., Lodi, California. For additional hearing information, contact Ms. Amy Augustine at (209) 532–7376. Oral and written comments will be received at the meeting.

DATES: Written comments should be received on or before January 7, 2000.

ADDRESSES: Comments should be addressed to the Field Supervisor, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825. Written comments may be sent by facsimile to (916) 414–6711.

FOR FURTHER INFORMATION CONTACT: Ms. Cay C. Goude, Assistant Field Supervisor, at the above address, telephone (916) 414–6601.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the application, draft Impact Statement/Report, Plan, and Implementing Agreement for review should immediately contact the San Joaquin Council of Governments by telephone at (209) 468–3913 or by letter to the San Joaquin Council of Governments at 6 S. El Dorado St., Suite 400, Stockton, California 95202. Copies of the draft Impact Statement/Report, Plan, and Implementing Agreement also are

available for public inspection at branch libraries in San Joaquin County during regular business hours.

Background Information

Section 9 of the Act and Federal regulation prohibit the ''take'' of animal species listed as endangered or threatened. That is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 USC 1538). Under limited circumstances, the Service, however, may issue permits to authorize ''incidental take'' of listed animal species (defined by the Act as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). Regulations governing permits for threatened species and endangered species, respectively are at 50 CFR 17.32 and 50 CFR 17.22.

Background

The San Joaquin Council of Governments seeks a permit for take of the following federally listed species: threatened Aleutian Canada goose (*Branta canadensis leucopareia*), giant garter snake (*Thamnophis gigas*), California red-legged frog (*Rana aurora draytonii*), delta smelt (*Hypomesus transpacificus*), Sacramento splittail (*Pogonichthys macrolepidotus*), vernal pool fairy shrimp (*Branchinecta lynchi*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), fleshy owl's-clover (*Castilleja campestris* ssp. *succulenta*), Colusa grass (*Neostapfia colusana*), and endangered San Joaquin kit fox (*Vulpes macrotis mutica*), Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardi*), large-flowered fiddleneck (*Amsinckia grandiflora*), palmate-bracted bird's-beak (*Cordylanthus palmatus*), and Greene's tuctoria (*Tuctoria greenei*). This take would be incidental to the applicants' conversion of open space to non-open space uses within the 900,000+ acre planning area in San Joaquin County, California. The proposed permit also would authorize future incidental take of 84 species that are not currently federally listed, should any of them become listed under the Act during the life of the permit. The 84 currently unlisted species include 24 plant species, 2 fish species, 5 invertebrate species, 3 amphibian species, 3 reptile species, 32 bird species, and 15 mammal species (9 of which are bats). Collectively, the 100 listed and unlisted species addressed in the Plan are referred to as the ''covered species'' for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan.

In the Plan, the applicants have proposed the conversion of approximately 109,302 acres from open space to non-open space uses throughout the life of the permit, primarily by activities already addressed in adopted plans of the local cities and County. These activities include residential, commercial, and industrial development; aggregate mining; construction and maintenance of transportation facilities, public utilities, schools, and parks and trails; minor dredging, non-federal flood control and irrigation district projects; agricultural conversions of vernal pool grasslands; managing reserves; and other anticipated projects. A more detailed description of covered activities is provided in the Plan.

The Plan classifies the County's land uses into four general categories: Natural Lands, Agricultural Lands, Multi-Purpose Open Space, and Urban Lands. Habitat preservation and/or creation will be required to mitigate for loss of Natural and Agricultural Lands. For Agricultural Land (*e.g.*, row and field crops), 1 acre will be preserved for each acre impacted. For Natural Lands, mitigation varies according to habitat type: (a) for non-wetland habitat (*e.g.*, grasslands, oak woodlands, scrub), 3 acres will be preserved for each acre lost; (b) for vernal pools in the designated ''Vernal Pool Zone'', 2 acres will be preserved and 1 acre will be created for each acre lost; (c) for vernal pools in the ''Southwest Zone'', 3 acres of preservation will be required for each acre lost (unless vernal pool conservancy shrimp or vernal pool longhorn shrimp are impacted which will require 5 acres of preservation for each acre lost); and (d) for wetlands other than vernal pools (*e.g.*, channel islands, riparian creeks, sloughs), each acre lost will be mitigated through 3 acres of preservation, at least 1 acre of which will be created. Up to 71,837 acres of Natural and Agricultural Lands could be converted under the plan, requiring approximately 100,241 acres of habitat preservation and/or creation. Additionally, up to 37,465 acres of Multi-Purpose Open Space are expected to be converted, requiring mitigation in the form of fee payments to help finance enhancement, management, and administration costs associated with the preserve system. The amount of land that will actually be converted during the life of the permit is unknown, but maximum acreage limits have been set based on existing local land use plans.

An additional 600 acres will be preserved under the Plan to compensate for potential impacts to covered species which stray from preserve lands onto neighboring lands. At the election of landowners within 0.5 mile of preserve land, agricultural and aggregate mining activities will receive incidental take authorization for covered species, except for foraging Swainson's hawks, that become established on the property after the adjacent land has been preserved. For foraging Swainson's hawks, landowners within 10 miles of established preserves may receive neighboring land protections at their discretion. Exceptions to this coverage and other details regarding these neighboring land protections are provided in the Plan.

Preservation is anticipated to be achieved primarily through the purchase of conservation easements (approximately 90 percent) with some purchase of lands in fee title (approximately 10 percent). Conservation easements would stress the preservation of existing agricultural practices which are deemed compatible with the conservation of the covered species. It is anticipated that about 100,841 acres of Preserve will be acquired (about 100,241 to mitigate loss of Natural and Agricultural Lands and 600 acres to mitigate for neighboring land protections) during the 50-year term of the Plan. These lands would be preserved and managed for wildlife values in perpetuity.

The Plan includes measures to avoid and minimize incidental take for each of the covered species, emphasizing project design modifications to protect both habitats and species individuals. A monitoring and reporting plan will gauge the Plan's success, based on biological success criteria, and ensure that compensation keeps pace with open space conversions. The Plan also includes adaptive management which allows for changes in the conservation program if the biological success criteria are not met, or new information becomes available to improve the efficacy of the Plan's conservation strategy.

In addition to incidental take avoidance measures, the Plan includes requirements for conserving corridors for the San Joaquin kit fox and for avoiding the creation of linear barriers to species dispersal. The Plan also establishes limits on Natural Land conversions and for particular species covered by the Plan. Details of avoidance and minimization measures, and preserve design and management are presented in the Plan.

The Plan would be implemented by a Joint Powers Authority which would be advised by a Technical Advisory Committee including representatives from the Fish and Wildlife Service, California Department of Fish and Game, and U.S. Army Corps of Engineers, among others. Additional assistance will be provided to the Joint Powers Authority by conservation, agricultural, and business interests, and other stakeholders in the County.

Funding for the Plan is anticipated to be provided by multiple sources including development fees (to fund 67 percent of the Plan); local, state and federal funding sources (16 percent of Plan funding); Plan-generated income (*e.g.*, through lease revenues—approximately 5 percent of funding); conservation bank revenues (2 percent); and revolving funds (10 percent).

The draft Impact Statement/Report considers five alternatives, including the Proposed Action and the No-Action Alternatives. Under the No-Action Alternative, landowners within the County would continue to apply for individual incidental take permits on a case-by-case basis, resulting in piecemeal planning that would establish isolated patches of mitigation land scattered throughout the County. This could result in cumulatively significant adverse impacts to those species which would benefit from larger tracts of interconnected habitats.

Under the Reduced Land Acquisition/Increased Preserve Enhancement Alternative, mitigation would focus on habitat enhancement which could interfere substantially with agricultural activities, creating significant adverse impact to agricultural productivity in the County. This alternative would have questionable benefits to the covered species because habitat enhancement is unpredictable and may be unsuccessful.

Under the No Wetlands Coverage Alternative, landowners within the County would continue to apply for individual permits pursuant to the Federal Clean Water Act, resulting in piecemeal planning. Mitigation lands would consist of smaller and more widely scattered habitat blocks than would occur with the Proposed Action, resulting in cumulatively significant adverse impacts to those wetland-dependent species which would benefit from larger tracts of interconnected habitats.

Under the Preserve Location Outside of the County Alternative, significantly less habitat within the County would be preserved than with the Proposed Action, adversely impacting some covered species by creating gaps in the species' range and potentially disrupting the genetic integrity of some populations. This alternative could also adversely impact relatively immobile species that are unable to relocate to distant newly created habitats.

The California Department of Fish and Game intends to use this draft Impact Statement/Report and the Plan as a basis for issuing state permits for incidental take equivalent to the actions described above.

In addition, under a separate action, the U.S. Army Corps of Engineers may use this draft Impact Report/Statement and the Plan as a basis for developing a programmatic general permit pursuant to section 404(e) of the Federal Clean Water Act [33 CFR 322.2(f) and 323.2(h)] in consultation with the Environmental Protection Agency covering Waters of the United States for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan covered activities conducted on jurisdictional lands. In conjunction, these documents will be used by the California State Water Resources Control Board or Central Valley Regional Water Quality Control Board to consider the issuance of a water quality certification or waiver pursuant to section 401 of the Federal Clean Water Act after issuance of the programmatic section 404(e) general permit.

This notice is provided pursuant to section 10(a) of the Endangered Species Act and Fish and Wildlife Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6).

Dated: September 22, 1999.

Elizabeth H. Stevens,

Deputy Manager, Region 1, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 99–25140 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Proposed Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) the Department of the Interior is seeking extension of an Information Collection Request (ICR) for grantees participating in the Pub. L. 102–477 program, OMB# 1076–0135. The Department invites public comments on the subject proposal described below.

DATES: Submit written comments regarding this proposal on or before November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instructions should be directed to Lynn Forcia, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS 4640–MIB, Washington, DC 20240, and 202–219–5270 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: I. *Abstract:* The information collection is needed to document satisfactory compliance with statutory requirements of the various integrated programs. Pub. L. 102–477 authorizes tribal governments to integrate federally funded employment, training and related services programs into a single, coordinated, comprehensive service delivery plan. Funding agencies include the Department of the Interior, Department of Labor, and the Department of Health and Human Services. The Bureau of Indian Affairs is statutorily required to serve as the lead agency. Section 11 of this Act requires that the Secretary of the Interior make available a single universal report format which shall be used by a tribal government to report on integrated activities and expenditures undertaken. The Bureau of Indian Affairs shares the information collected from these reports with the Department of Labor and Department of Health and Human Services.

II. *Method of Collection:* Pub. L. 102–477 grantees are required to complete annually two single page, one-sided report forms and one narrative report, using five pages of instructions. These replace 166 pages of instructions and applications representing three different agencies and twelve different funded but related programs. We estimate a 95 percent reduction in reporting which is consistent with the Paperwork Reduction Act and goals of the National Performance Review.

The statistical report and narrative report will be used to demonstrate how well a plan was executed in comparison to its proposed goals. This one page, universal report plus narrative satisfies the Department of Health and Human Services, Department of Labor, and the Department of the Interior.

The financial status report will be used to track cash flow, and will allow an analysis of activities versus expenditures and expenditures to approved budget. It is a slightly modified SF–269–A (short form).

These two report forms and the narrative are extremely limited but

satisfy requirements of the Department of Health and Human Services, Department of Labor, and the Department of the Interior. The revised forms reduce the burden on tribal governments by consolidating data collection for employment, training, education, child care and related service programs. The reports are due annually. These forms, developed within a partnership between participating tribes and representatives of all three Federal agencies, standardize terms and definitions, eliminate duplication and reduce frequency of collection.

Respondents: Tribes participating in Pub. L. 102–477 will report annually. As of October 1, 1999 we anticipate that there will be 32 grantees participating in the program.

Burden: We estimate that completion of the reporting requirements will require 10 hours per year to complete for each grantee. The total hour burden will be 320 hours.

Request for Comments

Comments may include:

(a) Whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;

(b) The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(c) The quality, utility, and clarity of the information to be collected; and

(d) How 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 forms of information technology.

Comments should refer to the proposal by name and/or OMB Control Number and should be sent to Lynn Forcia, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS–4640–MIB, Washington, DC 20240.

All written comments, names and addresses of commentators will be available for public inspection in Room 4644 of the Main Interior Building, 1849 C Street, NW, Washington, DC, from 9 a.m. until 3 p.m., Monday through Friday, excluding legal holidays. If you want us to withhold your name and address you must state that prominently at the beginning of your comment. We will honor your request to the extent allowable by law. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, an information collection request that does not have a valid expiration date.

Dated: September 21, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–25536 Filed 9–30–99 8:45 pm]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Second Amendment to the Tribal-State Compact for Class III Gaming between the Elwha S'Klallam Indian Tribe and the State of Washington, which was executed on March 16, 1999.

DATES: This action is effective October 1, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: September 17, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–25506 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[UT–080–1310–00]

Notice of Availability of the Proposed Plan Amendment Environmental Assessment to the Book Cliffs Resource Area Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The Bureau of Land Management (BLM), Utah, Vernal Field Office has completed an Environmental Assessment (EA) and issued a Finding of No Significant Impact (FONSI) for the Proposed Book Cliffs Resource Area Plan Amendment for Black-Footed Ferret Reintroduction into the Coyote Basin Area, Utah. The proposed plan amendment would allow for the reintroduction of the ferret into the Primary Management Zone (PMZ) of Coyote Basin under the conditions delineated under the U.S. Fish and Wildlife Service's rule establishing the area as covered by Section 10j of the Endangered Species Act of 1973, as amended. The Coyote Basin PMZ, which is located in Uintah County, Utah, consists of 51,563 acres.

Additionally, the guidelines developed by an interdisciplinary team and described in the Final Proposed Cooperative Plan for the Reintroduction and Management of Black-footed Ferrets in Coyote Basin, Uintah County, Utah would be followed.

DATES: The 30 day protest period for the proposed plan amendment will commence with the publication of this notice. Protests must be received on or before November 1, 1999.

ADDRESSES: Protests must be addressed to the Director (W–210), Bureau of Land Management, Attn: Brenda Williams, 1849 C Street, N.W., Washington, D.C. 20240 within 30 days after the date of publication of this Notice of Availability.

FOR FURTHER INFORMATION CONTACT: William Stroh, Wildlife Biologist, Vernal Field Office, at 170 South 500 East, Vernal, Utah 84078, (435) 781–4481. Copies of the proposed plan amendment EA are available for review at the Vernal Field Office or on the internet at http://www.blm.gov/utah/vernal.

SUPPLEMENTARY INFORMATION: This action is announced pursuant to Section 202(a) of the Federal Land Policy Management Act (1976) and 43 CFR Part 1610. This proposed amendment is subject to protests by any party who has participated in the planning process. Protests must be specific and contain the following information:

—The name, mailing address, phone number, and interest of the person filing the protest.

—A statement of the issue(s) being protested.

—A statement of the part(s) of the proposed amendment being protested and citing pages, paragraphs, maps, etc., of the proposed plan amendment.

—A copy of all documents addressing the issue(s) submitted by the protestor during the planning process or a reference to the date when the protester discussed the issue(s) for the record.

—A concise statement as to why the protester believes the BLM State Director is incorrect.

Dated: September 24, 1999.

Linda S. Colville,

Acting State Director, Utah.

[FR Doc. 99–25518 Filed 9–30–99; 8:45 am]

BILLING CODE 1150–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Docket No. NV–910–0777–30–241A]

Sierra Front-Northwestern Great Basin Resource Advisory Council, Northeastern Great Basin Resource Advisory Council, and Mojave-Southern Great Basin Resource Advisory Council; Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of combined resource advisory council meeting locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM) Council meetings will be held as indicated below. Topics for discussions will be a presentation and discussion of 1999 operations, and outlook for 2000 of the BLM in Nevada; opening and closeout reports of the three RACs; a presentation and discussion of the Nevada Wild Horse and Burro Tactical Plan and Standards and Guidelines for Wild Horses and Burros; a panel discussion on rangeland restoration, and a discussion with the Fire Rehabilitation team; breakout meetings of the ''PODs;'' breakout meetings of the three RACs; and other topics the councils may raise. There will be luncheon speakers both days.

All meetings are open to the public. During the two noon luncheons, members of the public may join the group for lunch, at their own expense. The public may present written comments to the council. The public comment period for the council meeting will be at 2 p.m. on Friday, October 29. Individuals who plan to attend and need further information about the meeting or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Robert Stewart at the Nevada State Office, BLM, 1340 Financial Blvd., Reno, Nevada, telephone (775) 861–6586.

DATE, TIME: The council will meet on Thursday, October 28, 1999, from 8:00 a.m. to 4:30 p.m. and Friday, October 29, 1999, from 8:00 a.m. to 3:00 p.m., at John Ascuaga's Nugget, 1100 Nugget Ave., Sparks, Nevada. If due to unforeseeable problems this site is not available, the alternate site of the meeting will be the Nevada State Office, 1340 Financial Blvd., Reno, Nevada. The dates and times will be remain the same. Public comment will be received at the discretion of the State Director, as meeting moderator, with a general public comment period on Friday, October 29, 1999, at 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Robert Stewart, Public Information Specialist, BLM Nevada State Office, 1340 Financial Blvd., Reno, Nevada, telephone (775) 861–6586.

Dated: September 24, 1999.

Robert V. Abbey,

Nevada State Director.

[FR Doc. 99–25520 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW132304]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

September 23, 1999.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW132304 for lands in Fremont County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW132304 effective June 1, 1999, subject to the original terms and conditions of the lease and the increase rental and royalty rates cited above.

Mary Jo Rugwell,

Acting Chief, Leasable Minerals Section.

[FR Doc. 99–25521 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW132294]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

September 23, 1999.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW132294 for lands in Natrona County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW132294 effective June 1, 1999, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Mary Jo Rugwell,

Acting Chief, Leasable Minerals Section.

[FR Doc. 99–25522 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–940–0777–42; CACA 41111]

Notice of Potential Sale: Direct Sale requested by the Bridgeport Indian Colony, Bridgeport, California; Notice of Intent: To consider amending the Bishop Resource Management Plan, Bishop Field Office, California

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of Intent to consider an amendment to the Bishop Resource Management Plan's list of public land disposal parcels, which would add a 40 acre parcel, and a Notice of Potential Direct Sale for the said 40 acres requested by the Bridgeport Indian Colony in Mono County, CA.

SUMMARY: The BLM's Bishop Field Office has received an application from

the Bridgeport Indian Colony to purchase at fair market value a 40 acre parcel adjacent to their existing reservation. The Tribe currently has a 40 acre reservation northeast of Bridgeport, Mono County, CA. The Tribe has been attempting to increase the size of their reservation to provide land for economic development, residential use and community services, including formal requests for withdrawal to the Bureau of Land Management as early as 1983. During development of the Bishop Resource Management Plan (approved March 1993), public land was identified for transfer to other tribal governments within the planning area. Despite the tribe's previously expressed interest in the adjacent 40 acres, the parcel was not evaluated for disposal to the tribe. The tribe has now formally requested that this 40 acre parcel immediately adjacent to the existing reservation be made available to them through a direct sale under the authority of the Federal Land Policy and Management Act, Sec. 203 (43 USC 1713).

The requested sale would involve the following lands located northeast of Bridgeport and adjacent to Highway 182 in the County of Mono, California:

Selected Federal Lands, requested to be Patented to the Bridgeport Indian Colony:

Mount Diablo Meridian, California,

T. 5N., R. 25 E.,
Sec. 28, SW 1/4 of NE 1/4.

SUPPLEMENTAL INFORMATION: A final decision on the sale proposal and the RMP amendment will be made following public comments and completion of an environmental analysis. The environmental analysis will evaluate a direct sale at fair market value and other alternatives. Factors to be considered include the proximity of the site to the Bridgeport Indian Colony reservation, the Department of the Interior's trust responsibilities to the Tribe, and the Rights-of-Way (ROW) encumbering the disposal parcel, some of which are held by the Bridgeport Tribe or directly support the Reservation. There are eight known ROWs within the 40 acre parcel that the Tribe would have to accept. These include:

CAS 2240 SCE Powerline, 25′ wide;
CAS 059135 GTE Telephone line, 30′ wide;
CAS 053545 Caltrans Highway 182, 400′ wide;
CACA 6432 GTE Underground telephone cable, 10′ wide;
CACA 6044 Indian Health Srvs, Pipeline and Powerline, 60′ wide;
CACA 4083 BIA Road, dike, ditch and fill area, 60′ wide;
CACA 8757 Bridgeport PUC Pipeline, 50′ wide;
CACA 5332 SCE Powerline, guy and anchor point, 25′ wide.

The following covenant would also be placed in the conveyance document: ''Authorized rights-of-way and other valid third party rights will be recognized. The Proponent will negotiate new easement/permit agreements with third party rights. Patents to selected public lands will be issued subject to any third party rights not successfully negotiated and replaced by a Proponent easement or permit.''

Upon publication of this Notice in the **Federal Register**, the public lands described above are segregated from all forms of appropriation under the public land laws, including the mining laws for a period of 270 days from the date of publication. The segregative effect shall terminate as provided by 43 CFR 2711.1–2(d).

Detailed information concerning the RMP amendment and the requested sale is available at the BLM Bishop Field Office, 785 N. Main St. Suite E, Bishop, CA 93514 or by contacting Larry Primosch at (760) 872–4881.

COMMENTS: For a period of 45 days from the initial date of publication of this notice, interested parties may submit valid comments on the Bishop RMP amendment or the requested sale to the BLM Bishop Field Manager, 785 N. Main St. Suite E, Bishop, CA 93514. A public meeting will be held from 6–9 pm on October 12 at the Memorial Hall in the town of Bridgeport to gather comments and help define the issues which must be addressed in the environmental analysis.

Dated: September 22, 1999.

Steve Addington,

Field Manager, Bishop Field Office.

[FR Doc. 99–25525 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–160–1430–00–7509;COC–60329]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Colorado

AGENCY: Department of Interior, Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following public lands in Gunnison County, Colorado have been examined and found suitable for classification for conveyance to the County of Gunnison, Colorado under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The County of Gunnison proposes to use the lands for a sanitary landfill.

New Mexico Principal Meridian, Colorado
Township 49 North, Range 1 East, New Mexico Principal Meridian, Colorado

Sec. 10; S½NE¼SE¼, SE¼SE¼;
Sec. 11; Lots 9–11 inclusive, SW¼SW¼, W½SE¼SW¼;
Sec. 14; W½NE¼NW¼, NW¼NW¼, N½SW¼NW¼, N½S½SW¼NW¼, N½SW¼SE¼NW¼, NW¼SE¼NW¼;
Sec. 15; N½NE¼NE¼, NE¼NW¼NE¼, N½SE¼NW¼NE¼, N½SW¼NE¼NE¼, SE¼NE¼NE¼, NE¼SE¼NE¼, N½SE¼SE¼NE¼;

The area described aggregates 319.95 acres, more or less.

A portion of the lands described, 150 acres, was previously classified as suitable for lease in 1983, and R&PP lease COC–35052 was issued to Gunnison County for a sanitary landfill. The County proposes to continue using the lands for a sanitary landfill. The lands are not needed for Federal purposes. Conveyance without reversionary interest is consistent with current BLM land use planning and would be in the public interest.

The patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. The patentee shall comply with all Federal and State laws applicable to the disposal, placement or release of hazardous substances.

4. The patentee shall indemnify and hold harmless the United States against any legal liability or future costs that may arise out of any violation of such laws.

5. A provision stating that the landfill may contain small amounts of hazardous waste in the form of household or commercial materials.

6. No portion of the land covered by such patent shall under any circumstance revert to the United States.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Gunnison Field Office, 216 N. Colorado St., Gunnison, Colorado.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the mining laws, except

for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed conveyance or classification of the lands to the Field Manager, Bureau of Land Management, Gunnison Field Office, 216 N. Colorado St., Gunnison, CO 81230.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a sanitary landfill. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a sanitary landfill.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Signed September 24, 1999.

Barry A. Tollefson,

Field Manager.

[FR Doc. 99–25524 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Acceptance of Plan of Operations; Mining Operations, CIMA Cinder Mine, Mojave National Preserve, San Bernardino County, California

Notice is hereby given, in accordance with Section 9.17(a) of Title 36 of the Code of Federal Regulations, Part 9, Subpart A, that the National Park Service has received, and accepted as complete, from J. Lorene Caffee, the Cima Cinder Mine, a plan of operations on the Cinder No. 2 and Cinder No. 3 claims, in the Mojave National Preserve, located within San Bernardino County, California.

The plan of operations is available for public review and comment for a period of 30 days from the publication date of this notice. The document can be viewed during normal business hours at the office of the Superintendent, Mojave National Reserve, 222 East Main Street, Suite 202, Barstow, California 92311. Individuals desiring to comment on the plan are notified that their names and addresses are generally available to the public.

Dated: September 13, 1999.

Mary G. Martin,

Superintendent, Mojave National Preserve.

[FR Doc. 99–25246 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Notice of Intent To Prepare a Draft Environmental Impact Statement on the Operations of the Navajo Unit, Colorado River Storage Project, New Mexico and Colorado and Announcement of Public Scoping Meetings

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement on the operations of the Navajo Unit, Colorado River Storage Project, New Mexico and Colorado and announcement of public scoping meetings.

SUMMARY: The Department of the Interior, Bureau of Reclamation (Reclamation), announces its intent to prepare a draft environmental impact statement (DEIS), pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, on the Navajo Unit (Unit). The DEIS will describe the effects of operating the Unit to implement the flow recommendations provided by the San Juan River Basin Recovery Implementation Program (Program). The purpose of the proposed action is to mimic the natural hydrograph of the San Juan River to create and maintain habitat and a healthy biological community in order to conserve populations of two endangered fishes, the razorback sucker and the Colorado pikeminnow (formerly Colorado squawfish), while maintaining the other authorized purposes of the Unit, Colorado River Storage Project (CRSP). Such conservation is consistent with the recovery goals established under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*

Reclamation invites other federal agencies, states, Indian Tribes, local governments, and the general public to submit written comments or suggestions concerning the scope of the issues to be addressed in the DEIS. The public is invited to participate in a series of scoping meetings that will be held in November in Colorado and New Mexico (see **SUPPLEMENTARY INFORMATION** section). Those not desiring to submit comments or suggestions at this time, but who would like to receive a copy of the DEIS, should write to the addresses below. When the DEIS is complete, its availability will be announced in the **Federal Register**, local news media, and through direct contact with interested parties so that comments can be solicited.

DATES AND LOCATIONS: See **SUPPLEMENTARY INFORMATION** section for meeting dates and locations.

FOR FURTHER INFORMATION CONTACT: Jone Wright, Bureau of Reclamation, Western Colorado Area Office, Northern Division, 2764 Compass Drive, Suite 106, Grand Junction, Colorado 81506, telephone: (970) 248–0636. FAX: (970) 248–0601. E-Mail: jwright@uc.usbr.gov or refer to Reclamation's web site at www.uc.usbr.gov.

SUPPLEMENTARY INFORMATION:

Background

The Unit was authorized by Congress in 1956 as one of four key features of the CRSP intended to develop the water resources of the Upper Colorado River Basin for the purposes of:

* * * regulating the flow of the Colorado River, storing water for beneficial consumptive use, making it possible for the States of the Upper Basin to utilize, consistently with the provisions of the Colorado River Compact, the apportionments made to and among them in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, providing for the reclamation of arid and semiarid lands, for the control of floods, and for the generation of hydroelectric power, as an incident to the foregoing purposes . * * *

Other project purposes include a municipal and industrial water supply, recreation, and fish and wildlife.

Operations

After completion of the Unit in December 1963, the focus of the criteria for releasing water from the dam was primarily on meeting irrigation needs, providing flood control, maintaining stable flows, and providing a recreation pool in Navajo Reservoir. Over the last decade, however, the focus of the criteria and associated pattern for releasing water from the Unit has changed. The effects that Unit operations have had on endangered fishes and trout have resulted in various

commitments by Reclamation to evaluate those effects and consider implementing the flow recommendations.

Formal consultation under the Endangered Species Act (ESA) on the Unit was requested by Reclamation in a July 30, 1991, memorandum to the U.S. Fish and Wildlife Service (Service). Reclamation committed at that time to, among other things, operate Navajo Dam in the manner most consistent with endangered fish recovery, including mimicking a natural hydrograph if that is the recommended course, for the life of Navajo Dam. In an August 19, 1991, response to Reclamation, the Service concurred that the consultation process should be initiated, and that the consultation period for the operations of the Unit be extended while research on the San Juan River was conducted.

Flow Recommendations

Under the direction of the Program's Biology Committee, test releases were conducted and evaluated during the 1992–1998 research period. At the completion of the research period, the Biology Committee completed a report, entitled Flow Recommendations for the San Juan River (1999), which provides recommended flows for the endangered fishes in the San Juan River below Farmington, New Mexico. The recommendations define the conditions for mimicking a natural hydrograph in terms of magnitude, duration, and frequency of flows in the San Juan River.

If the Service follows these recommendations in future biological opinions, then the flow criteria or a reasonable alternative would have to be met to avoid jeopardy. These recommendations have been accepted by the Program's Coordination Committee and have been provided to the Service for their use in future Section 7 consultations.

Related Projects

Subsequent consultations with the Service on other San Juan Basin projects and associated federal actions included the operation of the Unit as an element of the proposed plan or the resulting reasonable and prudent alternative. These related projects include conversion of irrigation water to municipal and industrial water on the Mancos Project, Florida Project water sale contracts, the Animas La-Plata Project, and completion of the Navajo Indian Irrigation Project (NIIP) and related water service contracts.

The Proposed Federal Action

Reclamation proposes to prepare a DEIS which will describe the effects of operating the Unit to implement the flow recommendations, or reasonable alternatives, as contained in the recommendation from the Program's Biology Committee resulting from consultation under the ESA. Reclamation would implement the proposed action by modifying the operations decision criteria of the Unit. Modifying the operations would provide sufficient releases of water at times, quantities, and durations necessary to mimic the natural hydrograph of the river to create and maintain habitat and to maintain a healthy biological community in order to conserve populations of two endangered fishes, while maintaining the other authorized purposes of the Unit.

Public Scoping

Scoping meetings will be held in Farmington, New Mexico; Albuquerque, New Mexico; Durango, Colorado; and Pagosa Springs, Colorado in early November 1999 for the purpose of obtaining public input on the significant issues related to the proposed action. The schedule and locations for the meetings are shown below. The public is asked to provide input on the following:

1. Identification of relevant issues related to the proposed action.
2. Whether the overall range of alternatives is appropriate.

Schedule of Scoping Meetings

The following scoping meetings will be conducted in New Mexico and Colorado.

- November 3, 1999, from 6–9 p.m., Farmington Civic Center, 200 W. Arrington, Farmington, New Mexico.
- November 4, 1999, from 6:30–9:30 p.m., Doubletree Hotel, 501 Camino Del Rio, Durango, Colorado.
- November 9, 1999, from 6–9 p.m., Crown Plaza Pyramid, 5151 San Francisco Road, Albuquerque, New Mexico.
- November 10, 1999, from 6–9 p.m., Pagosa Inn, 3565 Highway 160, Pagosa Springs, Colorado.

Dated: September 24, 1999.

Charles A. Calhoun,

Regional Director, Upper Colorado Region.

[FR Doc. 99–25475 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation, Interior

Colorado River Basin Salinity Control Advisory Council

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, announcement is made of a meeting of the Colorado River Basin Salinity Control Advisory Council (Council).

DATES AND LOCATIONS: The meeting is scheduled to begin at 1 p.m. on Tuesday, October 26, 1999, and recess at 5 p.m. The Council will briefly reconvene at about 1 p.m. the following day after the Colorado River Basin Salinity Control Forum meeting. The meeting will be held at the York Hotel located at 940 Sutter Street, San Francisco, California. For reservations and information, please contact the York Hotel at (415) 885–6800.

FOR FURTHER INFORMATION CONTACT: David Trueman, Colorado River Salinity Control Program Manager, Bureau of Reclamation, Attention: UC–240, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102, telephone (801) 524–3753.

SUPPLEMENTARY INFORMATION: Council members will be briefed on the status of salinity control activities and receive input for drafting the Council's annual report. The Department of the Interior, Department of Agriculture, and Environmental Protection Agency will each present a progress report and schedule of activities on salinity control in the Colorado River Basin. The Council will discuss salinity control activities and the content of their report.

The meeting of the Council is open to the public. Any member of the public may file written statements with the Council before, during, or after the meeting, in person or by mail. Time will be allowed on the agenda for any individual or organization wishing to make formal oral comments (limited to 10 minutes) at the meeting.

Dated: September 14, 1999.

Charles A. Calhoun,

Regional Director, Upper Colorado Region.

[FR Doc. 99–25476 Filed 9–30–99; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–409]

Certain CD-ROM Controllers and Products Containing the Same—II; Notice of Final Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found no violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–3152. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 13, 1998, based on a complaint filed by Oak Technology, Inc. 63 FR 26625 (1998). The complaint named four respondents: MediaTek, Inc., United Microelectronics Corporation (''UMC''), Lite-On Technology Corp., and AOpen, Inc., Actima Technology Corporation, ASUSTek Computer, Incorporated, Behavior Tech Computer Corporation, Data Electronics, Inc., Momitsu Multi Media Technologies, Inc., Pan-International Industrial Corporation, and Ultima Electronics Corporation were permitted to intervene in the investigation.

In its complaint, Oak alleged that respondents violated section 337 by importing into the United States, selling for importation, and/or selling in the United States after importation electronic products and/or components that infringe claims of U.S. Letters Patent 5,581,715 (the ''715 patent). The presiding administrative law judge (ALJ) held an evidentiary hearing from January 11, 1999, to January 28, 1999.

On May 10, 1999, the ALJ issued an initial determination ID (Order No. 15) granting respondent UMC's motion for a summary determination terminating UMC from the investigation on the basis of a license agreement. On May 12, 1999, the ALJ issued his final ID in which he found that there was no violation of section 337. Although the ALJ found that there was a domestic industry with respect to the '715 patent, he found that there was no infringement of any claim at issue, and that the claims in issue of the '715 patent were invalid for on-sale bar under 35 U.S.C. § 102(b), anticipation under 35 U.S.C. § 102(a), obviousness under 35 U.S.C. § 103, indefiniteness under 35 U.S.C. § 112(1), (2), and (6), and derivation under 35 U.S.C. § 102(f).

Complainant Oak filed a petition for review of Order No. 15 and respondent UMC and the Commission investigative attorneys (IAs) filed responses to Oak's petition for review of Order No. 15. Oak, respondents UMC, MediaTek, Lite-On Technology, and AOpen, and the IAs filed petitions for review of the final ID, and all parties subsequently responded to each other's petitions for review of the final ID.

On June 28, 1999, the Commission determined not to review the ALJ's findings with respect to the preamble of claim 1 and its digital signal processor (DSP) element, and determined to review the remainder of the final ID and Order No. 15.

Having examined the record in this investigation, including the briefs and the responses thereto, the Commission determined that there is no violation of section 337. More specifically, the Commission affirmed the ALJ's finding that there is a domestic industry with respect to the '715 patent; affirmed the ALJ's finding of no literal infringement and no infringement under the doctrine of equivalents; reversed the ALJ's findings of invalidity based on an on-sale bar under 35 U.S.C. 102(b), anticipation under 35 U.S.C. 102(a), obviousness under 35 U.S.C. 103, indefiniteness and vagueness under 35 U.S.C. 112(1), (2), and (6), for derivation under 35 U.S.C. 102(f); and reversed the ALJ's finding of unenforceablity due to inequitable conduct before the PTO.[1] The Commission determined to take no position with regard to Order No. 15 terminating respondent UMC from the investigation, and with regard to the issue of equitable estoppel.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and sections 210.45–210.51 of the Commission's Rules of Practice and Procedure, 19 CFR 210.45–210.51.

Copies of the public versions of the subject IDs, and all other nonconfidential documents filed in connection with this investigation, are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–2000.

Issued: September 27, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–25627 Filed 9–30–99; 8:45 am]

BILLING CODE 7020–02–P

[1] Chairman Bragg and Commissioner Crawford take no position on the validity and enforceability of the claims at issue of the ''715 patent.

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–314–317 (Review) and 731–TA–552–555 (Review)]

Hot-Rolled Lead and Bismuth Carbon Steel Products From Brazil, France, Germany, and United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty and antidumping duty orders on hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany, and United Kingdom.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty and antidumping duty orders on hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany, and United Kingdom would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is November 22, 1999. Comments on the adequacy of responses may be filed with the Commission by December 10, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–036, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200) or Vera Libeau (202–205–3176), 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

On March 22, 1993, the Department of Commerce issued countervailing duty and antidumping duty orders on imports of hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany, and United Kingdom (58 F.R. 15324). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Brazil, France, Germany, and the United Kingdom.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: hot-rolled free-machining bar and rod.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found one Domestic Industry: producers of hot-rolled free-machining bar and rod.

(5) The Order Date is the date that the countervailing duty and antidumping duty orders under review became effective. In these reviews, the *Order Date* is March 22, 1993.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 22, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is December 10, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 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. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation

of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing duty and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1992.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s'') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published

pursuant to section 207.61 of the Commission's rules.

Issued: September 27, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–25624 Filed 9–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Investigations Nos. 701–TA–318 (Review) and 731–TA–538 and 561 (Review)

Sulfanilic Acid From China and India

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty and antidumping duty orders on sulfanilic acid from China and India.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on sulfanilic acid from India and the antidumping duty orders on sulfanilic acid from China and India would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is November 22, 1999. Comments on the adequacy of responses may be filed with the Commission by December 10, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), 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

On the dates listed below, the Department of Commerce issued countervailing duty and antidumping duty orders on the subject imports:

Order date	Product/country	Inv. No.	FR cite
8/19/92	Sulfanilic acid/China	731–TA–538	57 FR 37524.
3/2/93	Sulfanilic acid/India	731–TA–561	58 FR 12025.
3/2/93	Sulfanilic acid/India	701–TA–318.	58 FR 12026.

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are China and India.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: all forms of sulfanilic acid—technical grade sulfanilic acid, sodium sulfanilate, and refined grade sulfanilic acid.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found one Domestic Industry: producers of all forms of sulfanilic acid.

(5) The Order Dates are the dates that the countervailing duty and antidumping duty orders under review became effective. In the review concerning China, the Order Date is August 19, 1992. In the reviews concerning India, the Order Date is March 2, 1993.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List.

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–035, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List.

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 22, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is December 10, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 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. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to Be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing duty and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in China that currently export or have exported Subject Merchandise to the United States or other countries since 1991. A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in India that currently export or have exported Subject Merchandise to the United States or other countries since 1992.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/

business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in any of the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 27, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–25623 Filed 9–30–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

Consistent with Departmental policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), notice is hereby given that on August 19, 1999, a proposed Consent Decree in *United States* v. *Cape Chem Corporation, et al.*, Civil Action No. 97–11851 MLW, was lodged with the United States District Court for the District of Massachusetts. The proposed Consent Decree will resolve the United States' claims under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601, *et seq.*, on behalf of the U.S. Environmental Protection Agency (''EPA'') against defendants relating to the Payne Cutlery Superfund Site (''Site'') located in New Bedford, Massachusetts. The Complaint alleges that each of the defendants is liable under Section 107(a) of CERCLA, 42 U.S.C. 9607(a).

Pursuant to the Consent Decree, the settling defendants agree to pay $70,000 of the approximately $233,000 in EPA's response costs, plus interest from July 27, 1999. This settlement is based upon the settling defendant's ability to pay.

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. Any 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. *Cape Chem Corporation*, Civil Action No. 97–11851 MLW, D.J. Ref. 90–11–2–1269.

The proposed consent decree may be examined in the Office of the United States Attorney, District of Massachusetts and at Region I, Office of the Environmental Protection Agency, JFK Federal Building, Boston, MA 02203–2211. A copy of the proposed consent decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $5.00 payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–25508 Filed 9–30–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that on September 7, 1999, the United States lodged a proposed consent decree with the United States District Court for the Western District of Michigan, in *United States* v. *Elmer's Crane and Dozer, Inc.*, Civil No. 1:99–CV–383, under Section 113(b) of the Clean Air Act, 42 U.S.C. 7413(b). The proposed consent decree resolves certain claims of the United States against Elmer's Crane and Dozer, Inc. (''Elmer's''), arising out of three of its gravel crushing facilities located in Leelanau County and Traverse County, Michigan. Under the proposed Consent Decree Elmer's will pay the United States a $168,000 penalty.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States* v. *Elmer's Crane and*

Dozer, Inc., Civil No. 1:99–CV–383, 90–5–2–1–2208. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of Michigan, Grand Rapids, Michigan; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the proposed Consent Decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amount of $3.25 for the Decree, payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–25507 Filed 9–30–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Relating to the Halby Chemical Superfund Site in Wilmington, New Castle County, Delaware, Under the Comprehensive Environmental Response, Compensation, and Liability Act

Pursuant to 42 U.S.C. 9622(d), notice hereby is given that a proposed consent decree in *United States* v. *Witco Corporation and the Pyrites Company,* Civil Action No. 99–628 was lodged with the United States District Court for the District of Delaware, on September 17, 1999.

This action was commenced pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9601, *et seq.* in connection with the Halby Chemical Superfund Site located in Wilmington, New Castle County, Delaware. (See the National Priorities List in 40 CFR part 300, appendix B).

Pursuant to this consent decree, the Witco Corporation and the Pyrites Company have agreed to perform the Operable Unit 2 remedial design and remedial action at the Halby Superfund Site (the ''Site''). and to reimburse the United States approximately $6.2 million in response costs, plus interest, incurred by the United States in connection with the Site.

The consent decree includes a covenant not to sue by the United States under Sections 106 and 107 of CERLA, and under Section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973.

The Department of Justice will receive comments relating to the proposed consent decrees for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 (attention: Lisa Cherup). All comments should refer to ''*United States* v. *Witco Corporation and the Pyrites Company,* (Halby Chemical Superfund Site), DJ 90–11–2–719B.'' Additionally, commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA.

The proposed consent decrees may be examined at the Office of the United States Attorney for the District of Delaware, 1201 Market Street, Ste. 1100, P.O. Box 2046, Wilmington, Delaware 19801, and at the office of the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Fifth Floor, Philadelphia, PA 19103–2029 (attention Patricia C. Miller, Assistant Regional Counsel, 215–814–2662). A copy of the proposed consent decrees may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20004. In requesting a copy, please refer to the above-referenced DJ number, and enclose a check in the amount of $26.00 (twenty-five cents per page reproduction costs) for the Consent Decree (104 pages total), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 99–25509 Filed 9–30–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Auto Body Consortium, Inc.: Intelligent Resistance Welding Joint Venture

Notice is hereby given that, on April 28, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Auto Body Consortium, Inc.: Intelligent Resistance Welding Joint Venture has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, DaimlerChrysler Corporation, Auburn Hills, MI, owned by DaimlerChrysler AG, Stuttgart, Germany has been added as a party to this venture. Also, Chrysler Corporation, Auburn Hills, MI, and Johnson Controls, Inc., Plymouth, MI have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Auto Body Consortium, Inc.: Intelligent Resistance Welding Joint Venture intends to file additional written notification disclosing all changes in membership.

On September 18, 1995, Auto Body Consortium, Inc.: Intelligent Resistance Welding Joint Venture filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 6, 1995 (60 FR 62476).

The last notification was filed with the Department on March 17, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 29, 1997 (62 FR 23266).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–25512 Filed 9–30–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Joint Tactical Radio System (''JTRS'') Step 1 Consortium

Notice is hereby given that, on March 5, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Boeing North American, Inc. (''Boeing'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commisison disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Boeing North American, Inc., Seal Beach, CA; Racal Communications, Inc., Rockville, MD; Harris Corporation, Melbourne, FL; Lucent Technologies, Inc., Murray Hill,

NJ; Xetron Corporation, Cincinnati, OH; Rockwell International Corporation, Costa Mesa, CA; ViaSat, Inc., Carlsbad, CA; and Autometric Incorporated, Springfield, VA. The Joint Tactical Radio System (''JTRS'') Step 1 Consortium will participate in a research and development program under a contract award by the U.S. Army Communications—Electronics Command to define an open architecture for a family of affordable tactical radios to meet military communications requirements in a competitive non-developmental item environment.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–25511 Filed 9–30–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Language Systems Inc.

Notice is hereby given that, on March 16, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Language Systems Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Language Systems, Inc., Woodland Hills, CA; Eloquent Technology Inc., Ithaca, NY; and University of Southern California, Los Angeles, CA. The nature and objectives of the venture are to develop and demonstrate A Spoken Language Forms Translator for Information Transactions.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–25510 Filed 9–30–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Semiconductor Research Corporation

Notice is hereby given that, on March 12, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Semiconductor Research Corporation (''SRC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Microcosm Technologies, Inc., Raleigh, NC has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the SRC intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, the SRC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act of January 30, 1985 (50 FR 4281).

The last notification was filed with the Department on December 1, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 29, 1999 (64 FR 4709).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–25513 Filed 9–30–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Water Heater Industry Joint Research and Development Consortium

Notice is hereby given that, on March 17, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Water Heater Industry Joint Research and Development Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Southcorp USA, Inc., Atlanta, GA has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Water Heater Industry Joint Research and Development Consortium intends to file additional written notification disclosing all changes in membership.

On February 28, 1995, Water Heater Industry Joint Research and Development Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 1995 (60 FR 15789).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–25514 Filed 9–30–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training 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 and Training Administration is soliciting comments concerning the proposed revision and extension collection of the ETA 5159, Claims and Payment Activities.

A copy of the proposed information collection request (ICR) can be obtained

by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before November 30, 1999.

ADDRESSES: Cynthia L. Ambler, U.S. Department of Labor, Employment and Training Administration, Room S–4231, 200 Constitution Ave., NW., Washington, DC Phone: 202–219–6209 x129 (this is not a toll free number). E-mail: *cambler@doleta.gov*.

FOR FURTHER INFORMATION CONTACT: Cynthia Ambler, U.S. Department of Labor, Employment and Training Administration, Room S–4231, 200 Constitution Ave. NW., Washington, DC 20210. Phone number: 202–219–6209 x129. Fax: 202–219–8506. (These are not toll free numbers.) E-mail: *cambler@doleta.gov*.

SUPPLEMENTARY INFORMATION

I. Background

The ETA 5159 report contains information on claims activities including initial claims, weeks claimed, weeks compensated, and the amount of benefit payments. These data are used in budgetary and administrative planning, program evaluation, and reports to Congress and the public. The change being proposed concerns continued weeks claims filed by interstate claimants. Revised interstate claims taking procedures provide that interstate continued weeks can no longer be filed through the agent State. All such claims are now mailed or phoned directly to the liable State. Therefore the data item interstate continued weeks claimed taken by the agent State will be zero. This change removes that data item from the report form.

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 ETA 5159 report continues to be needed for administrative financing, program evaluation and public information. The revision eliminates a data item no longer needed.

Type of Review: Extension with change.

Agency: Employment and Training Administration.

Title: Claims and Payment Activities.

OMB Number: 1205–0010.

Agency Number: ETA 5159.

Affected Public: State Government.

Cite/Reference/Form/etc: ETA 5159.

Total Respondents: 53.

Frequency: Monthly.

Total Responses: 636.

Average Time per Response: 1.89 hrs.

Estimated Total Burden Hours: 1359 hrs.

Total Burden Cost (operating/maintaining): $33,975.

Comments submitted in response to this comment request 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: September 24, 1999.

Grace A. Kilbane,

Director, Unemployment Insurance Service.

[FR Doc. 99–25569 Filed 9–30–99; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Senior Community Service Employment Program (SCSEP) Reporting and Grant Application Package Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1955 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provide 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 and Training Administration is soliciting comments on the proposed extension of the Senor Community Service Employment Program information request. A copy of the proposed information collection request (ICR) 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 November 30, 1999.

ADDRESSES: Mr. Erich W. (''Ric'') Larisch, Chief of the Division of Older Worker Programs, N 4641, 200 Constitution Ave. NW Washington DC. 20210. The Telephone Number is (202) 219–5904 extension 118 (this is not a toll-free number). The Internet address is Larische@doleta.gov. The fax number is (202) 501–2135.

SUPPLEMENTARY INFORMATION:

I. Background

The information collected for the Senior Community Service Employment Program (SCSEP) is used to administer this $440 million program which serves nearly 100,000 people each year. In addition, the collected information is the basis for reports which are prepared to inform the Congress and the public of the program's accomplishments.

II. Review Focus

The Department of Labor is particularly interested in comments that:

- 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 clarify 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 uses three reports and an annual grant package to administer the SCSEP program. These reports are: a quarterly report of program data, which is the Quarterly Progress Report (QPR), a quarterly financial report which is Financial Status Report (FSR) and an annual report of the distribution of program positions. Also, the program regulations at 641.321(b)(2) require the placement of a poster of allowable and unallowable political activites.

Type of Review: Reinstatement with change.

Agency: Employment and Training Administration.

Title: The Senior Community Service Employment Program (SCSEP) Reporting and Grant Application Package.

OMB No.: 1205–0040.

Record Keeping: Agencies maintain records for 3 years after the end of the grant period. If there are audit exceptions, grantees may have to keep records longer.

Affected Public: State government agencies and non-profit organizations.

Total Respondents: 62.

Frequency: Annually or quarterly which is placed as needed.

Cite/reference	Total Respond.	Frequency	Total responses	Average time per response (hours)	Burden (hours)
Quarterly Progress Report (ETA 5140)	62	Quarterly	248	8	1984
Poster Placement	62	N/A	62	1	62
Equitable Distribution Report (ETA–8705)	62	Annually	62	12	744
Grant Application Signature sheet (ETA–5163)	62	Annually	62	1	62
Total ETA Activity	62	/////	434	/////	2852
Financial Status Report (SF–269)	62	Quarterly Plus Final	310	8	2480
Grant Planning (SF–424A & 424)	62	Annually	62	40	2480
Total SF Activity	62	/////	372	/////	*60

*The Standard Form (SF) burden hours are separate from the other burden hours and are not counted towards ETA's ICB.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (Operating/Maintaining): $1–2 million

Comments submitted in response to this request 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: September 24, 1999.

Anna W. Goddard,

Director, Office of National Programs.

[FR Doc. 99–25570 Filed 9–30–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standard Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determination Issued Under The Davis-Bacon And Related Acts,'' shall be in the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by

writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

VOLUME

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 24th day of September 1999.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–25275 Filed 9–30–99; 8:45 am]

BILLING CODE 4510–27–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Senior Executive Service Performance Review Board (PRB); Notice

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice of Members of the Federal Mine Safety and Health Review Commission Performance Review Board (PRB).

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the PRB for the Federal Mine Safety and Health Review Commission. The Board reviews the performance appraisals of career and non-career senior executives. The Board makes recommendations regarding proposed performance appraisals, ratings, bonuses and other appropriate personnel actions.

COMPOSITION OF PRB: The Board shall consist of at least three voting members. In the case of an appraisal of a career appointee, more than half of the members shall consist of career appointees. The names and titles of the PRB members are as follows:

PRIMARY MEMBERS: Thomas W. Harrison, Executive Director, Administrative Resource Center, Bureau of the Public Dept., Debra L. Hines, Assistant Commissioner, Officer of Public Debt Accounting, Bureau of the Public Debt., Cynthia Z. Springer, Assistant Commissioner, Office of Information Technology, Bureau of the Public Debt.

ALTERNATE MEMBERS: None.

DATES: Membership is effective on the date of this notice.

FOR FURTHER INFORMATION CONTACT: Richard L. Baker, Executive Director, Federal Mine Safety and Health Review Commission, Suite 6000, 1730 K Street NW, Washington, D.C. 20006.

This notice does not meet the Federal Mine Safety and Health Review Commission's criteria for significant regulations.

Richard L. Baker,

Executive Director, Federal Mine Safety and Health Review Commission.

[FR Doc. 99–25481 Filed 9–30–99; 8:45 am]

BILLING CODE 6735–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99–122]

NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness; 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 an open meeting of the NAC Task Force on International Space Station Operational Readiness (IOR).

DATES: Wednesday, October 20, 1999, 12:00 p.m.–1:00 p.m. Eastern Standard Time.

ADDRESSES: NASA Headquarters, 300 E Street, SW, Room 7W31, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Cleary, Code IH, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4461.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review the assessment of the Proton launch failure investigation.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Please note that pending programmatic decisions will likely change the time, date, and location of this meeting (contact Mr. Philip Cleary (202/358–4461) for latest information). Visitors will be requested to sign a visitor's register.

Dated: September 24, 1999.

Mathew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–25485 Filed 9–30–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99–123]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Aerospace Medicine and Occupational Health Advisory 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 meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Aerospace Medicine and Occupational Health Advisory Subcommittee.

DATES: Tuesday, October 19, 1999, 1:00 p.m. to 5:00 p.m., and Wednesday, October 20, 1999, 8:00 a.m. to 11:30 p.m.

ADDRESSES: Tuesday's meeting will be held at the Lyndon B. Johnson Space Center, Building 1, Room 871, 2101 NASA Road 1, Houston, TX 77058. Wednesday's meeting will be held at the Center for Advanced Space Studies, University Space Research Association, Director's Conference Room, 300 Bay Area Blvd., Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Dr. Sam L. Pool, Code SA, Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058, 281–483–7109.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Chairman's Perspective
—Status of Findings and Recommendations
—Space Medicine Overview and Budget Status
—Current Issues in Space Medicine Issues
—Multilateral Medical Operations Panel Report
—Multilateral Space Medicine Board Report
—Physician Comparability

—Neurolab Update
—OLMSA Policy on Astronaut Health Care & Biomedical Research
—Pillars of Biology & Augmentation Update
—Progress, Institute of Medicine Review
—Occupational Health Update
—Preparation and Review of Committee Findings and Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 24, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–25486 Filed 9–30–99; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–341]

Detroit Edison Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–43, issued to Detroit Edison Company (the licensee), for operation of the Fermi 2 Plant located in Newport, Michigan.

The proposed amendment would modify current Technical Specification (TS) 3.6.1.8 by adding footnote ''**'' to Action b. The footnote allows continued operation of Fermi 2 with the leakage of penetration X–26 exceeding the limit in TS 4.6.1.8.2, provided certain compensatory measures are taken. Operation would be allowed to continue until the next plant shutdown. Because the NRC staff expects to issue the Fermi 2 improved standard TSs (ITS) in the near future, the licensee has also provided a version of the TS amendment that would be compatible with the ITS. This version adds a new special operations TS, ITS 3.10.8, to address the compensatory actions and other requirements associated penetration X–26.

Detroit Edison is requesting that this license amendment request be processed in an exigent manner in accordance with 10 CFR 50.91(a)(6) because the plant is currently operating under a Notification of Enforcement Discretion (NOED) with respect to TS 3.6.1.8, Action b. In accordance with NRC procedures described in the NRC Inspection Manual, Part 9900, Notices of Enforcement Discretion, dated June 29, 1999, the licensee applied for this license amendment within 48 hours after the NRC staff issued the NOED on September 23, 1999. The NRC staff will process this amendment in an exigent manner, as described in the Inspection Manual, in order to minimize the time the plant is operated under the NOED.

In its application, the licensee explained why it could not have foreseen the need for this amendment. The amendment is needed to allow continued plant operation after penetration X–26 unexpectedly failed its local leak rate test on September 22, 1999. Based on the data it collected, the licensee believes the high leakage is passing through inboard containment isolation valve T4803F601. The results of previous local leak rate tests had not indicated any adverse trend in the leak tightness of this penetration.

The staff has determined that the licensee used its best efforts to make a timely application for the proposed changes and that exigent circumstances do exist and were not the result of any intentional delay on the part of the licensee.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change revises the acceptance criteria for Drywell Air Purge Penetration X–26 to allow continued operation with inboard isolation valve T4803F601 exceeding the leakage rate. The T4803F601 is not an initiator of an event or involved in accident initiation sequence. Therefore, the proposed change does not involve an increase in the probability of an accident.

The T4803F601 or the outboard isolation valves must close to isolate penetration X–26. With the penetration isolated by the outboard isolation valves, failure of the T4803F601 would involve no significant increase in consequences of an accident since the containment function is preserved. Therefore, failure of the T4803F601 does not involve an increase in the probability or consequences of an accident.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The T4803F601 is an inboard containment isolation valve. The safety function of the valve is to provide for containment penetration X–26 post accident isolation. T4803F601 and two outboard isolation valves T4800F407 and T4800F408 comprise the penetrations isolation. The valves safety function is to close and remain closed. The outboard isolation valves are normally closed isolation valves that will be closed and deactivated. Therefore, no new or different types of failures or accident initiators are introduced by the proposed change.

3. The change does not involve a significant reduction in the margin of safety.

Operating with excessive leakage on T4803F601 places additional reliance on T4800F407 and T4800F408, as they would be the single containment barrier. The change includes closing and deactivating the outboard containment isolation valves that are normally closed to provide assurance the penetration is isolated. Closing and deactivating these valves eliminates the potential that any active failure could lead to loss of function. Past leak performance and ongoing periodic leak testing minimize the potential that passive failures would occur for these valves. The change does not involve a new mode of operation or change to the UFSAR [Updated Final Safety Analysis Report] transient analyses. 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.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 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 14-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 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 1, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made 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 the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, 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 John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 24, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 27th day of September 1999.

For the Nuclear Regulatory Commission.

Andrew J. Kugler,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–25578 Filed 9–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Company; Zion Nuclear Power 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 an exemption from certain requirements of its regulations for Facility Operating License Nos. DPR–39 and DPR–48, issued to Commonwealth Edison Company (ComEd or the licensee) for the Zion Nuclear Power Station (ZNPS) Units 1 and 2, located in Lake County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed exemption would modify security requirements to eliminate certain equipment, to relocate certain equipment, to modify certain procedures, and reduce the number of armed responders, due to the permanently shutdown and defueled status of the Zion Nuclear Power Station.

The proposed action is in accordance with the licensee's application dated July 30, 1999. The requested action would grant an exemption from certain requirements of 10 CFR 73.55, ''Requirements for physical protection of licensed activities in nuclear power plant reactors against radiological sabotage.''

The Need for the Proposed Action

ZNPS was shut down permanently in February 1997. ComEd certified the permanent shutdown on February 13, 1998, and, on March 9, 1998, certified that all fuel had been removed from the reactor vessels. In accordance with 10 CFR 50.82(a)(2), upon docketing of the certifications, the facility operating license no longer authorizes ComEd to operate the reactor or to load fuel into the reactor vessel. In this permanently shutdown condition, the facility poses a reduced risk to public health and safety. Because of this reduced risk, certain requirements of 10 CFR 73.55 are no longer required. An exemption is required from portions of 10 CFR 73.55(a), (c)(6), (e)(1), (f)(4) and (h)(3) to allow the licensee to implement a revised defueled physical security plan (DPSP) that is appropriate for the permanently shutdown and defueled ZNPS.

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the granting of the exemption will not increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement for the Zion Nuclear Power Station, Units 1 and 2, dated December 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on September 22, 1999, the staff consulted with the Illinois State official, Mr. Gary Wright, of the Illinois Department of Nuclear Safety (IDNS) regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 30, 1999, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW, Washington, D.C., and at the local public document room located at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 27th day of September 1999.

For the Nuclear Regulatory Commission.

Dino C. Scaletti,

Project Manager, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–25577 Filed 9–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Human Factors; Notice of Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on October 22, 1999, in Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, October 22, 1999—8:30 a.m. until the conclusion of business.

The Subcommittee will review a proposed revision to NUREG–1624, ''Technical Basis and Implementation Guidelines for a Technique for Human Event Analysis (ATHEANA),'' pilot application of ATHEANA to assess fire risk, and other related issues. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions

of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineers named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineers, Mr. Noel F. Dudley (telephone 301/415–6888) or Mr. Juan Peralta (telephone 301/415–6855) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individuals one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: September 27, 1999.

Richard P. Savio,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–25581 Filed 9–30–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee, Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, October 21,1999
Thursday, November 4, 1999
Thursday, December 9, 1999
Thursday, December 16, 1999

The meetings will start at 10:00 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meetings either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5559, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: September 24, 1999.

John F. Leyden,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 99–25613 Filed 9–30–99; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of: Amendment to a System of Records

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice to amend a system of records.

SUMMARY: OPM proposes to amend a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective without further notice on Movember 10, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send written comments to Office of Personnel Management, ATTN: Mary Beth Smith-Toomey, Office of the Chief Information Officer, 1900 E Street NW., Room 5415, Washington, DC 20415–7900.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606–8358.

SUPPLEMENTARY INFORMATION: This notice serves to amend the system manager and clarify the notification and records access procedures for OPM/Central-8, Privacy Act/Freedom of Information Act (PA/FOIA) Case Records. It also updates the retention and disposal practices in accordance with NARA General Records Schedule 14 and aligns records storage practices with OPM's current operations.

Office of Personnel Management.

Janice R. Lachance,

Director.

OPM/CENTRAL–8

SYSTEM NAME:

Privacy Act/Freedom of Information Act (PA/FOIA) Case Records

SYSTEM LOCATION:

Offices of the Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001 and OPM field service centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records and related correspondence on individuals who have filed with OPM:

a. Requests for information under the provisions of the Freedom of Information Act (5 U.S.C. 552), including requests for review of initial denials of such requests.

b. Requests under the provisions of the Privacy Act (5 U.S.C. 552a) for records about themselves, including:

(1) Requests for notification of the existence of records about them.

(2) Requests for access to these records.

(3) Requests for amendment of these records.

(4) Requests for review of initial denials of such requests for notification, access, and amendment.

(5) Requests for an accounting of disclosure of records about them.

Note: Since these PA/FOIA case records contain inquiries and requests regarding any of OPM's other systems of records subject to the Privacy Act, information about individuals from any of these other systems may become part of this PA/FOIA Case Records system.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and other documents related to requests made by individuals to OPM for:

a. Information under the provisions of the Freedom of Information Act (5 U.S.C. 552), including requests for review of initial denials of such requests.

b. Information under provisions of the Privacy Act (5 U.S.C. 552a) and requests for review of initial denials of such requests made under OPM's Privacy Act regulations including requests for:

(1) Notification of the existence of records about them.

(2) Access to records about them.

(3) Amendment of records about them.

(4) Review of initial denials of such requests for notification, access, or amendment.

(5) Requests for an accounting of disclosure of records about them.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Includes the Following with any Revisions and Amendments:

The Privacy Act of 1974 (5 U.S.C. 552a), the Freedom of Information Act, as amended (5 U.S.C. 552), and 5 U.S.C. 301.

PURPOSE(S):

These records are maintained to process an individual's request made under the provisions of the Freedom of Information and Privacy Acts. The records are also used by OPM to prepare its reports to the Office of Management and Budget and the Department of Justice required by the Privacy and Freedom of Information Acts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses 1 and 3 through 10 of the Prefatory Statement of OPM's system notices (60 FR 63075, effective January 17, 1996) apply to the records maintained within this system. The following routine uses are specific to this system of records only:

a. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

b. To disclose information to an agency, subject to law, rule, or regulation enforced by OPM having been found in violation of such law, rule, or regulation, in order to achieve compliance with OPM instructions.

c. To disclose information to Federal agencies (*e.g.*, Department of Justice) in order to obtain advice and recommendations concerning matters on which the agency has specialized experience or particular competence, for use by OPM in making required determinations under the Freedom of Information Act or the Privacy Act of 1974.

d. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), where necessary to obtain information relevant to an OPM decision concerning a Privacy or Freedom of Information Act request.

e. To disclose to the Federal agency involved, an OPM decision on an appeal from an initial denial of a request involving OPM-controlled records.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on one of the following: paper copies in file folders, electronic copies on Local Area Network (LAN) servers or diskettes, or microfilm.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained and year of the request.

SAFEGUARDS:

The records maintained on paper and microfilm are located in lockable metal filing cabinets or in a secured room, with access limited to personnel whose duties require access. Only authorized personnel have access to the records on the LAN and diskettes.

RETENTION AND DISPOSAL:

These records are maintained for varying periods of time, in accordance with NARA General Records Schedule 14. Paper records are destroyed by shredding or burning; microfilm and electronic records are erased or deleted.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for PA/FOIA requests is: FOIA/PA Officer, Office of the Chief Information Officer, Office of Personnel Management, 1900 E Street NW., Washington DC 20415–7900.

The system manager for PA/FOIA appeals is: Office of the General Counsel, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–1300.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager or the program office where their original Privacy Act or Freedom of Information Act requests were sent, or from where they received responses to such requests. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate dates of Privacy Act or Freedom of Information Act correspondence between OPM and the individual.

RECORD ACCESS PROCEDURE:

Material from other OPM systems of records which are exempt from certain Privacy Act requirements may be included in this system as part of a PA/FOIA case record. Such material retains its exemption if it is included in this system of records. The section of this notice titled Systems Exempted from Certain Provisions of the Act explains the exemptions for this system.

Individuals wishing to request access to their records should contact the system manager or the program office where their original Privacy Act or Freedom of Information Act request was sent or from which they received responses to such requests. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate dates of Privacy Act or Freedom of Information Act correspondence between OPM and the individual.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Material from other OPM systems of records which are exempt from certain

Privacy Act requirements may be included in this system as part of a PA/FOIA case record. Such material retains its exemption if it is included in this system of records. The section of this notice titled Systems Exempted from Certain Provisions of the Act explains the exemptions for this system. Individuals wishing to request amendment to their records should contact the system manager or the program office where their original Privacy Act or Freedom of Information Act requests were sent or from which they received responses to such requests.

Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Appropriate dates of Privacy Act or Freedom of Information Act correspondence between OPM and the individual.

Individuals requesting amendment must also comply with OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

Note: The amendment provisions of this system are not intended to permit an individual a second opportunity to request amendment of a record which was the subject of the initial Privacy Act amendment request which created the record in this system. That is, after an individual has requested amendment of a specific record in an OPM system under provisions of the Privacy Act, that specific record may itself become part of this system of PA/FOIA Case Records. An individual may not subsequently request amendment of that specific record again, simply because a copy of the record has become part of this second system of PA/FOIA Case Records.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from—

a. The individual to whom the information applies.

b. Officials of OPM.

c. Official documents of OPM.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

OPM has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a (k)(1), (2), (3), (4), (5), (6), and (7). During the course of a PA/FOIA action, exempt materials from those other systems may become part of the case records in this system. To the extent that copies of exempt records from those other systems are entered into these PA/FOIA case records, the office has claimed the same exemptions for the records as they have in the original primary systems of records which they are a part.

[FR Doc. 99–25612 Filed 9–30–99; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24052; 812–11784]

Daewoo Capital Management Co., Ltd., et al.; Notice of Application

September 24, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act.

SUMMARY OF THE APPLICATION: The requested order would permit the implementation, without prior shareholder approval, of a new investment subadvisory agreement (''New Agreement'') for a period continuing until the New Agreement is approved or disapproved by shareholders of the investment company (but in no event later than December 31, 1999).

Applicants: Daewoo Capital Management Co., Ltd. (''Subadviser'') and Scudder Kemper Investments, Inc. (''Adviser'').

Filing Date: The application was filed on September 24, 1999.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested person may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 18, 1999 and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants: c/o Adviser, Attn: Bruce H. Goldfarb, Esq., 345 Park Avenue, New York, NY 10154.

FOR FURTHER INFORMATION CONTACT: Rachel H. Graham, Senior Counsel, at (202) 942–0583, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Korea Fund, Inc. (''Fund'') is registered under the Act as a closed-end management investment company. The Adviser is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as investment adviser to the Fund.

2. The Subadviser, a Korean corporation and a subsidiary of Daewoo Securities Co., Ltd. (''Daewoo Securities''), is registered as an investment adviser under the Advisers Act. The Subadviser serves as subadviser to the Fund pursuant to an investment subadvisory agreement with the Adviser (''Existing Agreement''). The Adviser pays the Subadviser out of the fee that the Adviser receives from the Fund.

3. Prior to August 30, 1999, approximately 15% of the common stock of Daewoo Securities was owned by Daewoo Corporation and certain of its affiliates which are members of the Daewoo Group, a Korean chaebol. Because of financial difficulties, certain members of the Daewoo Group agreed on August 30, 1999 to transfer their interests in Daewoo Securities to a group of six Korean creditor banks. As a result of this transfer, the six banks jointly acquired ownership of approximately 14.4% of the outstanding common stock of Daewoo Securities. On September 7, 1999, Daewoo Securities conducted a rights issuance pursuant to which the six Korean banks and three additional Korean banks (collectively, the ''Creditor Banks'') subscribed on an individual basis to each acquire, on September 21, 1999 (''Acquisition Date''), newly issued shares of common stock of Daewoo Securities. The Creditor Banks also agreed to each acquire, on an individual basis, additional shares of Daewoo Securities stock through third-party allotments. The two acquisitions by the Creditor Banks collectively are referred to as the ''Acquisition.'' Upon completion of the Acquisition, the Creditor Banks will own in the aggregate approximately 32.58% of the common stock of Daewoo Securities. The proposed terms and timing of the Acquisition were not available to the Subadviser until approximately September 9, 1999 and to

the Adviser until approximately September 13, 1999.

4. Applicants understand that the Creditor Banks have agreed to act in concert in certain respects as to their holdings in Daewoo Securities. Applicants state that the Acquisition may involve the transfer of a controlling block of Daewoo Securities stock by certain members of the Daewoo Group and the acquisition of a controlling block of that stock by the Creditor Banks. Applicants state that the Acquisition therefore may result in an assignment, and thus the automatic termination, of the Existing Agreement. Applicants request an exemption to permit the implementation, during the Interim Period and prior to obtaining shareholder approval, of the New Agreement. The requested exemption would cover a period commencing on the filing date of the application [1] and continuing until the New Agreement is approved or disapproved by Fund shareholders (but in no event later than December 31, 1999) (''Interim Period''). The requested order also would permit the Subadviser to receive from the adviser all fees earned under the New Agreement during the Interim Period, if and to the extent that the New Agreement is approved by Fund shareholders. Applicants represent that the New Agreement will contain substantially the same terms and conditions as the Existing Agreement, except for the effective and termination dates. Applicants further represent that the Fund will receive, during the Interim Period, the same scope and quality of investment subadvisory services, provided in the same manner by substantially the same personnel, at the same fee levels as it received prior to the Acquisition.

5. Applicants state that the Fund's board of directors (''Board'') will meet within one week of the Acquisition Date to consider approval of the New Agreement and submission of the New Agreement to the shareholders for their approval, in accordance with section 15(c) of the Act.[2] Applicants state that the Board will evaluate whether the terms of the New Agreement are in the best interests of the Fund and its shareholders.

6. Applicants submit that it will not be possible to obtain shareholder approval of the New Agreement in accordance with section 15(a) of the Act prior to the Acquisition Date. Applicants state that the shareholders will vote on approval of the New Agreement at the annual meeting previously scheduled to be held on October 20, 1999. Proxy materials concerning the shareholder vote on the New Agreement will be mailed on or about October 5, 1999.

7. The fees earned by the Subadviser under the New Agreement during the Interim Period will be maintained in an interest-bearing escrow account with an unaffiliated financial institution. The amounts in the escrow account (including any interest earned) will be paid: (i) to the Subadviser upon approval of the New Agreement by the Fund's shareholders; or (ii) to the Fund, if shareholder approval is not obtained and the Interim Period has ended. Before any such release is made, the Board will be notified.

Applicant's Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to serve as an investment adviser to a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of the investment company. Section 15(a) further requires the written contract to provide for its automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines ''assignment'' to include any direct or indirect transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and beneficial ownership of more than 25% of the voting securities of a company is presumed under Section 2(a)(9) to reflect control. Applicants state that the Acquisition may result in an assignment of the Existing Agreement and that such agreement will terminate according to its terms.

2. Rule 15a–4 under the Act provides, in relevant part, that if an investment advisory contract with a registered investment company is terminated by an assignment, the adviser may continue to serve for 120 days under a written contract that has not been approved by the company's shareholders, provided that: (i) the new contract is approved by that company's board of directors, including a majority of the non-interested directors; (ii) the compensation to be paid under the new contract does not exceed the compensation that would have been paid under the contract most recently approved by the company's shareholders; and (iii) neither the adviser nor any controlling person of the adviser ''directly or indirectly receives money or other benefit'' in connection with the assignment. The Subadviser states that it may not rely on rule 15a–4 because of the benefits to Daewoo Securities arising from the Acquisition.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with both the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The Subadviser believes that the requested relief meets this standard.

4. Applicants state that the terms and timing of the Acquisition were determined in response to a number of factors beyond the scope of the Act and substantially unrelated to the Fund. Applicants state that it will not be possible for the Fund to obtain shareholder approval of the New Agreement prior to the Acquisition Date. Applicants assert that the requested relief would prevent any disruption in the delivery of investment subadvisory services to the Fund during the Interim Period.

5. Applicants submit that they will take all appropriate actions to ensure that the scope and quality of advisory and other services provided to the Fund during the Interim Period will be at least equivalent to the scope and quality of services previously provided. During the Interim Period, the Subadviser will operate under the New Agreement, which will be substantially the same as the Existing Agreement, except for the effective and termination dates. Applicants state that the fees payable to the Subadviser under the New Agreement during the Interim Period will be at the same rate as the fees paid under the Existing Agreement.

[1] Applicants state that, since the Acquisition Date precedes issuance of the requested order, the Subadviser will continue to serve as subadviser after the Acquisition Date (and prior to the issuance of the order) in a manner consistent with its fiduciary duty to provide investment subadvisory services to the Fund even though approval of the New Agreement has not yet been secured from the Fund's shareholders.

[2] Applicants acknowledge that, to the extent that the Board has not met to approve the New Agreement prior to the Acquisition Date, any relief granted by the Commission will allow the Subadviser to receive fees under the New Agreement only for the period following approval of the New Agreement by the Board, including a majority of the directors who are not ''interested persons'' of the Fund, as that term is defined in section 2(a)(19) of the Act (''Independent Directors''), but in no event earlier than the filing date of the application.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The New Agreement will contain substantially the same terms and conditions as the Existing Agreement, except for the dates of execution and termination.

2. The fees earned by the Subadsviser under the New Agreement during the Interim Period will be maintained in an interest-bearing escrow account (including interest earned on such amounts), and amounts in the account will be paid: (i) to the Subadviser after the requisite approval of the New Agreement by the Fund's shareholders is obtained; or (ii) in the absence of such approval by the end of the Interim Period, to the Fund.

3. The shareholders of the Fund will vote on the approval of the New Agreement at the annual meeting scheduled to be held on October 20, 1999, or any adjournment thereof (but in no event later than December 31, 1999).

4. The Subadviser or its affiliates will pay the costs of preparing and filing the application and the costs relating to the solicitation and approval of the Fund's shareholders of the New Agreement.

5. The Subadviser will take all appropriate actions to ensure that the scope and quality of subadvisory and other services provided to the Fund by the Subadviser during the Interim Period under the New Agreement will be at least equivalent, in the judgment of the Board, including a majority of the Independent Directors, to the scope and quality of services currently provided under the Existing Agreement. In the event of any material change in personnel providing services pursuant to the New Agreement during the Interim Period, the Subadviser will apprise and consult with the Board to assure that the Board, including a majority of the Independent Directors, is satisfied that the services provided by the Subadviser will not be diminished in scope or quality.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–25502 Filed 9–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24054; 812–11476]

Endeavor Series Trust, et al.; Notice of Application

September 27, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an exemption under section 6(c) of the Investment Company Act of 1940 (''Act'') from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF APPLICATION: Endeavor Series Trust (the ''Trust'') and Endeavor Management Co. (the ''Adviser'') request an order that would permit applicants to enter into and materially amend sub-advisory agreements without shareholder approval and grant relief from certain disclosure requirements.

APPLICANTS: The Trust and the Adviser.

FILING DATE: The application was filed on January 20, 1999. Applicants have agreed to file an amendment to the application, the substance of which is reflected in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 22, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, 2101 East Coast Highway, Suite 300, Corona del Mar, CA 92625.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, at (202) 942–0634, or Michael W. Mundt, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. The Trust, a Massachusetts business trust, is registered under the Act as an open-end management investment company. The Trust is currently comprised of thirteen separate series (each a ''Fund,'' and together, the ''Funds''), each with its own investment objectives, policies, and restrictions.[1] The Funds are currently offered for sale only to various separate accounts of a life insurance company and its affiliates to fund variable annuity contracts or variable life insurance policies. The Adviser, a California corporation, serves as the investment adviser to the Funds and is registered under the Investment Advisers Act of 1940 (''Advisers Act'').

2. The Adviser serves as investment adviser to the Funds pursuant to aninvestment advisory agreement between the Trust and the Adviser that was approved by the Trust's board of trustees (''Board''), including a majority of the trustees who are not ''interested persons'' as defined in section 2(a)(19) of the Act (''Independent Trustees''), and each Fund's shareholders (''Advisory Agreement''). In addition, each Fund currently is advised by a subadviser (''Subadviser'') pursuant to a separate investment advisory agreement (''Sub-Advisory Agreement''). Each Subadviser is an investment adviser registered under the Advisers Act. In the future, a Fund may be advised by more than one Subadviser. The Adviser selects each Subadviser, subject to approval by the Board, and compensates the Subadviser out of fees paid to the Adviser by the Fund.

3. Applicants request relief to permit the Adviser to enter into and amend Sub-Advisory Agreements without shareholder approval. The requested relief will not extend to a Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust or the Adviser, other than by reason of serving as a Subadviser to one or more of the Funds (an ''Affiliated Subadviser'').

4. Applicants also request an exemption from the various disclosure

[1] Applicants also request relief with respect to future series of the Trust and all future registered open-end management investment companies that (a) are advised by the Adviser or any entity controlling, controlled by or under common control with the Adviser; (b) use the multi-manager structure described in the application; and (c) comply with the terms and conditions in the application (''Future Funds''). The Trust is the only existing investment company that currently intends to rely on the order.

provisions described below that may require the Funds to disclose the fees paid by the Adviser to the Subadvisers. The Trust will disclose for each Fund (both as a dollar amount and as a percentage of a Fund's net assets): (a) aggregate fees paid to the Adviser and Affiliated Subadvisers; and (b) aggregate fees paid to Subadvisers other than Affiliated Subadvisers (''Aggregate Fee Disclosure''). For any Fund that employs an Affiliated Subadviser, the Fund will provide separate disclosure of any fees paid to the Affiliated Subadviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as investment adviser to a registered investment company except pursuant to a written contract that has been approved by a majority of the investment company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Form N–1A is the registration statementused by open-end investment companies. Item 15(a)(3) requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (the ''Exchange Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8), and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of ''the terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N–SAR is the semi-annual report filed with the SEC by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Subadvisers.

5. Regulation S–X sets forth requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the SEC. Sections 6–07(2) (a), (b), and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act if, and to the extent that, an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants believe that their requested relief meets this standard for the reasons discussed below.

7. Applicants assert that the Funds' investors rely on the Adviser to select Subadvisers best suited to achieve a Fund's investment objectives. Therefore, applicants assert that, from the perspective of the investor, the role of the Subadvisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants note that the Advisory Agreement will remain subject to sections 15(a) and 15(c) of the Act and rule 18f–2 under the Act.

8. Applicants further assert that some Subadvisers use a ''posted'' rate schedule to set their fees. Applicants believe that some organizations may be unwilling to serve as Subadvisers at any fee rate other than their ''posted'' fee rates, unless the rates negotiated for the Funds are not publicly disclosed. Applicants believe that requiring disclosure of Subadvisers' fees may deprive the Adviser of its bargaining power to negotiate lower rates.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. The Trust will disclose in its registration statement the Aggregate Fee Disclosure.

2. The Trust will not enter into a Sub-Advisory Agreement, on behalf of a Fund, with an Affiliated Subadviser without the Sub-Advisory Agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account).

3. At all times, a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

4. Independent counsel knowledgeable about the Act and the duties of Independent Trustees will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the Independent Trustees.

5. The Adviser will provide the Board, no less often than quarterly, information about the Adviser's profitability for each Fund relying on the relief requested in the application. This information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

6. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board information showing the expected impact on the Adviser's profitability.

7. When a change of Subadviser is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the minutes of meetings of the Board, that the change of Subadviser is in the best interests of the Fund and its shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, in the best interests of the Fund and the unitholders of any sub-account), and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

8. Before an existing Fund may rely on the order requested in the application, the operation of the Fund in a manner described in the application will be approved by a majority of its outstanding voting securities of the Fund, (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account) as defined in the Act, or in the case of a Future Fund whose shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 10 below, by the sole initial shareholder(s) before offering shares of the Future Fund to the public (or the variable contract owners through a separate account).

9. The Adviser will provide management and administrative services to each Fund relying on the requested order and, subject to the review and approval of the Board, will: (a) Set the Funds' overall investment strategies; (b) recommend Subadvisers; (c) allocate, and when appropriate, reallocate a Fund's assets among Subadvisers; (d) monitor and evaluate the investment performance of the Subadvisers; and (e) implement procedures reasonably designed to ensure that the Subadvisers comply

with the Fund's investment objectives, policies, and restrictions.

10. The Trust will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, each Fund relying on the requested order will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

11. Within 60 days of the hiring of any Subadviser, the affected Fund will furnish its shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, the unitholders of the Sub-account) with all information about the new Subadviser that would be included in a proxy statement, except as modified to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of a new Subadviser. The Adviser will meet this condition by providing shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, unitholders of the sub-account) with an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act, exempt as modified by the order to permit Aggregate Fee Disclosure.

12. No trustee or officer of the Trust or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Subadviser, except for: (a) Ownership of interests in the Subadviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly-traded company that is either a Subadviser or controls, is controlled by, or is under common control with a Subadviser.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–25500 Filed 9–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27078]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

September 24, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declarations(s) and any amendments is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the applications(s) and/or declaration(s) should submit their views in writing by October 19, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 19, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Ohio Valley Electric Corporation (70–8527)

Ohio Valley Electric Corporation (''Ohio Valley''), 3932 U.S. Route 23, P.O. Box 468, Piketon, Ohio 45661, an electric public utility subsidiary company of American Electric Power Company, Inc. (''AEP''), a registered holding company, has filed a post-effective amendment to its declaration filed under sections 6(a) and 7 of the Act and rule 54 under the Act.

By orders dated December 28, 1994, December 12, 1996, and March 4, 1998 (HCAR Nos. 26203, 26624, and 26835, respectively) (''Existing Authorization''), Ohio Valley was authorized to incur short-term debt through the issuance and sale of notes to banks or other financial institutions in an aggregate amount not to exceed $50 million outstanding at any one time, from time to time through December 31, 2001, provided that no notes mature later than June 30, 2002.

Ohio Valley now proposes that the authorization in the Existing Authorization be increased so that Ohio Valley may issue and sell notes (''Notes'') in an aggregate amount not to exceed $100 million outstanding at any one time, from time to time through December 31, 2003. The Notes will mature not more than 270 days after the date of issuance or renewal, provided that no Notes will mature later than June 30, 2004. The Notes will bear interest at an annual rate not greater than the prime commercial rate of Citibank, N.A. (or its successor) in effect from time to time. These credit arrangements may require the payment of a fee not greater than ⅕ of 1% per annum of the size of the line of credit made available by the bank and the maintenance of additional balances of not greater than 20% of the line of credit. The maximum effective annual interest cost will not exceed 125% of the prime commercial rate in effect from time to time, or not more than 10% on the basis of a prime commercial rate of 8%.

The proceeds of the short-term debt incurred by Ohio Valley will be added to its general funds and used to pay its general obligations and for other corporate purposes, including coal supply inventory.

Northeast Utilities, et al. (70–8875)

Northeast Utilities (''Northeast''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010, a registered holding company, Northeast's public utility subsidiaries, The Connecticut Light and Power Company (''CL&P''), 107 Selden Street, Berlin, Connecticut 06037, Western Massachusetts Electric Company (''WMECO''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010, Holyoke Water Power Company (''Holyoke''), Canal Street, Holyoke, Massachusetts 01040, and Public Service Company of New Hampshire (''PSNH'') and North Atlantic Energy Corporation (''North Atlantic''), each at 1000 Elm Street, Manchester, New Hampshire 03015, and Northeast's nonutility subsidiaries, NU Enterprises, Inc., Northeast Generation Service Company, Northeast Generation Company, Select Energy, Inc., and Mode 1 Communications, Inc., each at 107 Selden Street, Berlin, Connecticut 06037, (collectively, ''Applicants'') have filed a post-effective amendment to their application-declaration filed under sections 6(a), 7, 9(a), 10, and 12(b) of the Act and rules 43 and 45 under the Act.

By orders dated November 20, 1996, February 11, 1997, March 25, 1997, May

29, 1997, January 16, 1998, and May 13, 1999 (HCAR Nos. 26612, 26665, 26692, 26721, 26816, and 27022), the Commission authorized, among other things, short-term borrowing, subject to certain limits, for Northeast, CL&P, and WMECO through December 31, 2000 (''Authorization Period'').[1] The short-term borrowings for NU, CL&P, and WMECO include a revolving credit facility to which CL&P and WMECO are parties (''Existing System Revolver'') and an unsecured revolving credit facility for Northeast (''Existing Northeast Facility''). Both the Existing System Revolver and the Existing Northeast Facility expire on November 21, 1999.

Applicants now seek authorization for: (1) Replacement of the Existing System Revolver and Existing Northeast Facility with various short-term borrowings subject to the parameters described below; (2) WMECO to increase its short-term borrowing limit from $150 million to $250 million for the remainder of the Authorization Period; and (3) Northeast to increase its short-term borrowing limit from $200 million to $400 million for the remainder of the Authorization Period. No change is requested with respect to the limits on short-term debt borrowings for CL&P, PSNH, Holyoke, or North Atlantic.

The short-term borrowings (''Debt'') for Northeast, CL&P, and WMECO (''Borrowers'') will take a variety of forms, including short-term notes issued to bank and nonbank lending institutions through formal and informal credit lines, commercial paper issuances, open account advances by Northeast to certain of its subsidiaries, and use of the Northeast system money pool. The effective cost of money on the Debt will not exceed 400 basis points over the base rate in effect from time to time of the lending bank or financial institution or, if no such base rate is identified, the base rate in effect from time to time of a representative money center bank. The maturity of the Debt will not exceed 364 days. The fees, commissions, or other expenses paid in connection with the issuance of the Debt or the entering into of credit facilities will not exceed 3% of the principal amount of the Debt. Borrowings from banks and other financial institutions may be either unsecured or secured. To the extent required, the provision of any collateral to secure Debt will be approved by applicable state regulatory commissions. Specific terms of any Debt will be determined by the Borrowers at the time of issuance and will comply with these parameters.

Northeast Utilities (70–9343)

Northeast Utilities (''NU''), a registered holding company, located at 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010 has filed a post-effective amendment to its declaration under section 12(b) of the Act and rule 45 under the Act.

By order dated November 12, 1998 (HCAR No. 26939) (''Order''), the Commission authorized NU and NEWCO (now known as NU Enterprises (''NUEI''))[2] to, among other things, provide guarantees and similar forms of credit support or enhancements (collectively, ''Guarantee'') to, or for the benefit of NUEI, NUEI's nonutility subsidiaries, or NU's other to-be-formed direct or indirect energy-related companies, as defined in rule 58 under the Act, in an aggregate amount not to exceed $75 million, at any one time, through December 31, 1999.

By order dated May 19, 1999, the Commission authorized an increase in Guarantee authority from $75 million to $250 million. NU and NUEI now propose to increase the Guarantee authority from $250 million to $500 million and to extend the date through which guarantees may be provided through December 31, 2002, under the terms and conditions of the Order.[3]

LG&E Energy Corp. (70–9523)

LG&E Energy Corp. (''LG&E Corp.''), 200 West Main Street, Louisville, Kentucky 40232, a Kentucky corporation and an electric and gas public utility holding company currently exempt under section 3(a)(1) from all provisions of the Act except section 9(a)(2),[4] has filed an application for an order under sections 9(a)(2) and 10 of the Act. LG&E Corp. seeks authorization of its proposed indirect acquisition of a reconstituted Western Kentucky Energy Corp. (''WKEC''), an indirect wholly owned nonutility subsidiary of LG&E Corp., in connection with a consolidation among WKEC and two other nonutility subsidiaries of LG&E Corp., with WKEC as the surviving corporation (''Transaction''). The application also requests (1) an order under section 3(a)(1) declaring LG&E Corp. and its wholly owned subsidiary, LG&E Capital Corp. (''LG&E Capital''), exempt from all provisions of the Act except section 9(a)(2), following the Transaction, and (2) an order under section 3(a)(2) declaring LG&E Corp.'s subsidiary, Kentucky Utilities Company (''KUC''), exempt from all provisions of the Act except section 9(a)(2), following the Transaction.[5]

LG&E Corp. and Subsidiaries

LG&E Corp. has two wholly owned public utility subsidiaries, Louisville Gas and Electric Company (''LG&E'') and KUC. LG&E, a Kentucky corporation, is engaged primarily in the generation, transmission and distribution of electricity to approximately 360,000 customers in Louisville and adjacent areas in Kentucky. LG&E's service area covers approximately 700 square miles in 17 counties in Kentucky with an estimated population of one million. LG&E also purchases, distributes and sells natural gas to approximately 289,000 customers within this service area and in limited additional areas. Included within LG&E's service area is the Fort Knox Military Reservation, to which LG&E transports gas and provides electric service, but which maintains its own distribution systems.

Retail sales rates, services and other aspects of LG&E's electric and gas retail operations are subject to the jurisdiction of the Kentucky Public Service Commission (''Kentucky Commission''). The Kentucky Commission also has regulatory authority over aspects of LG&E's financial activities including security issuances, property transfers involving asset values in excess of $100,000, and mergers with other utilities. Wholesale rates for electric energy sold in interstate commerce, wheeling rates for every transmission in interstate commerce, and certain other activities of LG&E (including its hydro-electric facilities) are subject to the jurisdiction of the Federal Energy Regulatory Commission (''FERC'').

LG&E owns 4.9% of the common stock of Ohio Valley Electric Corporation (''OVEC''), which has one wholly owned subsidiary, Indiana-

[1] The order dated May 13, 1999 (HCAR No. 27022) includes a reservation of jurisdiction ''over Money Pool borrowings by PSNH that are attributable to contributions by WMECO, pending the approval of the [Massachusetts Department of Telecommunications and Energy].''

[2] NUEI is engaged, through the use of multiple subsidiaries, in various energy related and other activities.

[3] Rule 52 exempts NUEI's financial transactions with its associate companies from Commission jurisdiction, however, this information is provided for background purposes.

[4] LG&E Corp.'s exemption was granted by order of the Commission. *See LG&E Energy Corp.*, Holding Co. Act Release No. 26866 (April 30, 1998).

[5] KUC currently is a Kentucky electric utility and public utility holding company exempt under section 3(a)(2) by order of the Commission from all provisions of the Act except section 9(a)(2). *See Kentucky Utilities Company*, 29 S.E.C. 289 (1949); *KU Energy Corporation*, Holding Co. Act Release No. 25409 (Nov. 13, 1991). The Commission recently affirmed KUC's exemption under section 3(a)(2). *See LG&E Energy Corp.*, Holding Co. Act Release No. 26866 (April 30, 1998).

Kentucky Electric Corp. (''IKEC''). Each of OVEC and IKEC is an electric utility company under the Act. For each of the three years in the period ended December 31, 1998, LG&E derived less than 0.15% of its income from its share of the earnings of OVEC.

KUC, a Kentucky and Virginia corporation, is engaged in producing, transmitting and selling electric energy to approximately 449,00 customers in over 600 communities and adjacent suburban and rural areas in 77 counties in central, southeastern and western Kentucky, and to approximately 29,000 customers in 5 counties in southwestern Virginia. In Virginia, KUC operates under the name Old Dominion Power Company. KUC also sells electric energy at wholesale for resale in 12 municipalities in Kentucky.

KUC is subject to the jurisdiction of the Kentucky Commission and the Virginia State Corporation Commission as to retail rates and service, accounts, issuance of securities and in other respects. The FERC has jurisdiction over certain of the electric utility facilities and operations, wholesale sale of power and related transactions and accounting practices of KUC, and in certain other respects. By reason of owning and operating a small amount of electric utility property in one county in Tennessee (having a gross book value of about $226,000), KUC also may be subject to the jurisdiction of the Tennessee Regulatory Authority as to retail rates, accounts, issuance of securities and in other respects.

KUC owns 2.5% of the common stock of OVEC. KUC also owns 20% of Electric Energy, Inc. (''EEI''), an Illinois corporation and an electric utility company under the Act. EEI was formed in the early 1950s to provide electric energy to a uranium enrichment plant located near Paducah, Kentucky. The enrichment plant was originally operated by the Atomic Energy Commission and the Department of Energy and is operated today by the United States Enrichment Corporation. EEI owns the Joppa Plant, a 1,015 Mw coal-fired electric generating plant located near Joppa, Illinois, and six 161 kilovolt transmission lines which transmit power from the Joppa Plant to the Paducah enrichment plant. EEI's common sock is held by KUC and three other utility companies. EEI sells its excess electricity to its sponsoring utilities for resale. The uranium enrichment facility is EEI's only end-user customer. For each of the three years in the period ended December 31, 1998, KUC derived less than 3% of its net income from its share of the earnings of EEI and OVEC.

LG&E CORP. has two other directly owned subsidiaries, LG&E Energy Foundation, Inc., a tax-exempt charitable foundation and LG&E Capital, which is involved in numerous nonutility, energy-related businesses through various subsidiaries and joint ventures. Through its subsidiaries, LG&E Capital has interests in and operates electric power plants in several states and Spain. Each of these facilities is a qualifying cogeneration facility under the Public Utility Regulatory Policies Act of 1978, an exempt wholesale generator (''EWG'') under section 32 of the Act or a foreign utility company (''FUCO'') under section 33 of the Act. LG&E Capital also has interests in and operates three natural gas distribution companies in Argentina, each of which is a FUCO. LG&E Capital is involved through various subsidiaries in energy marketing and trading and, with respect to natural gas, LG&E Capital also is involved through subsidiaries in the gathering, processing, storage and transportation of natural gas.[6]

For the year ended December 31, 1998, approximately 16% of LG&E Corp.'s consolidated operating revenues and 18% of its consolidated operating income were derived from the nonutility businesses. As of December 31, 1998, approximately 20% of LG&E Corp.'s consolidated assets were invested in nonutility businesses. For the twelve months ended March 31, 1999, approximately 19% of LG&E Corp.'s consolidated operating revenues and 23% of its consolidated operating income were derived from nonutility businesses. As of March 31, 1999, approximately 22% of LG&E Corp.'s consolidated assets were invested in nonutility businesses.

For the year ended December 31, 1998, LG&E Corp.'s operating revenues on consolidated basis were $2.002 billion of which approximately $659 million was derived from LG&E's electric operations, $192 million was derived from LG&E's gas operations and $810 million was derived from KUC's electric operations. Consolidated assets for LG&E Corp. and its subsidiaries as of December 31, 1998 were approximately $4.8 billion, of which approximately $3.0 billion consisted of electric utility assets and $300 million consisted of gas utility assets. As of April 30, 1999, there were 129,677,030 outstanding shares of the common stock of LG&E Corp. LG&E Corp. has no preferred stock outstanding.

[6] Effective June 30, 1998 LG&E Corp. discontinued its merchant trading and sales business and announced its plans to sell its natural gas gathering and processing business. LG&E Corp., however, intends to maintain the technical systems and personnel necessary to engage in power marketing sales from assets it owns or controls, including LG&E, KUC and WKEC.

Description of Proposed Transaction

In the Transaction, LG&E Corp. proposes to acquire a reconstituted WKEC indirectly, through the merger of two indirect nonutility subsidiaries of LG&E Corp.—WKE Corp. and WKE Station Two Sub Inc. (''Station Two'')—into WKEC, with WKEC as the surviving corporation.

WKE Corp. currently is a direct, wholly owned subsidiary of LG&E Capital and the parent company of WKEC and Station Two. WKE Corp. currently is certified as an EWG and Station Two is a nonutility company under the Act.[7] Each of WKE Corp., WKEC and Station Two was formed in connection with a series of transactions involving Big Rivers Electric Corporation (''Big Rivers''), a nonassociate utility company. Under these transactions, WKEC leases the generating facilities of Big Rivers and conducts the day-to-day operations of these facilities. Station Two operates a generating facility of the City of Henderson, Kentucky, that was previously operated by Big Rivers. LG&E Energy Marketing, Inc. (''LEM''), another indirect nonutility subsidiary of LG&E Corp., agreed to purchase electricity from the Big Rivers' facilities and the City of Henderson's facility. The electricity from the City of Henderson was previously purchased by Big Rivers. These transactions took effect in July 1998.[8]

Because the City of Henderson's generating facility serves retail customers, WKEC cannot operate this facility and maintain its status as an EWG. Therefore, the duties and responsibilities relating to the Big Rivers' facilities and the City of Henderson's facility were divided among WKE Corp., WKEC, Station Two and LEM, even though these duties were previously performed by one company, Big Rivers.

LG&E Corp. has determined that the separation of the duties and responsibilities among WKE Corp., WKEC, Station Two and LEM, and the constraints imposed upon WKEC in order to maintain its certification as an

[7] In this regard, LG&E Corp. has received a no-action letter from the staff of the Commission confirming that Station Two's activities would not cause it to be deemed an electric utility company under the Act. *See WKE Station Two, Inc/Big Rivers Electric Corporation*, SEC No-Action Letter (July 13, 1998).

[8] The Big Rivers transactions are described in more detail in the no-action letter. *See supra* note 7.

EWG have led to numerous operational inefficiencies. Consequently, LG&E Corp. now desires to combine WKE Corp., WKEC and Station Two, with WKEC as the surviving corporation. LG&E Corp. also may transfer certain related contracts for the sale of energy, capacity and ancillary services from LEM to WKEC. The Transaction is intended to simplify and consolidate responsibility within a single company, WKEC, for operation and management of all of the generating assets in western Kentucky that are operated by LG&E Corp.'s affiliates, and for the sale of power and ancillary services from those facilities. Following the Transaction, WKEC will cease to meet the requirements of an EWG, will decertify as an EWG and will become an electric utility company under the Act. Therefore, consummation of the Transaction will result in the indirect acquisition of an electric utility company by LG&E Corp.

The application states that the Transaction is expected to result in substantial benefits to the public, investors and consumers, including significant economies of scale, reduced labor costs and reduced corporate and administrative expenses through the elimination of redundancies and inefficiencies. As an example, the application notes that the Transaction will promote more efficient use of the labor force currently divided among WKE Corp., WKEC and Station Two, and will eliminate the need to maintain separate computer systems and books and records for each of those companies.

Proposed Post-Transaction Exemptions

LG&E Corp. states that, following the Transaction, it will continue to qualify as an exempt holding company under section 3(a)(1) of the Act, and LG&E Capital will qualify as an exempt holding company under section 3(a)(1) of the Act, because each of LG&E Corp. and LG&E Capital, and each of its public utility company subsidiaries from which it derives a material part of its income, will be a Kentucky corporation, will continue to be predominantly intrastate in character and will continue to conduct its utility business substantially within the Commonwealth of Kentucky.[9]

LG&E Corp. also states that, following the Transaction, KUC will continue to qualify as an exempt holding company under section 3(a)(2) of the Act because KUC is predominantly a public utility company whose operations, as such, do not extend beyond the Commonwealth of Kentucky.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–25501 Filed 9–30–99; 8:45 am]

BILLING CODE 8010–01–M

[9] In this regard, LG&E Corp. states that neither OVEC nor IKEC will be a subsidiary of LG&E Corp. for purposes of the Act following the Transaction because LG&E Corp.'s total indirect ownership of OVEC will be 7.4%. Although EEI will be a subsidiary of LG&E Corp. for purposes of the Act following the Transaction, and EEI is not a Kentucky corporation, LG&E Corp. states that EEI will not be a material public utility subsidiary of LG&E Corp. for purposes of section 3(a)(1) because LG&E Corp. does not derive a material part of its income from EEI (less than 3% in each of the last three years).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before November 30, 1999.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Bruce Taylor, Financial Specialist, Office of the Denver Finance Center, Small Business Administration, 721 19th Street 4th Fl., Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Bruce Taylor, Financial Specialist, 303–844–0171 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''FFS Vendor Request Form''.

Form No: 1851A.

Description of Respondents: Outside Vendors.

Annual Responses: 300.

Annual Burden: 25.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–25607 Filed 9–30–99 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before November 1, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Size Status Declaration.
Form No.: 480.
Frequency: On Occasion.
Description of Respondents: Small Business Investment Companies.
Annual Responses: 4,200.
Annual Burden: 700.

Dated: September 24, 1999.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–25528 Filed 9–30–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C.

Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before November 1, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Stockholder's Confirmation (Corporation): Ownership. Confirmation (Partnership).

Form No.: 1405.

Frequency: On Occasion.

Description of Respondents: Small Business Investment Companies.

Annual Responses: 600.

Annual Burden: 600.

Dated: September 24, 1999.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–25616 Filed 9–30–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3209]

Commonwealth of Pennsylvania; Amendment #1

In accordance with a notice from the Federal Emergency Management Agency dated September 17, 1999, the above-numbered Declaration is hereby amended to include Juniata County, Pennsylvania as a disaster area due to damages caused by severe storms and flooding that occurred on August 20–21, 1999.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Dauphin, Franklin, Huntingdon, Mifflin, Northumberland, Perry, and Snyder in the Commonwealth of Pennsylvania may be filed until the specified date at the previously designated location.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 30, 1999 and for economic injury the deadline is June 1, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 21, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–25614 Filed 9–30–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3210; Amendment #1]

Commonwealth of Virginia

In accordance with a notice received from the Federal Emergency Management Agency dated September 13, 1999, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on August 27, 1999 and continuing through September 13, 1999.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 4, 1999 and for economic injury the deadline is June 6, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 21, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–25615 Filed 9–30–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3129]

Bureau of Nonproliferation: Determination Under the Foreign Assistance Act and Several Foreign Operations and Related Programs Appropriations Acts

AGENCY: Department of State.

ACTION: Notice.

Pursuant to section 654(c) of the Foreign Assistance Act of 1961, as amended, notice is hereby given that the Acting Secretary of State has made a determination pursuant to section 620H of the Foreign Assistance Act, section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (Pub. L. 105–277) and the analogous provisions in prior year foreign operations, export financing and related programs appropriations acts. The Acting Secretary has concluded that publication of the determination would be harmful to the national security of the United States.

Dated: September 27, 1999.

John P. Barker, Jr.,

Deputy Assistant Secretary of State for Nonproliferation Controls.

[FR Doc. 99–25635 Filed 9–30–99; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Amtrak Reform Council; Notice of Meeting

AGENCY: Amtrak Reform Council.

ACTION: Notice of Special Meeting with Midwestern States and Business Meeting.

SUMMARY: As provided in Section 203 of the Amtrak Reform and Accountability Act of 1997, the Amtrak Reform Council (ARC) gives notice of a business meeting of the Council, preceded by a special meeting with representatives from the Mid-West states. At the special meeting, the Council will hear from, among others, representatives from the states of Illinois, Wisconsin, Minnesota, Michigan, Ohio, Indiana, Iowa, Missouri, and Nebraska to discuss all aspects of intercity railroad passenger service, including corridor service, in the Mid-West states. At its business meeting the Council will discuss, among other items, the general make-up of the Annual Report due to Congress in January 2000 and a schedule of meetings and events for the year 2000. The meeting will also consider matters raised by individual Council members.

DATES: The meeting with representatives of Mid-West states is scheduled from 9:00 a.m. to 6:00 p.m. on Wednesday, October 13, 1999. The Council's business meeting will be held on the following day, Thursday, October 14, 1999, from 8:30 a.m. to 12:00 noon.

ADDRESSES: Both meetings will be held in Wolf Pointe Ballroom, Holiday Inn Mart Plaza, 350 North Orleans Street, Chicago, IL 60654, telephone (312) 836–5000. Persons in need of special arrangements should contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Deirdre O'Sullivan, Amtrak Reform Council, Room 7105, JM–ARC, 400 Seventh Street, S.W., Washington, DC

20590, or by telephone at (202) 366–0591; FAX: 202–493–2061.

SUPPLEMENTARY INFORMATION: The ARC was created by the Amtrak Reform and Accountability Act of 1997 (ARAA), as an independent commission, to evaluate Amtrak's performance and to make recommendations to Amtrak for achieving further cost containment, productivity improvements, and financial reforms. In addition, the ARAA requires that the ARC monitor cost savings resulting from work rules established under new agreements between Amtrak and its labor unions; that the ARC provide an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues; and that, after two years, the ARC has the authority to determine whether Amtrak can meet certain financial goals specified under the ARAA and, if not, to notify the President and the Congress.

The ARAA provides that the ARC consist of eleven members, including the Secretary of Transportation and ten others nominated by the President and Congressional leaders. Each member is to serve a five-year term.

Issued in Washington, DC, September 24, 1999.

Thomas A. Till,

Executive Director.

[FR Doc. 99–25599 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Request for Comments on Advisory Circular (AC) 43.13–1B, Acceptable Methods, Techniques and Practices—Aircraft Inspection and Repair

AGENCY: Federal Aviation Administration.

ACTION: Request for comments.

SUMMARY: This notice requests comments on AC 43.13–1B, Acceptable Methods, Techniques, and Practices—Aircraft Inspection and Repair, which provides guidance on acceptable methods, techniques, and practices associated with inspection and repairs to small, nonpressurized, older aircraft of 12,500 pounds or less. This AC was revised on September 8, 1998. The FAA is considering making a change to the AC that will correct minor discrepancies that occurred during publication and is opening the document for additional new maintenance information. This notice is necessary to give all interested persons an opportunity to submit comments, corrections, or new maintenance information that may be included in the next change to the AC. Any comments or corrections should reflect the applicable AC chapter, page and paragraph number. If new information or data is suggested, a copy of the data, repair methods, inspection procedures, or new techniques should be enclosed with the comment.

DATES: Comments must be received on or before November 30, 1999.

ADDRESSES: All comments should be addressed to: George Torres, AFS–613, Federal Aviation Administration, Manufacturing Standards Section, 6500 S. MacArthur Blvd, Oklahoma City, OK 73169 or FAX 405–954–4104. A copy of Advisory Circular (AC) 43.13–1B, Acceptable Methods, Techniques and Practices—Aircraft Inspection and Repair, can be found on the internet at web site *www.faa.gov/afs/acs/ac-idx.htm*. Comments may be inspected at the above Oklahoma City address between 9 a.m. and 4 p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Gerri Robinson, Aviation and Commercial Branch, AFS–340, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267–9678, FAX (202) 267–5075.

Issued in Washington, DC, on September 20, 1999.

Ava L. Mims,

Deputy Director, Flight Standards Service.

[FR Doc. 99–25543 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waivers of Compliance; Petition for Exemption for Technological Improvements

In accordance with Title 49 Code of Federal Regulations (CFR) Sections 211.9 and 211.41, and 49 U.S.C. 20306, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for waiver of compliance with certain requirements of the Federal railroad safety regulations and a request for exemption of certain statutory provisions. The individual petition is described below, including the party seeking relief, the regulatory and statutory provisions involved, the nature of the relief being sought and the petitioner's arguments in favor of relief.

Utah Transit Authority

FRA Waiver Petition No. FRA–1999–6253

Utah Transit Authority (UTA) seeks a permanent waiver of compliance from certain CFR parts of Title 49, specifically: Part 219, Control of Alcohol and Drug Use; part 221, Rear End Marking Device—Passenger, Commuter and Freight Trains; part 223, Safety Gazing Standards—Locomotives, Passenger Cars and Cabooses; part 225, Railroad Accidents/Incidents—Report Classification, and Investigations; part 228, Hours of Service of Railroad Employees; part 229, Railroad Locomotive Safety Standards; part 231 Railroad Safety Appliance Standards; part 234, Grade Crossing Signal System Safety; part 238, Passenger Equipment Safety Standards; part 239, Passenger Train Emergency Preparedness; part 240, Qualification and Certification of Locomotive Engineers; and the statutory requirements 49 U.S.C. 20301 through 20305.

UTA seeks approval of shared track usage and waiver of certain FRA regulations involving light rail passenger operations on the planned light rail transit system known as ''TRAX.'' The TRAX System will operate on an approximately 15 mile track between downtown Salt Lake City and the City of Sandy, Utah to the south. FRA has jurisdiction over a portion of the TRAX System because it will be connected to the general railroad system of transportation; a portion of the TRAX System will be on a rail line on which a short line freight railroad currently operates, and will continue to operate after start-up of TRAX service.

In each section entitled ''Justification,'' FRA merely sets out UTA's justifications which are included in its petition. In doing so, UTA references the proposed Joint Policy Statement on Shared Used of the General Railroad System issued by FRA and the Federal Transit Administration (FTA) (64 FR 28238; May 25, 1999) (''Policy Statement''). The proposed policy statement suggests that regulation of light rail service on the general rail system, under conditions of temporal separation from conventional rail movements, be handled through application of complementary strategies. FRA regulations would generally be employed to address hazards common to light rail and conventional operations for which consistent handling is necessary, while other hazards would be handled under FTA's program of State Safety Oversight (49 CFR Part 659). See proposed Policy Statement for details. Since FRA has not yet concluded its

investigation of the planned TRAX system, the agency takes no position at this time on the merits of UTA's stated justifications. As part of FRA's review of the petition, the Federal Transit Administration will appoint a non-voting liaison to FRA's Safety Board, and that person will participate in the board's consideration of UTA's waiver petition.

Part 219 Control of Alcohol and Drug Use

Part 219 prescribes minimum Federal safety standards for the control of alcohol and drug use by railroad workers for the purpose of preventing accidents and casualties in railroad operations that result from impairment of employees by alcohol or drugs.

Justification

UTA requests a waiver of all of the requirements of part 219 so that all of the employees assigned to the TRAX System who would otherwise be covered employees under this part, would become covered employees subject to UTA's existing drug and alcohol program under the FTA rules at 49 CFR part 653, Prevention of Prohibited Drug Use in Transit Operations, and part 654, Prevention of Alcohol Misuse in Transit Operations. UTA believes that this would provide UTA with operational advantages while preserving an equivalent level of safety.

The FTA regulations apply to recipients of Federal mass transit funds, except those ''specifically excluded'' because they are recipients operating railroads regulated by FRA. 49 CFR 653.5 and 654.5. In such cases, a recipient is to follow FRA regulations in 49 CFR part 219 for its ''railroad operations.'' However, such a recipient is still required to certify that it is in compliance with applicable rules and to comply with parts 653 and 654 for its ''non-railroad operations.''

UTA is a recipient of Federal mass transit funds, and therefore, would be subject to the compliance certification provision of FTA's regulations at parts 653 and 654 for any railroad operations otherwise covered by FRA's regulations at 49 CFR part 219, and is currently subject to all of the requirements of parts 653 and 654 for UTA's bus operations. If granted a waiver from the requirements of part 219, the subject light rail operations would automatically fall under the regulatory jurisdiction of FTA. Thus, all of the employees assigned to the LRT operation, who would otherwise be covered employees under this part, would become covered employees under FTA's rules at parts 653 and 654.

Application of the FTA drug and alcohol rules, when implemented in compliance with the FRA rule, would provide an equivalent level of safety consistent with the policy underlying part 219. A basic review of the respective FRA and FTA regulations reveals that they are quite similar in purpose, structure and substance. Both regulations are intended to enhance safety by prohibiting and eliminating misuse of drugs and alcohol which might otherwise result in accidents and injuries to employees and the traveling public. Both regulations provide for procedural and recordkeeping requirements to safeguard the integrity of the program and provide privacy and due process protections for covered employees. Finally, both sets of regulations prohibit impaired employees from performing safety sensitive functions and require testing of essentially the same personnel under similar circumstances (*i.e.*, random, post-accident, reasonable suspicion, and return-to-duty testing, and in the case of drugs, pre-employment testing).

Although there are differences between the regulations, there are no major policy differences with respect to the need to eliminate drug and alcohol misuse or the primary importance of safety in transportation operations. The most obvious difference involves the application of penalties for non-compliance. Under FRA rules, a regulated entity found to be in violation of the rule may be subject to the assessment of civil penalties in accordance with a published schedule. The FTA regulations do not contain such a civil penalty structure. However, under the FTA regulations, compliance is a condition for eligibility for receipt of Federal funds. Non-compliance can result in suspension of eligibility for applicable Federal funding altogether. Thus, the severity of the potential penalty serves as a deterrent in the same way as the FRA civil penalty program.

Part 221 Section 221.13(d)—Marking Devices Display; Section 221.14(a)—Marking Devices

Sections 221.13(d) and 221.14(a) contain requirements that passenger, commuter and freight trains be equipped with and display rear end marking devices. The requirements are intended to reduce the likelihood of rear-end collisions due to the inconspicuity of the rear-end of a leading train.

Justification

UTA seeks a waiver from these requirements because the TRAX vehicles, while having rear end lights, will not have the specific marking devices set forth in the regulation. However, exemption from the marking device requirement in this case will not compromise safety. The TRAX light rail cars are designed to have two taillights permanently mounted into the car body. These red lights are designed to be visible for a distance of 500 feet from the rear-end of the train and are located 45 inches above the top of rail. Because the rear lights on the TRAX vehicles will make them conspicuous to any trailing train, the TRAX vehicle lighting will provide an equivalent level of safety to that provided by the FRA regulation.

Part 223 Section 223.9(c)—Glazing Requirements; Section 223.17—Identification.

Section 223.9(c) requires that passenger cars be equipped with FRA-certified glazing in all windows. This requirement is intended to reduce the likelihood of injury to passengers and/or employees from breakage and shattering of windows (including windshields). Section 223.17 requires each passenger car that is fully equipped with FRA compliant glazing material to have a notice of compliance stenciled on an interior wall of the car. This serves the purpose of providing notice about the glazing material in the car.

Justification

UTA requests a waiver of this requirement because the TRAX vehicle will conform instead to the windshield and window requirements of § 6.04 of Appendix A of California Public Utilities Commission (CPUC) General Order 143–A. Under this standard, windshields and other windows must be made of laminated safety glass or shatter-proof or tempered glazing material. Glass meeting this standard is break-resistant in normal usage, but if broken, will ''crumble'' into pebble-like pieces, posing no significant hazard to passengers, employees, or rescue personnel. The use of such safety glass windows is standard throughout the rail transit industry for (among other applications) in-street light rail operations, where it has proved both durable and safe. In addition, the interior side of the window surfaces will have a carbonate coating. While the primary purpose of the coating is to render the windows resistant to graffiti, the coating also serves to provide additional protection against spalling in the event the window is broken. This extra protection adds to the safety of the windows. Finally, the risk associated with vandalism (such as by rocks

thrown against the windows) is addressed from an operational standpoint in the security portions of the Safety Plan.

Section 223.9 Emergency Exit Window Markings.

Section 223.9(d) sets forth requirements for the marking of emergency windows and the posting of emergency window operating instructions. These requirements are intended to help passengers and emergency responders distinguish emergency windows from other windows and provide information on the operation of the emergency windows.

Justification

UTA requests a waiver from these requirements because the TRAX vehicles are not equipped with emergency windows. Thus, identification of some windows as ''emergency windows'' and the posting of special operating instructions is not appropriate in this instance.

Section 223.15(c) Emergency Window Requirements

Section 223.15(c) requires each passenger train car to be equipped with at least four emergency windows designed to permit rapid and easy removal during an emergency. This requirement is intended to enhance safety by providing emergency egress in addition to egress through vehicle doorways.

Justification

UTA requests a waiver of this requirement because although the TRAX vehicle will not literally meet this standard, it will meet or exceed the safety objective of the requirement. As noted above, the TRAX vehicles will not be manufactured with emergency windows. Rather, the TRAX vehicle is designed so that the doorways provide the requisite emergency exit capability. In fact, the TRAX vehicle doorways provide greater access/egress capability than is found on conventional commuter rail cars.

Each vehicle has four sets of double doors on each side of the vehicle. Each set of double doors provides a 8-foot by 4-foot opening, and the vehicle is designed such that the cars can completely empty in less than one minute with all doors open. The doors are releasable through an emergency release lever and may be opened without power supply. The interior door release levers will be clearly marked and in a location accessible to all passengers. These release features make it very unlikely that a crash would render more than one set of doors in a car, if any, inoperative, and enable quick and easy opening of the doors by passengers. Even if one set of doors were inoperative after a crash, the other sets of doors would still provide significant opportunity for egress. The placement of two sets of doors on each side of the vehicle will provide significant capacity for mobility in and out of each side of the car should one side not be suitable for use in exiting the train.

UTA believes that the doors will provide emergency egress capacity equivalent to or better than FRA emergency exit window requirements. With these features, there is little risk of passengers becoming trapped or rescue personnel being unable to reach passengers. Accordingly, a waiver of § 223.15(c) is justified. In addition, the TRAX Emergency Response Plan provides for passenger evacuation and crowd control planning.

Part 225 Railroad Accidents/Incidents Reporting

Part 225, Reports Classification, and Investigations, prescribes reporting requirements for accident/incidents meeting the materiality thresholds in § 225.19. The reporting requirements support FRA's enforcement efforts and provide information to detect trends on an industry-wide basis.

Justification

UTA requests a waiver of reporting and investigation requirements for injuries because UTA will be following the injury reporting requirements which will be established by UDOT, as required by UTA's System Safety Program Plan (SSPP). In addition, UTA is responsible for compliance with applicable Occupational Safety and Health Administration workplace injury reporting requirements. Compliance with FRA regulations for injuries on the Shared Trackage would require the creation of a separate administrative structure for injury reporting, which would place an unnecessary administrative burden on UTA without enhancing safety.

Part 228 Records and Reporting

Sections 228.17(a) (2)–(10) of part 228 contain train movement recordkeeping requirements to be maintained by persons performing dispatcher functions. These requirements are intended to aid FRA in enforcing the statutory hours of service requirements by providing a detailed record of train movements and crew locations.

Justification

UTA requests a waiver of these requirements because they will create an unnecessary paperwork burden for UTA, while providing little of the benefit they do in the freight railroad operating environment. The requirements of §§ 228.17(a)(2)–(10) are designed for freight railroad operations, where there usually are multiple dispatching districts, varying train consists, routes and locomotive power units, changing train schedules, and unscheduled trains. On freight railroads dispatcher and train crew working hours may vary and reporting stations may change. Usually work is not confined to a short segment of rail line and overnight time away from home is common. In this environment the FRA-required dispatcher records are useful for keeping track of trains and train crews, which is essential to assuring compliance with the hours of service requirements without disruption to service.

TRAX service, however, is very different. TRAX Controllers will operate out of one facility, running the same consist on the same route every operating day. TRAX service will operate on a scheduled basis on a 15-mile line, and will make station stops. Controllers and vehicle operators will work fixed schedules, with many of the same controllers and vehicle operators working the same hours each week. TRAX records maintained by other personnel will contain information on the controllers and vehicle operators working on particular times on particular days. Controllers and vehicle operators will not need to be away from their home terminals as part of their work duty. Although TRAX controllers will control the movement of freight trains once the trains are admitted to the Shared Trackage, the controllers are not responsible for dispatching freight trains or tracking crew movements generally. Thus, in the TRAX operating environment, the standard records maintained by UTA on train and train crew movements and operator attendance will provide sufficient information to determine service hours worked.

Part 229 Railroad Locomotive Safety Standards

Sections 229.46–229.59 set forth standards related to operation and maintenance of railroad locomotive air brake systems. These requirements are intended to ensure that locomotive brake components are and remain in good working order to permit the proper function of the brake system and to

reduce the likelihood of accidents due to failures of locomotive brakes and/or brake system components.

Justification

Standard railroad locomotives employ air brake systems and §§ 229.46–229.59 are designed to regulate such systems. The TRAX vehicles, however, use electrically activated hydraulic brakes, supplemented by dynamic brakes and magnetic track brakes. Because the TRAX vehicles do not have air brakes, §§ 229.46–229.59 are not applicable to the TRAX vehicle brake system. UTA assures FRA, however, that safety will not be compromised. UDOT regulations and UTA's Safety Plan for the operation and maintenance of the TRAX System will require that the inspection, testing, maintenance and operation of the brake equipment on the TRAX vehicle rise to an equivalent level of safety as that achieved through compliance with §§ 229.46–229.59 on conventional commuter rail equipment.

UTA requests that FRA confirm that §§ 229.46–229.59 are not applicable to the TRAX System. Alternatively, should FRA determine that these sections do apply, UTA requests a waiver of these sections since the differences between air brake and electrically activated hydraulic brake systems render application of the requirements inappropriate and because UDOT regulations and the UTA Safety Plan will provide an equivalent level of safety.

Section 229.61 Draft System

Section 229.61 requires that couplers be free of excessive slack, breaks and cracks in certain critical component areas. Section 229.61 also requires a device to be provided to prevent drawbar and articulated connection pins from falling out in the case of breakage. The purpose of these requirements is to ensure that the coupler is in good working order to perform as required.

Justification

UTA requests a waiver from the requirements in § 229.61 because the TRAX vehicles do not utilize a draft system for coupling. Rather, the TRAX vehicle has a Scharfenberg Coupler, which is an automatic way of connecting the light rail vehicles both physically and electrically. As the two couplers come into contact with each other, the indexed male/female coupler faces its mate providing a ridged interface. As the coupler faces come together the electrical head cover swings up and allows the pin connectors to engage, allowing train line communication. The coupler is an energy absorbing connecting device in both buff and draft. The coupler is capable of absorbing 175 kN at a velocity of 3 mph. The buff and draft loads are transmitted to the car underframe via the coupler shank and rubber cushion draw gear. When the two couplers are connected, the coupler locks form a parallelogram where the draft forces are counterbalancing each other, thus making unintentional uncoupling impossible. The coupler attaches to the vehicle underframe via four cap bolts torqued to 295 ft. lbs. See Exhibit J. The Safety Plan will provide for operation and maintenance of vehicle couplers in good working order.

Section 229.65 Spring Rigging

Section 229.65 sets forth requirements for the safety of springs and shock absorbers. The purpose of these requirements is to ensure that these components are in good working order and that safety hazards will be minimized if the components do break.

Justification

UTA requests a waiver of the requirements of § 229.65 because the TRAX vehicle has a different type of suspension system than that envisioned by the regulation. The suspension system of the TRAX vehicle consists of a primary elastometric element (Chevron spring type) and a secondary coil spring. The maximum amount of vehicle drop in the event of spring breakage is three inches. In the event of a vehicle derailment, the powered and non-powered bogies are held to the car frame using bogie retainer rods.

In accordance with the Safety Plan, UTA will maintain the TRAX vehicles' suspension system to ensure that the suspension system is free of material defects and operates in good working order.

Section 229.71 Clearance above Top of Rail

Section 229.71 requires that no part or appliance of a locomotive, with limited exceptions, be less than 2 1/2 inches above the top of rail. The purpose of this requirement is to ensure that inappropriate parts of the locomotive do not make contact with the tracks or obstructions on the tracks, thereby decreasing the risk of derailment.

Justification

UTA requests a waiver from this requirement because the track brakes on the TRAX vehicle are located between the wheels of the truck just one inch above the rail. The track brakes, which are essentially large magnets, must be positioned there to operate properly. However, the presence of the track brakes close to the track does not present a safety hazard. Because of the placement of the brakes between the wheels, any obstruction on the track would be struck by the wheels before striking the brakes.

Section 229.77(b) Current Collectors

Section 229.77(b) requires that each pantograph operating on an overhead trolley wire have a device for locking and grounding it in the lowest position, which can be applied and released only from a position where the operator has a clear view of the pantograph and roof and without mounting the roof. The purpose of this requirement is to reduce the risk of electrical shock injury due to defective or ungrounded pantographs.

Justification

UTA requests a waiver from this requirement because in the TRAX vehicle the operator will not be able to see the pantograph from the cab. However, if the pantograph is defective, the train will be unable to move and the operator will know there is a problem with the pantograph. On the TRAX vehicles, the pantograph is raised and lowered electrically from inside the controlling cab. In the event that manually raising or lowering the pantograph is necessary, it is done from inside the vehicle with a specialized tool. Thus, the operator remains separated from risks associated with contact with the pantograph.

Section 229.125 Headlights and Auxiliary Lights

Sections 229.125(a), (b), (d), and (f) contain specifications for the placement and brightness of locomotive headlights and auxiliary lights. The purpose of these requirements is to reduce the risk of collisions attributable to inconspicuity of the train, particularly in low light level situations.

Justification

UTA requests a waiver from this requirement because the exterior lighting of the TRAX vehicle is designed in conformance with §§ 5.01 and 5.02 of Appendix A of CPUC General Order 143–A. See Exhibit I. These lights on the TRAX vehicles will provide an equivalent level of conspicuity to the vehicles, thereby meeting FRA's regulatory objective.

In accordance with CPUC General Order 143–A, the TRAX vehicles will be equipped with two headlights that are capable of revealing a person or motor vehicle in clear weather at a distance of 600 feet and which will be adjusted so as not to interfere with the vision of

motor vehicle drivers. The TRAX vehicles also will be equipped with a third light, centrally positioned near the top of the vehicle, creating a triangle configuration with the headlights. This triangular lighting configuration will render the TRAX vehicle easily distinguishable to motor vehicles and freight trains.

In addition, the TRAX vehicle will have two red lights which will emit a light plainly visible in clear weather from a distance of not less than 500 feet to the rear of the train. The TRAX vehicle will also have two red stoplights mounted on the end with the taillights. These stoplights will be capable of producing approximately 150 percent of the intensity of the taillights and will be illuminated whenever any brake other than the parking brake is applied. These lights will make the TRAX vehicle clearly visible to any other train on the tracks, as well as to motor vehicle traffic at grade crossings.

Section 229.135 Event Recorders

Section 229.135 requires that, with certain exceptions, any train which is operated faster than 30 mph must be equipped with an in-train event recorder in the lead locomotive. Event recorders keep automatic records of various type of train activities, such as speed, brake applications, signals passed, etc., that can be used both to aid in the reconstruction of accidents and to monitor safety compliance by train operators.

Justification

UTA requests a waiver from this requirement because the TRAX vehicles will not be equipped with event recorders. However, the Train Control Units (TCU) within each vehicle are capable of capturing all of the information required by the regulation, except for throttle position. Although the TCU is not a continuous recorder, it is activated any time a fault is seen and the information captured is saved indefinitely (it cannot be overwritten like it can be on a traditional event recorder). Consequently, in the event of an accident, the TCU will capture virtually all the same information required by the regulation, making this information available to UTA and state and federal investigators for accident reconstruction and safety oversight purposes.

Part 231 Passenger Cars Without End Platforms

Section 231.14 specifies the requisite location, number, dimensions, and manner of application of a variety of railroad car safety appliances (*e.g.*, hand brakes, ladders, handholds, steps), directly implementing a number of statutory requirements found in 49 U.S.C. 20301 through 20305.

The statute contains specific standards for automatic couplers, sill steps, hand brakes, and secure ladders and running boards. Where ladders are required, the statute mandates compliant handholds or grab irons for the roof of the vehicle at the top of each ladder. Compliant grab irons or handholds also are required for the ends and sides of the vehicles, in addition to standard height drawers. In addition, the statute requires trains to be equipped with a sufficient number of vehicles with power or train brakes so that the engineer may control the train's speed without the use of a common hand brake. At least 50 percent of the vehicles in the train must be equipped with power or train brakes, and the engineer must use the power or train brakes on those vehicles and all other vehicles equipped with such brakes that are associated with the equipped vehicles in the train.

Aside from these statutory-based requirements, the regulations provide additional and parallel specifications for hand brakes, sill steps, side handholds, end handholds, end handrails, side-door steps and uncoupling levers. More specifically, each passenger vehicle must be equipped with an efficient hand brake that operates in conjunction with the power brake on the train. The hand brake must be located so that it can be safely operated while the passenger vehicle is in motion. Passenger cars must have four sill steps and side-door steps and prescribed tread length, dimensions, material, location, and attachment devices for sill steps and side-door steps. In addition, there are requirements for the number, composite material, dimensions, location, and other characteristics for side and end handholds and end handrails. Finally, this section requires the presence of uncoupling attachments that can be operated by a person standing on the ground.

These very detailed regulations are intended to ensure that sufficient safety appliances are available and that they will function safely and securely as intended.

Justification

As noted above, some of the requirements in § 231.14 are required by statute and, therefore, are not subject to waiver under FRA's regulatory waiver provisions. FRA does, however, have the statutory authority to provide exemptions from these statutory requirements. 49 U.S.C. 20306. Consequently, UTA requests exemption from and/or waiver of these requirements, as appropriate, because the TRAX light rail vehicles will be equipped with their own array of safety devices resulting in equivalent safety. These are discussed below in greater detail.

The TRAX light rail vehicles are low boarding vehicles. The risk of falling while climbing aboard the vehicle is minimal, and therefore most of the listed appliances are not necessary for safety. The TRAX light rail vehicles do, however, have equivalent versions of some of the safety appliances that are tailored to TRAX operations. For example, to ensure passenger and crew safety during the embarking/disembarking process and during operation of the vehicles, the TRAX light rail vehicles are equipped with grab handles and bars. In addition, each vehicle is equipped with an appliance running the length of the front of the vehicle to provide protection against foreign objects being caught under the car body while the vehicle is in motion. Also, the TRAX light rail vehicles are equipped with automatic couplers, rendering uncoupling levers unnecessary.

The TRAX light rail vehicles will have brakes that meet the standards set forth in CPUC General Order 143–A, Exhibit I, and will be inspected, tested, and maintained as required by Section 5 of the UTA Safety Plan, Exhibit G. Therefore, the TRAX light rail vehicle brake system will be equivalent to a standard air brake system, and thus provide an equivalent level of safety.

UTA is aware that it may obtain exemption from the statutory safety appliance requirements mentioned above only if application of such requirements would ''preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations.'' 49 U.S.C. 20306. The exemption for technological improvements was originally enacted to further the implementation of a specific type of freight car, but the legislative history shows that Congress intended the exemption to be used elsewhere so that ''other types of railroad equipment might similarly benefit.'' S. Rep. 96–614, at 8, (1980), reprinted in 1980 U.S.C.C.A.N. 1156, 1164.

FRA has recognized the potential public benefits of temporally separated transit use on segments of the general railroad system. Light rail transit systems ''promote more livable communities by serving those who live and work in urban areas without adding congestion to the nation's overcrowded

highways.'' FRA Policy Statement at 28238. They ''take advantage of underutilized urban freight rail corridors to provide service that, in the absence of the existing right of way, would be prohibitively expensive.'' There have been many technological advances in types of equipment used for passenger rail operations, such as the use of light rail transit vehicles that will be used for the TRAX light rail system. Light rail transit equipment is energy efficient for passenger rail operations because it is lighter than conventional passenger equipment. Most light rail vehicles are electric, which reduces air pollution. Light rail vehicles are able to quickly accelerate or decelerate, which makes them more suitable than other equipment types in systems with closely-configured stations. Denying UTA's request for an exemption from certain safety appliance requirements, would preclude the implementation of light rail transit for shared use/temporal separation operations. Moreover, compliance with the statutory requirements is not necessary for safe operations.

With regard to the regulatory requirements of § 231.14, the TRAX light rail vehicles will be equipped with safety appliances that are more appropriate for light rail transit vehicles, thus achieving an equivalent or superior level of safety in the TRAX operating environment.

Section 234.105(c)(3) Activation Failure

Section 234.105 sets forth procedures to be followed in the event of a failure of the activating mechanism of a highway-rail grade crossing warning system. Section 234.105(c) provides for alternative means of actively warning highway users of approaching trains during periods of warning system activation failure. These requirements are intended to prevent collisions between motor vehicles and trains at grade crossings due to failure of the grade crossing warning system by providing for alternate means of controlling traffic at such crossings.

Justification

UTA requests a waiver from this requirement because this procedure is not compatible with TRAX operations. In cases of grade crossing warning system activation failures, UTA will deploy flaggers or request the deployment of uniformed law enforcement officers to provide traffic control services, in accordance with the requirements of this section. However, there may be times at which no flagger or uniformed law enforcement officer is available. In such instances, UTA will not be able to follow the procedure in § 234.105(c)(3) to move the train through the crossing because the TRAX vehicles will be operated by one person crews, and that crewmember cannot leave the train to flag the crossing. Instead, UTA proposes to bring the train to a full stop at the crossing, sound an appropriate audible warning device on the vehicle, then proceed through the crossing at restricted speed as conditions permit (in any case less than 15 mph). The combination of the proposed procedure along with the fact that almost all of the crossings will have non-mountable clearly marked medians, will provide a level of safety equivalent to that provided by the FRA rule, while causing less disruption to TRAX service.

Section 238.113 Emergency Window Exits

Section 238.235 requires passenger cars to have a minimum of four emergency exit windows of specified size and operational characteristics. This requirement is intended to provide for sufficient, easily accessible avenues of egress from passenger cars in the case of emergency.

Justification

UTA requests a waiver of this requirement on the same basis with, and with the same justification as, the waiver requested for § 223.15(c).

Section 238.115(b) Emergency Lighting and Back-up Power

Section 238.123(b) requires passenger cars to provide battery powered emergency lighting meeting certain specified standards. The purpose of this requirement is to ensure that in an emergency situation, sufficient lighting will remain available to aid passengers, crew members and, rescue personnel to access and leave the train safely.

Justification

UTA seeks a waiver from some of the requirements of § 238.115(b) because the TRAX vehicle uses an emergency lighting system typical of light rail vehicles in service throughout North America.

The emergency lighting on the TRAX vehicle will operate in all equipment within 45 degrees of vertical and will operate for a period of at least four hours, in excess of the FRA standard. The emergency lights, placed over every other door, will provide sufficient light to facilitate easy egress from and access to the low interior floor. The emergency lighting and back-up power in the operator's cab will be sufficient to permit safe operation of the control, radio, and public address system.

TRAX vehicles will operate in an urban/suburban region; the route is at-grade with many easy points of access. The farthest distance between the track and a street access point is 1,000 feet. Emergency responders will be able to reach any portion of the system reasonably quickly.

The TRAX emergency lighting and back-up power systems will provide necessary and adequate functioning in the TRAX environment. This request is consistent with FRA's position on the appropriate treatment of this part as stated in the Policy Statement. Policy Statement at 28242. Accordingly, a waiver of § 238.115(b) is justified.

Section 238.203 Static End Strength

Section 238.203 provides for the overall compressive strength of rail passenger cars. This section is intended to prevent sudden, brittle-type failure of the main structure of a passenger car, thereby providing protection of occupants in the case of a crash.

Justification

UTA requests a waiver of these requirements because the TRAX vehicles are constructed to comply with Sections 6.02—6.03 of Appendix A of CPUC General Order 143–A. Specifically, each TRAX vehicle will be equipped with collision or cab-end corner posts, and the connection of the corner posts to the supporting structures (and the supporting structure itself) must be able to develop the full bending capacity of the collision or corner posts. Further, the vehicle will be designed and constructed such that all major structural components meet or exceed the following for both an unloaded and a fully loaded LRV body: under the action of an end compression load applied to twice the unladen car body weight applied longitudinally at the end sills, there shall be no permanent strain in any structural member and there shall be no stress in any such member exceeding the yield strength of yield point of the material.

The TRAX vehicle is manufactured using a low alloy high tensile steel frame. This framework consists of two end sections attached to a single articulation joint. Each end section is made up of an end underframe which contains the anti-climber, body bolster, corner posts and the anti-telescoping structural safety design feature. The SD 100 design permits end structure loading to be transferred from the anti-climber through the corner posts up to the roof structure. This transfer of structural loading to the roof structure

helps to protect the passenger compartment by preventing the floor structure from receiving the full load. The car body side sheets also add to the structural integrity of the SD 100 car body. The TRAX vehicle has a specified compression load at coupler anchorage level of 445 kN (100,000 lbs). The tested compression loading, using an empty car at the level of the anti-climber, was 687.21 kN (154,500 lbs). This is in line with the design compression loads commonly found on light rail transit vehicles in service in North America.

UTA believes that the design and construction of the TRAX vehicles will provide an equivalent level of safety, particularly in the TRAX operating environment. As noted previously, because of the temporal separation of the freight and passenger operations over the TRAX line, the risk of collisions between freight and passenger trains is virtually eliminated. Consequently, the need for the TRAX vehicles to have sufficient structural strength to survive a collision with a freight train is minimized. The CPUC standard for light rail vehicles will ensure that the vehicles will have sufficient structural capacity to survive collision with each other or other objects (such as motor vehicles) with limited risk of injury to occupants.

Section 238.205(b) Anti-climbing Mechanism

Section 238.205(b) requires locomotives, including MU locomotives (as defined in § 238.5), to have forward and rear end anti-climbing mechanisms capable of resisting an upward or downward vertical force of 200,000 pounds without failure. These requirements are intended to prevent override or telescoping of one passenger train unit into another in the event of high compressive forces caused by a derailment or collision.

Justification

UTA requests a waiver from these requirements because the TRAX vehicle will have an anti-climber mechanism on each end of the vehicle designed and constructed with projecting steel corrugations that will interlock with a similar device on another LRV, as required under Section 6.01 of Appendix A of CPUC General Order 143–A.

UTA believes that the design and construction of the TRAX vehicle anti-climbers will provide an equivalent level of safety, particularly in the TRAX operating environment. As noted previously, because of the temporal separation of the freight and passenger operations over the TRAX line, the risk of collisions between freight and passenger trains is significantly reduced. Consequently, a requirement that the TRAX vehicles have anti-climbers designed to sustain a collision with a freight train is unnecessarily burdensome. The CPUC standard for light rail vehicles will ensure that the anticlimbers function as intended to lessen the severity of collision between light rail vehicles.

Section 238.207 Link Between Coupling Mechanism and Car Body

Section 238.207 sets forth strength requirements for the link between the car coupling mechanism and the car body. The purpose of this requirement is to avoid a premature failure of the draft system so that the anticlimbing mechanism will have an opportunity to engage.

Justification

UTA requests a waiver from the requirements of § 238.207 because the TRAX vehicle does not utilize a draft system for coupling. Rather, the TRAX vehicle has a Scharfenberg Coupler, which is an automatic way of connecting the light rail vehicles both physically and electrically. As the two couplers come into contact with each other, the indexed male/female coupler faces its mate providing a ridged interface. As the coupler faces come together the electrical head cover swings up and allows the pin connectors to engage, allowing train line communication. The coupler is an energy absorbing connecting device in both buff and draft. The coupler is capable of absorbing 175 kN at a velocity of 3 mph. The buff and draft loads are transmitted to the car underframe via the coupler shank and rubber cushion draw gear. When the two couplers are connected, the coupler locks form a parallelogram where the draft forces are counterbalancing each other, thus making unintentional uncoupling impossible. The coupler attaches to the vehicle underframe via four cap bolts torqued to 295 ft. lbs. The Safety Plan will provide for operation and maintenance of vehicle couplers in good working order.

Section 238.209 Forward-Facing End Structure of Locomotives

Section 238.209 prescribes several strength-related characteristics for the skin of the forward-facing end of each locomotive. These requirements are intended to provide protection to persons in the occupied area of the locomotive cab.

Justification

UTA requests a waiver from these requirements because the TRAX vehicles are designed to meet standard light rail transit car specifications. The TRAX vehicle is manufactured with a low alloy high tensile steel frame. This framework consists of two end sections attached to a single articulation joint. Each end section is made up of an end underframe which contains the anti-climber, body bolster, corner posts, and the anti-telescoping structural safety design feature. This design permits end structure loading to be transferred away from the end of the locomotive to the roof structure, providing protection to the passengers and crew inside the vehicle. This design has been used in light rail vehicles in service throughout the country without reported problems arising related to the front end strength of the vehicles.

Section 238.211 Collision Posts

Section 238.211 requires passenger equipment to have two full-height collision posts of specified strength at each end where coupling and uncoupling are expected. This requirement is intended to provide for protection against crushing of occupied areas of passenger cars in the event of a collision or derailment.

Justification

UTA requests a waiver of these requirements because the TRAX vehicles are constructed to comply with §§ 6.02–6.03 of Appendix A of CPUC General Order 143–A. Specifically, each TRAX vehicle will be equipped with collision or cab-end corner posts, and the connection of the corner posts to the supporting structures (and the supporting structure itself) must be able to develop the full bending capacity of the collision or corner posts. Further, the vehicle will be designed and constructed such that all major structural components meet or exceed the following for both an unloaded and a fully loaded LRV body: under the action of an end compression load applied to twice the unladen car body weight applied longitudinally at the end sills, there shall be no permanent strain in any structural member and there shall be no stress in any such member exceeding the yield strength of yield point of the material.

The TRAX vehicle is manufactured using a low alloy high tensile steel frame. This framework consists of two end sections attached to a single articulation joint. Each end section is made up of an end underframe which contains the anti-climber, body bolster,

corner posts, and the anti-telescoping structural safety design feature. The SD 100 design permits end structure loading to be transferred from the anti-climber through the corner posts up to the roof structure. This transfer of structural loading to the roof structure helps to protect the passenger compartment by preventing the floor structure from receiving the full load. The car body side sheets also add to the structural integrity of the SD 100 car body. The TRAX vehicle has a specified compression load at coupler anchorage level of 445 kN (100,000 lbs). The tested compression loading, using an empty car at the level of the anti-climber, was 687.21 kN (154,500 lbs). This is in line with the design compression loads commonly found on light rail transit vehicles in service in North America.

The design and construction of the TRAX vehicles will provide an equivalent level of safety, particularly in the TRAX operating environment. As noted previously, because of the temporal separation of the freight and passenger operations over the TRAX line, the risk of collisions between freight and passenger trains is virtually eliminated. Consequently, the need for the TRAX vehicles to have sufficient structural strength to survive a collision with a freight train is minimized. The CPUC standard for light rail vehicles will ensure that the vehicles will have sufficient structural capacity to survive collision with each other or other objects (such as motor vehicles) with limited risk of injury to occupants.

Section 238.213 Corner Posts

Section 238.213 requires two full-height corner posts of specified strength at the end of each vehicle. These requirements serve to provide protection to occupant compartments from side-swipe type collisions.

Justification

UTA requests a waiver of these requirements because the TRAX vehicles are constructed to comply with §§ 6.02–6.03 of Appendix A of CPUC General Order 143–A. Specifically, each TRAX vehicle will be equipped with collision or cab-end corner posts, and the connection of the corner posts to the supporting structures (and the supporting structure itself) must be able to develop the full bending capacity of the collision or corner posts. Further, the vehicle will be designed and constructed such that all major structural components meet or exceed the following for both an unloaded and a fully loaded LRV body: under the action of an end compression load applied to twice the unladen car body weight applied longitudinally at the end sills, there shall be no permanent strain in any structural member and there shall be no stress in any such member exceeding the yield strength of yield point of the material.

The TRAX vehicle is manufactured using a low alloy high tensile steel frame. This framework consists of two end sections attached to a single articulation joint. Each end section is made up of an end underframe which contains the anti-climber, body bolster, corner posts, and the anti-telescoping structural safety design feature. The SD 100 design permits end structure loading to be transferred from the anti-climber through the corner posts up to the roof structure. This transfer of structural loading to the roof structure helps to protect the passenger compartment by preventing the floor structure from receiving the full load. The car body side sheets also add to the structural integrity of the SD 100 car body. The TRAX vehicle has a specified compression load at coupler anchorage level of 445 kN (100,000 lbs). The tested compression loading, using an empty car at the level of the anti-climber, was 687.21 kN (154,500 lbs). This is in line with the design compression loads commonly found on light rail transit vehicles in service in North America.

The design and construction of the TRAX vehicles will provide an equivalent level of safety, particularly in the TRAX operating environment. As noted previously, because of the temporal separation of the freight and passenger operations over the TRAX line, the risk of collisions between freight and passenger trains is virtually eliminated. Consequently, the need for the TRAX vehicles to have sufficient structural strength to survive a collision with a freight train is minimized. The CPUC standard for light rail vehicles will ensure that the vehicles will have sufficient structural capacity to sustain collision with each other or other objects (such as motor vehicles) with limited risk of injury to occupants.

Section 238.215 Rollover Strength

Section 238.215 sets forth the structural requirements intended to prevent significant deformation of the occupant compartments of passenger cars in the event the car rolls onto its side or roof. Under this section, a passenger car must be able to support twice the dead weight of the vehicle while the vehicle is resting on its roof or side.

Justification

UTA requests a waiver from the requirements of § 238.215 because the TRAX vehicle is built to different design criteria which will provide an equivalent level of safety. The TRAX vehicle employs a low alloy high tensile steel frame in a lightweight low-floor design. The low-floor design lowers the center of gravity, as well as the load conditions, in rollover circumstances. The lower center of gravity makes the TRAX vehicle less prone to rollover than a standard commuter rail car. Moreover, in the unlikely event of a rollover, the lighter weight of the TRAX vehicle means that the roof does not have to support as much weight as a standard commuter rail car. Finally, the design features of the TRAX vehicle provide for structural protection of the occupant compartments, achieving an adequate level of safety.

The basic TRAX vehicle design has been in use in transit systems throughout North America for the last 20 years without reported problems related to rollover strength issues.

Section 238.217 Side Structure

Section 238.217 sets strength requirements for side posts, corner braces and outside sheathing. These specifications are intended to provide for additional structural protection, so that a car will derail before it collapses into the occupant compartments.

Justification

UTA requests a waiver from the requirements of § 238.217 because the TRAX vehicle is built to different design criteria which will provide an equivalent level of safety. The TRAX vehicle is manufactured using a low alloy high tensile steel frame with car body side sheets which provide protection to the occupant compartment of the vehicle by safeguarding the structural integrity of the vehicle, while also maintaining the vehicle's lightweight design features. Additionally, the relatively short train length ensures that the vehicle will not occupy a grade crossing for an extended period, lowering the risk of collisions.

Overall, UTA believes that although the TRAX vehicle may not conform to the specific requirements of the regulation, the vehicle will provide, in conjunction with the other safety design features of the vehicle, a sufficient measure of safety.

Section 238.221 Glazing

Section 238.221 reiterates the safety glazing standards of 49 CFR part 223 and establishes standards for glazing securement components. The new requirements for glazing securement are designed to ensure that the glazing frame be capable of holding the glazing

in place against all forces which it is required to resist under part 223, and forces created by air pressure differences caused when two trains pass at their authorized maximum speeds in opposite directions at the minimum track separation for two adjacent tracks. Glazing forced from the window opening is a potential hazard.

UTA will be in compliance with the new glazing securement requirements, but seeks a waiver from § 238.221 on the same basis as the waiver request for the part 223.

Section 238.229 Safety Appliances

This section reiterates the applicability of the safety appliance requirements of 49 CFR part 231 to passenger train cars. UTA seeks a waiver from this section on the same basis and with the same justification, as the waiver requested from the part 231 requirements directly.

Section 238.231 Brake System

Section 238.231 sets forth standards related to operation and maintenance of passenger rail equipment brake systems. These requirements are intended to ensure that passenger rail equipment brake components are and remain in good working order to permit the proper function of the brake system and to reduce the likelihood of accidents due to failures of brakes and/or brake system components.

Justification

Standard commuter rail equipment employs air brake systems and § 238.231 is designed to regulate such systems. The TRAX vehicles, however, use electrically activated hydraulic brakes, supplemented by dynamic brakes and magnetic track brakes. Because the TRAX vehicles do not have air brakes, the requirements of § 238.231 are not applicable to the TRAX vehicle brake system. UTA assures FRA, however, that safety will not be compromised. UTA's Safety Plan for the operation and maintenance of the TRAX System will require the inspection, testing, maintenance, and operation of the brake equipment on the TRAX vehicle to an equivalent level of safety as that achieved through compliance with § 238.231 on conventional commuter rail equipment.

UTA requests that FRA confirm that § 238.231 is not applicable to the TRAX System. Alternatively, should FRA determine that the requirements of this section do apply, UTA requests a waiver of these sections because the differences between air brake and electrically activated hydraulic brake systems render application of the requirements inappropriate and because the UTA Safety Plan will provide an equivalent level of safety.

Section 238.233 Interior Fittings and Surfaces

Section 238.233 set forth strength requirements for passenger car interior fittings such as seats, overhead racks, and other similar items. In addition, to the extent possible, all interior fittings in the passenger car are to be recessed or flush-mounted and sharp edges and corners in the locomotive cab or passenger car must be either avoided or padded. These requirements are designed to reduce the likelihood and severity of injury to train occupants caused by the dislodging of seats or other interior items or by occupants striking interior items in the event of an accident.

Justification

UTA seeks a waiver of the requirements of § 229.233 because although the TRAX vehicle interior is designed to provide a safe passenger environment, the vehicle may not meet the specific strength requirements set forth in the regulation. The TRAX vehicle seats are designed with a rigid floor pedestal and wall mounting system widely used throughout the transit industry with a good safety record. The interior fittings are designed to standard transit industry standards for passenger safety and comfort and will not pose a hazard to passengers. The interior design standards will provide an equivalent level of safety to the FRA requirements.

Part 238 Inspection, Testing and Maintenance

Subpart D of part 238, §§ 238.301 through 238.319, contains requirements pertaining to the inspection, testing, and maintenance of the passenger equipment and systems required for Tier I passenger equipment. These requirements are designed to ensure that passenger rail operations are conducted only on vehicles whose components and systems are in good working order, thereby reducing both the chances of an equipment-related accident and the severity of damage or injury in the case of an accident.

UTA anticipates being in compliance with the requirements of subpart D. However, UTA requests a waiver from any requirements that correlate to the subpart B or C standards from which UTA has sought waivers. TRAX equipment will be subject to a detailed program of inspection, testing, and maintenance, as required by the state of Utah and UTA's own Safety Plan.

Part 239 Emergency Preparedness

Part 239 contains standards for the preparation, adoption, and implementation of emergency preparedness plans by railroads connected with the operation of passenger trains. It is intended that by providing sufficient emergency egress capability and information to passengers, and by having emergency preparedness plans calling for coordination with local emergency response officials, the risk of death or injury to passengers, employees and others in the case of accidents or other incidents, will be lessened. This rule was adopted as a result of several serious crashes involving commuter trains.

Justification

UTA requests a waiver from the part 239 requirements because UTA will be following UDOT emergency preparedness requirements. UTA believes that compliance with the UDOT emergency preparedness requirements will provide a level of safety equivalent or superior to the FRA standards. The Emergency Response Plan provides for emergency preparedness activities. Procedures requiring interface with outside agencies, such as police and fire, will be closely coordinated. Regular drills will be performed with these agencies to simulate real-world conditions. These emergency preparedness standards have been tailored to the TRAX System, but also draw on the experience of emergency preparedness standards form other rail transit systems whose operations and equipment more closely resemble TRAX than other FRA-regulated commuter rail systems.

Part 240 Qualification and Certification of Locomotive Engineers

Part 240 contains regulations relating to the qualification and certification of locomotive engineers. The locomotive engineer shoulders significant responsibility for the safety of him/herself and others in the railroad operating environment. Through the regulation's training, eligibility, testing, and monitoring standards, FRA seeks to ensure that only sufficiently qualified individuals are entrusted with those unique responsibilities.

Justification

UTA requests a waiver from these requirements because UTA will be following its own operator training and qualification standards under the oversight of UDOT. UTA believes that compliance with its own operator qualification and training requirements

will provide at least an equivalent level of safety. Under the Safety Plan, train operators must receive formal certification to operate on the TRAX System and must receive an annual re-certification, or be re-certified as required in response to rules, violations and long-term absences from the system. See Exhibit G. Train operator training is a four-week course combining classroom and field training. Subjects includes rules, standard operating procedures, emergency operating procedures, light rail vehicle orientation, light rail vehicle troubleshooting, system orientation, and communications. Train operators must pass written and field tests to successfully complete the course. In addition, the TRAX operating rules call for a system of discipline, leading to possible decertification for train operators who violate operating rules.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with either the request for a waiver of certain regulatory provisions or the request for an exemption of certain statutory provisions. If any interested party desires an opportunity for oral comment, he or she should notify FRA, in writing, before the end of the comment period and specify the basis for his or her request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA 1999–6253) and must be submitted to the DOT Docket Management Facility, Room PL–401 (Plaza level) 400 Seventh Street, SW, Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, D.C. on September 27, 1999.

Michael Logue,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 99–25541 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–1999–6070]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No. FRA–1999–6070

Applicant: Burlington Northern and Santa Fe Railway Mr. William G. Peterson Director Signal Engineering 4515 Kansas Avenue Kansas City, Kansas 66106.

Burlington Northern and Santa Fe Railway seeks approval of the proposed annual modification of the signal system for winter operation, on the two main tracks, between milepost 1151.74 and milepost 1152.34, near Marias, Montana, on the Montana Division, Hi Line Subdivision. The proposed changes consist of the following, on an annual basis, during winter operations:

1. Temporarily spike, clamp, and disable switch controls in field for power-operated double crossover switches;
2. Temporarily discontinue and turn to the field, the westbound home signals at Marias; and
3. Temporarily extend the OS out to the existing westbound repeater signals, remove the number boards from the westbound repeater signals, and in effective convert the westbound repeater signals to the new westbound home signals.

The reasons given for the proposed changes are that during winter operations it is impossible to keep switches clear of snow, causing train delays due to switches being out of correspondence, and the potential for unsafe air loss associated with stopping on a 1.66 percent grade can be prevented.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, D.C. 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, S.W., Washington, D.C. 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on September 27, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–25540 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No. FRA–1999–6071

Applicant: Union Pacific Railroad Company, Mr. Phil Abaray, Chief Engineer—Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

Union Pacific Railroad Company seeks approval of the proposed modification of the signal systems, on

the two main tracks, near Houston, Texas, on the Houston East Belt and Houston West Belt Subdivisions, consisting of the discontinuance and removal of 30 automatic leaving signals at the following locations:

Houston East Belt Subdivision
- milepost 3.4—signals No.'s 109 and 107
- milepost 8.2—signals No.'s 59 and 61
- milepost 9.1—signals No.'s 54 and 52
- milepost 9.4—signals No.'s 53 and 51
- milepost 10.6—signals No.'s 40 and 38
- milepost 11.3—signals No.'s 33 and 35
- milepost 12.1—signals No.'s 32 and 34
- milepost 12.75—signals No.'s 19 and 17
- milepost 13.2—signals No.'s 14 and 16
- milepost 13.3—signals No.'s 11 and 9
- milepost 14.3—signals No.'s 6 and 4

Houston West Belt Subdivision
- milepost 7.6—signals No.'s 225 and 227
- milepost 8.1—signals No.'s 220 and 218
- milepost 8.3—signals No.'s 219 and 221
- milepost 9.6—signals No.'s 206 and 204

The reason given for the proposed changes is that the leaving signals are redundant and that only entering signals are used to control train movements.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, S.W., Washington, D.C. 20590–0001. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C., on September 27, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–25539 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–6270]

Notice of Public Meeting for Strategies to Address the Potential for Driver Distraction Due to Emerging Vehicle Technologies

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

ACTION: Notice of public meeting.

SUMMARY: On October 15, 1999, NHTSA will conduct a public meeting to discuss strategies for realizing the benefits of advanced driver assistance and information technologies without compromising safety. These new technologies, known as telematics, include a range of automotive devices to transmit, receive, or display information. The intent of this meeting is to share viewpoints, information, and findings, if any, relative to the safety impact of telematics devices among the public, industry, government, and safety groups. Topics to be discussed include the need for research to understand the safety implications of telematics, the role of various entities in promoting best practices in the design and use of these devices, and opportunities for proper evaluation of the safety impacts of such systems to ensure the safe design, application, and use of telematics devices.

DATES: Public Meeting: NHTSA will hold the public meeting on October 15, 1999, from 9 a.m. to 4 p.m.

Written Comments: The agency has established Docket No. NHTSA–99–6270 as a repository for comment on issues related to the safety of telematics devices. Written comments may be made to this docket at any time.

ADDRESSES: Public Meeting: The public meeting will be held in room 2230, U.S. Department of Transportation, 400 Seventh Street, SW, Washington DC 20590.

Written Comments: If you wish to submit written comments on the issues related to or discussed at this meeting, they should refer to Docket No. NHTSA–99–6270 and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, DC 20590 (Docket hours are from 10 a.m. to 5 p.m.).

FOR FURTHER INFORMATION CONTACT: Dr. August Burgett, Office of Vehicle Safety Research, 400 Seventh Street, SW, Washington, DC 20590 (telephone 202–366–5663, Aburgett@nhtsa.dot.gov) or Dr. Jeffrey Michael, EMS Division, NTS–14, 400 Seventh Street, SW, Washington, DC 20590 (telephone 202–366–4299, Jmichael@nhtsa.dot.gov).

SUPPLEMENTARY INFORMATION:

A. Background

The increasing utilization of certain advanced technologies in automobiles brings both the promise of safety enhancement and concerns about safety compromises due to the potential of crash causation. Technologies which transmit, receive, or display information from an automobile have collectively been termed telematics, and include devices such as automatic collision notification systems, navigation systems, and driver warning systems, as well as in-vehicle fax machines, telephones, and other communication equipment.

Many of the functions performed by these devices promise direct safety benefits, for example automatic notification of emergency personnel following a crash or hazard alerts to inform drivers of dangerous traffic and roadway conditions. However, devices which provide drivers with additional information could also distract the driver from the task of operating the vehicle and increase the risk of crashes.

B. Public Meeting

On October 15, 1999, NHTSA will conduct a public meeting, providing a forum for industry, safety, research groups, and the general public to discuss strategies for realizing the safety and other benefits of telematics technologies without compromising safety. The intent of this meeting is to share viewpoints, information, and findings relative to the issue of the safety impact of telematics devices. Topics to be discussed include current research plans among stakeholders, the need for further research to understand the safety implications of telematics, the role of policies to promote best practices in the design and use of these devices,

and opportunities for proper evaluation of the safety impact of these systems to ensure the safe design, application, and use of telematics devices.

C. Written Comments

Interested persons are invited to submit comments on this notice. Two copies should be submitted to Docket Management at the address given at the beginning of this document. Comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential information has been deleted should be submitted to Docket Management. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation, 49 CFR part 512.

Issued on: September 27, 1999.

Raymond P. Owings,

Associate Administrator for Research and Development.

[FR Doc. 99–25548 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–59–U

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on the Readjustment of Veterans, Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act, as amended (Pub. L. 92–463; 5 U.S.C. App.), that the Advisory Committee on the Readjustment of Veterans has been renewed for a 2-year period beginning September 22, 1999, through September 22, 2001.

Dated: September 23, 1999.

By Direction of the Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 99–25601 Filed 9–30–99; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act, as amended (Pub. L. 92–463; 5 U.S.C. App.), that the Department of Veterans Affairs' Advisory Committee on Women Veterans has been renewed for a 2-year period beginning September 22, 1999, through September 22, 2001.

Dated: September 23, 1999.

By Direction of the Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 99–25600 Filed 9–30–99; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 64, No. 190

Friday, October 1, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

48 CFR Part 237

[DFARS Case 99–D018]

Defense Federal Acquisition Regulation Supplement; Officials Not To Benefit Clause

Correction

In rule document 99–23731 beginning on page 49684, in the issue of Tuesday, September 14, 1999, make the following corrections:

237.7204 [Corrected]

1. On page 49684, in the second column, in section 237.7204, in paragraph 1(i), in the first line, ''Cause'' should read ''Course''.

2. On the same page, in the third column, in section 237.7204, in paragraph 1(m), in the first line, ''charge'' should read ''charges''.

[FR Doc. C9–23731 Filed 9–30–99; 8:45 am]

BILLING CODE 1505–01–D

Friday
October 1, 1999

Part II

Department of Housing and Urban Development

24 CFR Part 888

Fair Market Rents for the Section 8 Housing Assistance Payments Program—Fiscal Year 2000; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 888

[Docket No. FR–4496–N–02]

Fair Market Rents for the Section 8 Housing Assistance Payments Program—Fiscal Year 2000

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Final Fiscal Year (FY) 2000 Fair Market Rents (FMRs).

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish FMRs annually to be effective on October 1 of each year. FMRs are used for the Section 8 housing choice voucher program, the Moderate Rehabilitation Single Room Occupancy program, the project-based voucher program, and any other programs requiring their use. Today's notice provides final FY 2000 FMRs for all areas.

EFFECTIVE DATE: The FMRs published in this notice are effective on October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Operations Division, Office of Rental Assistance, telephone (202) 708–0477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Alan Fox, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0590, Extension 5863 (e-mail: alan__fox@hud.gov). Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TTY) by contacting the Federal Information Relay Service at 1–800–877–8339. (Other than the ''800'' TTY number, telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid lower income families in renting decent, safe, and sanitary housing. Housing assistance payments are limited by FMRs established by HUD for different areas. In the voucher program, the FMR is used to determine the ''payment standard'' (the maximum monthly subsidy) for assisted families (see Section 982.503.) In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

Method Used to Develop FMRs

FMR Standard

FMRs are gross rent estimates; they include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units. The current definition used is the 40th percentile rent, the dollar amount below which 40 percent of standard quality rental housing units rent. The 40th percentile rent is drawn from the distribution of rents of units which are occupied by recent movers (renter households who moved into their unit within the past 15 months). Newly built units less than two years old are excluded, and adjustments have been made to correct for the below market rents of public housing units included in the data base.

Data Sources

HUD used the most accurate and current data available to develop the FMR estimates. The sources of survey data used for the base-year estimates are:

(1) The 1990 Census, which provides statistically reliable rent data for all FMR areas;

(2) The Bureau of the Census' American Housing Surveys (AHSs), which are used to develop between-Census revisions for the largest metropolitan areas and which have accuracy comparable to the decennial Census; and

(3) Random Digit Dialing (RDD) telephone surveys of individual FMR areas, which are based on a sampling procedure that uses computers to select statistically random samples of rental housing.

The base-year FMRs are updated using trending factors based on Consumer Price Index (CPI) data for rents and utilities or HUD regional rent change factors developed from RDD surveys. Annual average CPI data are available individually for 99 metropolitan FMR areas. RDD regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD regions. The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

State Minimum FMRs

FMRs are established at the higher of the local 40th percentile rent level or the Statewide average of nonmetropolitan counties, subject to a ceiling rent cap. The State minimum also affects a small number of metropolitan areas whose rents would otherwise fall below the State minimum.

Bedroom Size Adjustments

FMRs have been calculated separately for each bedroom size category. For areas whose FMRs are based on the State minimums, the rents for each bedroom size are the higher of the rent for the area or the Statewide average of nonmetropolitan counties for that bedroom size. For all other FMR areas, the bedroom intervals are based on data for the specific area. Exceptions have been made for some areas with local bedroom size rent intervals below an acceptable range. For those areas the intervals selected were the minimums determined after outliers had been excluded from the distribution of bedroom intervals for all metropolitan areas. Higher ratios continue to be used for three-bedroom and larger size units than would result from using the actual market relationships. This is done to assist the largest, most difficult to house families in finding program-eligible units. The FMRs for unit sizes larger than 4 bedroom are calculated by adding 15 percent to the 4 bedroom FMR for each extra bedroom. For example, the FMR for a 5 bedroom unit is 1.15 times the 4 bedroom FMR, and the FMR for a 6 bedroom unit is 1.30 times the 4 bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the 0 bedroom FMR.

Public Comments

In response to the May 7, 1999 proposed FMRs, HUD received public comments covering 21 FMR areas. Rental housing survey information was provided for 12 of those FMR areas. All of the survey information submitted was evaluated and, based on that review, the FMRs for 10 areas are being revised. The information submitted for the other FMR areas was not considered sufficient to provide a basis for revising the FMRs.

Areas with approved FMR increases:

Sacramento, CA
San Benito County, CA
San Diego, CA
San Francisco, CA
Waterloo-Cedar Falls, IA
Rochester, MN
Moore County, NC

Many comments were received from the Cape Cod, Massachusetts area in

response to the proposed FMR decrease. An important methodological comment was that the RDD survey on which the reduction was based might not have accurately identified what are locally referred to as winter rental units. The units that were surveyed in March 1999 were therefore re-surveyed with a more detailed set of questions to identify these winter rentals. Results of the re-survey revealed that the winter rentals had influenced the original survey and also indicated more rapid rent increases than previously thought. On this basis the FMRs have been revised upward. These areas are:

Barnstable-Yarmouth, MA

Barnstable County, MA

Dukes County, MA

The Housing Authority of the City of Santa Barbara, CA, requested that FMRs be increased or that the FMR area be split into two parts. In response to earlier comments, in December 1998 HUD conducted an RDD survey of the entire metropolitan area. The results were similar to the FMR then in effect. In addition, the survey found that the differential between the southern part (mainly the City of Santa Barbara) and the rest of the FMR area was within the limits of the FMR geographic exception range. HUD also received a comment from the Santa Barbara County housing authority explaining that it was having no problems running the program under the current FMR, and did not support a request to split the FMR area into two parts. For these reasons, the FMR for Santa Barbara is being adjusted with the normal update factor.

Areas with FMR increase by normal update factor:

Oakland, CA

Santa Barbara-Santa Maria-Lompoc, CA

HAs and other interested parties should be aware that FMR comments received too late for adjusting the current year's final FMRs will be held for use in the following year. In such cases HUD will trend the survey results to the date of the FMR estimate. If the HA is concerned that rents are changing rapidly, surveys should be timed to be received as close as possible to HUD's deadline for public comments.

AHS and RDD Surveys

This notice makes effective the FMRs for 3 areas proposed with reductions based on recent RDD surveys and about which no comments were received:

Modesto, CA

Middlesex-Somerset-Hunterdon, NJ

Allentown-Bethlehem-Easton, PA

American Housing Survey

Based on detailed rent data from the 1998 metropolitan AHSs, HUD is increasing FMRs for the following two areas:

Birmingham, AL
Tampa-St. Petersburg-Clearwater, FL

FMRs for the following AHS areas are being increased by the normal update factor:

Oakland, CA
San Jose, CA
Baltimore, MD
Boston, MA–NH
Minneapolis-St. Paul, MN–WI
Rochester, NY
Cincinnati, OH–KY–IN
Houston, TX
Salt Lake City-Ogden, UT
Norfolk-Virginia Beach-Newport News, VA–NC

The AHS results for two areas indicate a decrease in FMRs, which will be proposed for the 2001 FMRs. They are:
Washington, DC–MD–VA
Providence-Fall River-Warwick, RI–MA

FMR Area Definition Changes

This notice includes FMRs for two new metropolitan FMR areas based on new metropolitan statistical area definitions made effective by OMB on June 30, 1999. They are the Corvallis, Oregon FMR area, which consists of Benton County, and Auburn-Opelika, Alabama, which consists of Lee County.

Manufactured Home Space Surveys

FMRs for the rental of manufactured home spaces in the Section 8 Existing certificate and voucher program and the new merged tenant-based certificate and voucher program are 30 percent of the applicable Section 8 existing housing program FMR for a two-bedroom unit. HUD accepts public comments requesting modifications of these FMRs where the 30 percent FMRs are thought to be inadequate. In order to be accepted as a basis for revising the FMRs, comments must contain statistically valid survey data that show the 40th percentile space rent (excluding the cost of utilities) for the entire FMR area. Manufactured home space FMR revisions are published as final FMRs in Schedule D. Once approved, the revised manufactured home space FMRs establish new base year estimates that are updated annually using the same data used to update the other FMRs.

HUD Rental Housing Survey Guides

HUD recommends the use of professionally-conducted RDD telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of $10,000–$12,000. Areas with 500 or more program units usually meet this criterion, and areas with fewer units may meet it if local rents are thought to be significantly different than the FMR proposed by HUD. In addition, HUD has developed a simplified version of the RDD survey methodology for smaller, nonmetropolitan HAs. This methodology is designed to be simple enough to be done by the HA itself, rather than by professional survey organizations, at a cost of about $5,000.

HAs in nonmetropolitan areas may, in certain circumstances, do surveys of groups of counties. All grouped county surveys must be approved in advance by HUD. HAs are cautioned that the resulting FMRs will not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on its relationship to the combined rent of the group of FMR areas.

HAs that plan to use the RDD survey technique may obtain a copy of the appropriate survey guide by calling HUD USER on 1–800–245–2691. Larger HAs should request ''Random Digit Dialing Surveys; A Guide to Assist Larger Housing Agencies in Preparing Fair Market Rent Comments.'' Smaller HAs should obtain ''Rental Housing Surveys; A Guide to Assist Smaller Housing Agencies in Preparing Fair Market Rent Comments.'' These guides are also available on the Internet at http://www.huduser.org/datasets/fmr.html.

HUD prefers, but does not mandate, the use of RDD telephone surveys, or the more traditional method described in the small HA survey guide. Other survey methodologies are acceptable as long as they provide statistically reliable, unbiased estimates of the 40th percentile gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn so as to be statistically representative of the entire rental housing stock of the FMR area. In particular, surveys must include units of all rent levels and be representative by structure type (including single-family, duplex and other small rental properties), age of housing unit, and geographic location. The decennial Census should be used as a starting point and means of verification for determining whether the sample is representative of the FMR area's rental housing stock. All survey results must be fully documented.

The cost of an RDD survey may vary, depending on the characteristics of the

telephone system used in the FMR area. RDDs (and simplified telephone surveys) of some non-metropolitan areas have been unusually expensive because of telephone system characteristics. An HA or contractor that cannot obtain the recommended number of sample responses after reasonable efforts should consult with HUD before abandoning its survey; in such situations HUD is prepared to relax normal sample size requirements.

Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Section 8 Rental Certificate Program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(d).

Regulatory Flexibility Act

The undersigned, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities, because FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 Program.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611, Federalism, has determined that this notice will not involve the preemption of State law by Federal statute or regulation and does not have Federalism implications. The Fair Market Rent schedules do not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (Section 8).

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR Part 888, are amended as follows:

Dated: September 17, 1999.

Andrew M. Cuomo,

Secretary.

Fair Market Rents for the Section 8 Housing Assistance Payments Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. Metropolitan Areas—FMRs are housing market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental housing units are in direct competition. The FMRs shown in Schedule B incorporate OMB's most current definitions of metropolitan areas, with the exceptions discussed in paragraph (b). HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for FMR areas because they closely correspond to housing market area definitions.

b. Exceptions to OMB Definitions—The exceptions are counties deleted from several large metropolitan areas whose revised OMB metropolitan area definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the ''Metropolitan FMR Areas'' listing:

Metropolitan Area and Counties Deleted

Chicago, IL
  DeKalb, Grundy and Kendall Counties
Cincinnati-Hamilton, OH–KY–IN
  Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and
  Ohio County, Indiana
Dallas, TX
  Henderson County
Flagstaff, AZ–UT
  Kane County, UT
New Orleans, LA
  St. James Parish
Washington, DC–MD–VA–WV
  Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren Counties in Virginia

c. Nonmetropolitan Area FMRs—FMRs also are established for nonmetropolitan counties and for county equivalents in the United States, for nonmetropolitan parts of counties in the New England states and for FMR areas in Puerto Rico, the Virgin Islands and the Pacific Islands.

d. Virginia Independent Cities—FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan County. The full definitions of these areas, including the independent cities, are as follows:

VIRGINIA NONMETROPOLITAN COUNTY FMR AREA AND INDEPENDENT CITIES INCLUDED WITH COUNTY

County	Cities
Allegheny	Clifton Forge and Covington
Augusta	Staunton and Waynesboro
Carroll	Galax
Frederick	Winchester
Greensville	Emporia
Henry	Martinsville
Montgomery	Radford
Rockbridge	Buena Vista and Lexington
Rockingham	Harrisonburg
Southhampton	Franklin
Wise	Norton

2. Bedroom Size Adjustments

Schedule B shows the FMRs for 0-bedroom through 4-bedroom units. The FMRs for unit sizes larger than 4 bedrooms are calculated by adding 15 percent to the 4-bedroom FMR for each extra bedroom. For example, the FMR for a 5-bedroom unit is 1.15 times the 4-bedroom FMR, and the FMR for a 6-bedroom unit is 1.30 times the 4 bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the 0 bedroom FMR.

3. FMRs for Manufactured Home Spaces

FMRs for Section 8 manufactured home spaces in the Section 8 Existing certificate and voucher program and the new merged tenant-based certificate and voucher program are 30 percent of the two-bedroom Section 8 existing housing program FMRs, with the exception of the areas listed in Schedule D whose manufactured home space FMRs have been modified on the basis of public comments. Once approved, the revised manufactured home space FMRs establish new base-year estimates that are updated annually using the same data used to estimate the Section 8 existing housing FMRs. The FMR area definitions used for the rental of manufactured home spaces in the Section 8 Existing certificate and voucher program and the new merged tenant-based certificate and voucher program are the same as the area definitions used for other FMRs.

4. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

BILLING CODE 4210–32–P

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A L A B A M A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston, AL MSA	259	307	383	535	606	Calhoun
Aurburn-Opelika, Al MSA	258	361	463	602	761	Lee
Birmingham, AL MSA	395	446	519	705	781	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA	350	389	467	610	662	Russell
Decatur, AL MSA	344	348	438	567	678	Lawrence, Morgan
Dothan, AL MSA	312	319	396	545	553	Dale, Houston
Florence, AL MSA	292	335	431	538	603	Colbert, Lauderdale
Gadsden, AL MSA	259	317	366	475	584	Etowah
Huntsville, AL MSA	361	423	521	694	827	Limestone, Madison
Mobile, AL MSA	379	423	485	653	766	Baldwin, Mobile
Montgomery, AL MSA	395	422	499	679	818	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	341	365	485	667	705	Tuscaloosa

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour	245	291	347	450	516
Bullock	245	291	347	450	516
Chambers	245	291	347	450	517
Chilton	253	291	347	450	516
Clarke	245	291	347	450	516
Cleburne	245	291	347	450	516
Conecuh	245	291	347	450	516
Covington	245	291	347	450	516
Cullman	245	291	347	461	560
Dekalb	245	291	347	450	516
Fayette	245	291	347	450	516
Geneva	245	291	347	450	516
Hale	245	291	347	450	516
Jackson	264	291	347	450	552
Lowndes	245	291	347	450	516
Marengo	245	291	347	450	516
Marshall	281	291	354	490	580
Perry	245	291	347	450	516
Pike	293	341	407	528	615
Sumter	245	291	347	450	516
Tallapoosa	246	291	347	450	516
Washington	245	291	347	450	516
Winston	245	291	347	450	516

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bibb	245	291	347	468	561
Butler	245	291	347	450	516
Cherokee	245	291	347	450	516
Choctaw	245	291	347	450	516
Clay	245	291	347	450	516
Coffee	245	344	447	622	698
Coosa	245	291	347	450	516
Crenshaw	245	291	347	450	516
Dallas	245	291	347	450	516
Escambia	245	291	347	450	516
Franklin	245	291	347	450	516
Greene	245	291	347	450	516
Henry	245	291	347	450	516
Lamar	245	291	347	450	516
Macon	267	300	400	501	561
Marion	245	291	347	450	516
Monroe	245	291	347	450	516
Pickens	245	291	347	450	516
Randolph	245	291	347	450	516
Talladega	245	291	347	450	516
Walker	245	302	356	460	585
Wilcox	245	291	347	450	516

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A L A S K A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK MSA	500	591	783	1090	1287	Anchorage

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aleutian East	522	588	664	828	1085
Bethel	674	843	1068	1337	1496
Dillingham	651	662	881	1102	1234
Haines	486	602	685	932	959
Kenai Peninsula	441	563	678	942	1113
Kodiak Island	694	763	991	1239	1607
Matanuska-Susitna	466	631	710	964	1139
North Slope	779	798	987	1372	1599
Pr.Wales-Outer Ketchikan	364	579	666	924	976
Skagway-Yakutat-Angoon	445	453	587	736	825
Valdez-Cordova	545	668	742	947	1128
Wrangell-Petersburg	397	585	711	906	995

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aleutian West	447	506	567	711	796
Bristol Bay	541	624	701	975	1061
Fairbanks North Star	411	559	734	1009	1189
Juneau	726	838	1067	1420	1475
Ketchikan Gateway	533	652	873	1215	1279
Lake & Peninsula	417	675	759	947	1063
Nome	686	849	953	1327	1497
Northwest Arctic	825	929	1042	1451	1711
Sitka	574	682	765	1065	1257
Southeast Fairbanks	457	480	579	725	813
Wade Hampton	390	587	662	827	927
Yukon-Koyukuk	520	586	661	826	956

A R I Z O N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ	428	464	602	807	969	Coconino
Las Vegas, NV-AZ MSA	497	590	702	977	1154	Mohave
Phoenix-Mesa, AZ MSA	422	512	642	893	1052	Maricopa, Pinal
Tucson, AZ MSA	383	460	611	850	1003	Pima
Yuma, AZ MSA	370	428	570	792	798	Yuma

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Apache	361	380	483	630	749
Gila	361	380	483	630	749
Greenlee	361	380	483	630	749
Navajo	361	380	483	630	749
Yavapai	384	400	534	745	820
Cochise	361	380	483	630	749
Graham	361	380	483	630	749
La Paz	361	380	483	630	749
Santa Cruz	361	400	496	630	749

A R K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR MSA	307	386	507	685	709	Benton, Washington
Fort Smith, AR-OK MSA	304	308	405	541	568	Crawford, Sebastian
Jonesboro, AR MSA	311	338	398	548	579	Craighead
Little Rock-North Little Rock, AR MSA	378	419	498	689	805	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	389	454	533	740	778	Crittenden

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A R K A N S A S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Pine Bluff, AR MSA	289	343	451	569	738	Jefferson
Texarkana, TX-Texarkana, AR MSA	308	376	459	605	642	Miller

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Arkansas	260	282	361	493	535
Baxter	237	302	401	516	628
Bradley	237	282	361	478	535
Carroll	279	305	361	478	572
Clark	260	282	366	478	578
Cleburne	269	282	361	478	542
Columbia	237	282	361	478	535
Cross	246	312	361	485	573
Desha	237	282	361	478	535
Franklin	248	282	361	478	535
Garland	237	302	404	564	666
Greene	254	282	361	478	535
Hot Spring	237	282	361	478	535
Independence	249	289	361	478	535
Jackson	245	282	361	478	535
Lafayette	248	282	361	478	535
Lee	261	282	361	478	535
Little River	237	282	367	509	600
Madison	271	282	367	478	535
Mississippi	270	293	392	517	580
Montgomery	237	282	361	478	535
Newton	237	282	361	478	535
Perry	237	282	361	478	535
Pike	237	282	361	478	535
Polk	237	282	361	478	535
Prairie	237	282	361	478	535
St. Francis	237	288	361	488	575
Searcy	237	282	361	478	535
Sharp	237	282	361	478	535
Union	297	314	377	506	619
White	237	282	361	494	535
Yell	246	282	361	478	535

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashley	237	282	361	478	566
Boone	281	286	379	528	623
Calhoun	237	282	361	478	535
Chicot	237	282	361	478	535
Clay	237	282	361	478	535
Cleveland	237	282	361	478	535
Conway	237	293	392	489	549
Dallas	237	282	361	478	535
Drew	237	307	410	567	577
Fulton	245	282	361	478	535
Grant	246	293	361	478	540
Hempstead	237	282	361	478	535
Howard	237	282	361	478	535
Izard	237	282	361	478	535
Johnson	237	282	361	478	535
Lawrence	237	282	361	478	535
Lincoln	256	282	367	490	535
Logan	248	282	361	478	535
Marion	237	282	361	478	535
Monroe	241	282	361	478	535
Nevada	237	282	361	494	535
Ouachita	277	282	361	498	588
Phillips	237	282	361	478	535
Poinsett	237	282	361	478	535
Pope	237	310	392	544	627
Randolph	237	282	361	478	535
Scott	237	282	361	478	535
Sevier	259	282	361	478	535
Stone	237	282	361	478	535
Van Buren	237	282	361	478	591
Woodruff	237	282	361	478	535

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 4

C A L I F O R N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	365	410	515	715	791	Kern
Chico-Paradise, CA MSA	334	429	571	783	936	Butte
Fresno, CA MSA	379	424	506	704	812	Fresno, Madera
Los Angeles-Long Beach, CA PMSA	505	605	766	1033	1233	Los Angeles
Merced, CA MSA	398	449	545	753	889	Merced
Modesto, CA MSA	441	474	579	807	951	Stanislaus
Oakland, CA PMSA	607	734	921	1263	1509	Alameda, Contra Costa
Orange County, CA PMSA	660	720	891	1240	1380	Orange
Redding, CA MSA	379	420	526	731	861	Shasta
Riverside-San Bernardino, CA PMSA	448	499	609	845	999	Riverside, San Bernardino
Sacramento, CA PMSA	447	504	631	875	1031	El Dorado, Placer, Sacramento
Salinas, CA MSA	536	627	756	1051	1103	Monterey
San Diego, CA MSA	563	643	805	1119	1320	San Diego
San Francisco, CA PMSA	832	1077	1362	1868	1977	Marin, San Francisco, San Mateo
San Jose, CA PMSA	866	988	1221	1673	1879	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA MSA	514	580	736	1022	1207	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	624	693	878	1223	1380	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	642	764	1021	1419	1662	Santa Cruz
Santa Rosa, CA PMSA	603	684	886	1232	1454	Sonoma
Stockton-Lodi, CA MSA	413	467	600	834	984	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	580	659	804	1116	1317	Napa, Solano
Ventura, CA PMSA	557	641	811	1079	1256	Ventura
Visalia-Tulare-Porterville, CA MSA	370	393	513	715	816	Tulare
Yolo, CA PMSA	476	544	673	932	1102	Yolo
Yuba City, CA MSA	329	384	494	689	796	Sutter, Yuba

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alpine	307	460	520	723	778
Calaveras	370	429	571	795	937
Del Norte	314	430	571	796	939
Humboldt	316	438	574	801	947
Inyo	317	429	550	722	778
Lake	345	439	586	739	961
Mariposa	331	421	541	709	836
Modoc	335	375	483	673	778
Nevada	384	525	699	972	1126
San Benito	528	621	777	1083	1267
Siskiyou	321	375	483	673	778
Trinity	344	375	483	673	778

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Amador	423	466	622	866	965
Colusa	335	375	483	673	778
Glenn	307	375	483	673	778
Imperial	346	433	533	743	778
Kings	355	413	516	718	845
Lassen	375	380	494	673	778
Mendocino	424	511	627	873	879
Mono	468	561	746	1037	1226
Plumas	338	375	483	673	778
Sierra	307	411	506	703	830
Tehama	320	375	483	673	778
Tuolumne	339	463	617	859	1013

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O L O R A D O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	525	629	806	1123	1324	Boulder
Colorado Springs, CO MSA	443	476	634	884	1044	El Paso
Denver, CO PMSA	458	547	728	1011	1193	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	438	541	668	928	1096	Larimer
Grand Junction, CO MSA	403	419	524	706	840	Mesa
Greeley, CO PMSA	440	486	612	849	1004	Weld
Pueblo, CO MSA	425	440	550	740	883	Pueblo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alamosa	385	400	499	673	802
Baca	385	400	499	673	802
Chaffee	385	400	499	673	802
Clear Creek	385	449	508	707	833
Costilla	385	400	499	673	802
Custer	385	400	499	673	802
Dolores	385	400	499	673	802
Elbert	425	471	539	673	883
Garfield	447	479	605	756	990
Grand	457	461	584	731	885
Hinsdale	385	407	499	673	802
Jackson	385	400	499	673	802
Kit Carson	385	400	499	673	802
La Plata	503	556	733	1021	1205
Lincoln	385	400	499	673	802
Mineral	385	400	499	673	802
Montezuma	385	400	499	673	802
Morgan	385	400	499	673	802
Ouray	385	400	505	673	817
Phillips	385	400	499	673	802
Prowers	385	400	499	673	802
Rio Grande	385	400	499	673	802
Saguache	385	400	499	673	802
San Miguel	708	1023	1124	1404	1812
Summit	496	594	761	1059	1303
Washington	385	400	499	673	802

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Archuleta	460	504	596	804	956
Bent	385	400	499	673	802
Cheyenne	385	400	499	673	802
Conejos	385	400	499	673	802
Crowley	385	400	499	673	802
Delta	385	400	499	673	802
Eagle	518	564	753	1047	1234
Fremont	385	400	499	673	802
Gilpin	385	512	650	859	949
Gunnison	385	400	499	673	802
Huerfano	385	400	499	673	802
Kiowa	385	400	499	673	802
Lake	385	400	499	673	802
Las Animas	385	411	499	673	802
Logan	385	400	499	673	802
Moffat	385	400	499	673	802
Montrose	385	400	505	700	825
Otero	385	400	499	673	802
Park	385	426	555	770	876
Pitkin	577	790	1053	1388	1578
Rio Blanco	385	400	499	673	802
Routt	385	465	615	855	1007
San Juan	385	400	499	673	802
Sedgwick	385	400	499	673	802
Teller	385	456	608	845	853
Yuma	385	400	499	673	802

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 6

C O N N E C T I C U T

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT PMSA	462	601	724	905	1129	Fairfield county towns of Bridgeport town, Easton town Fairfield town, Monroe town, Shelton town Stratford town, Trumbull town New Haven county towns of Ansonia town, Beacon Falls town Derby town, Milford town, Oxford town, Seymour town
Danbury, CT PMSA	624	747	933	1231	1419	Fairfield county towns of Bethel town, Brookfield town Danbury town, New Fairfield town, Newtown town Redding town, Ridgefield town, Sherman town Litchfield county towns of Bridgewater town New Milford town, Roxbury town, Washington town
Hartford, CT MSA	438	545	697	875	1062	Hartford county towns of Avon town, Berlin town Bloomfield town, Bristol town, Burlington town Canton town, East Granby town, East Hartford town East Windsor town, Enfield town, Farmington town Glastonbury town, Granby town, Hartford town Manchester town, Marlborough town, New Britain town Newington town, Plainville town, Rocky Hill town Simsbury town, Southington town, South Windsor town Suffield town, West Hartford town, Wethersfield town Windsor town, Windsor Locks town Litchfield county towns of Barkhamsted town Harwinton town, New Hartford town, Plymouth town Winchester town Middlesex county towns of Cromwell town, Durham town East Haddam town, East Hampton town, Haddam town Middlefield town, Middletown town, Portland town New London county towns of Colchester town, Lebanon town Tolland county towns of Andover town, Bolton town Columbia town, Coventry town, Ellington town Hebron town, Mansfield town, Somers town, Stafford town Tolland town, Vernon town, Willington town Windham county towns of Ashford town, Chaplin town Windham town
New Haven-Meriden, CT PMSA	533	654	809	1036	1200	Middlesex county towns of Clinton town, Killingworth town New Haven county towns of Bethany town, Branford town Cheshire town, East Haven town, Guilford town Hamden town, Madison town, Meriden town, New Haven town North Branford tow, North Haven town, Orange town Wallingford town, West Haven town, Woodbridge town
New London-Norwich, CT-RI MSA	495	599	729	912	1042	Middlesex county towns of Old Saybrook town New London county towns of Bozrah town, East Lyme town Franklin town, Griswold town, Groton town, Ledyard town Lisbon town, Montville town, New London town North Stonington t, Norwich town, Old Lyme town Preston town, Salem town, Sprague town, Stonington town Waterford town Windham county towns of Canterbury town, Plainfield town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O N N E C T I C U T continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA	799	935	1141	1529	1689	Fairfield county towns of Darien town, Greenwich town New Canaan town, Norwalk town, Stamford town Weston town, Westport town, Wilton town
Waterbury, CT PMSA	453	612	758	945	1059	Litchfield county towns of Bethlehem town, Thomaston town Watertown town, Woodbury town New Haven county towns of Middlebury town, Naugatuck town Prospect town, Southbury town, Waterbury town Wolcott town
Worcester, MA-CT PMSA	434	526	656	819	918	Windham county towns of Thompson town

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	362	586	661	919	1083	Hartland town
Litchfield	421	574	765	955	1087	Canaan town, Colebrook town, Cornwall town, Goshen town Kent town, Litchfield town, Morris town, Norfolk town North Canaan town, Salisbury town, Sharon town Torrington town, Warren town
Middlesex	624	707	944	1313	1548	Chester town, Deep River town, Essex town Westbrook town
New London	529	647	735	949	1204	Lyme town, Voluntown town
Tolland	362	586	661	919	925	Union town
Windham	417	510	661	828	1039	Brooklyn town, Eastford town, Hampton town Killingly town, Pomfret town, Putnam town, Scotland town Sterling town, Woodstock town

D E L A W A R E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	490	542	618	801	911	Kent
Wilmington-Newark, DE-MD PMSA	446	589	687	932	1126	New Castle

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Sussex	429	456	582	765	816

D I S T . O F C O L U M B I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Washington, DC-MD-VA	630	716	840	1145	1380	District of Columbia

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 8

F L O R I D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Daytona Beach, FL MSA	389	456	583	774	822	Flagler, Volusia
Fort Lauderdale, FL PMSA	486	572	708	985	1159	Broward
Fort Myers-Cape Coral, FL MSA	418	482	581	812	847	Lee
Fort Pierce-Port Lucie, FL MSA	465	510	661	859	926	Martin, St. Lucie
Fort Walton Beach, FL MSA	406	443	503	682	804	Okaloosa
Gainesville, FL MSA	406	443	539	738	872	Alachua
Jacksonville, FL MSA	424	475	572	756	841	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	389	426	482	597	652	Polk
Melbourne-Titusville-Palm Bay, FL MSA	389	455	569	762	888	Brevard
Miami, FL PMSA	455	571	712	978	1133	Dade
Naples, FL MSA	434	612	736	1024	1141	Collier
Ocala, FL MSA	406	443	503	661	775	Marion
Orlando, FL MSA	504	572	682	896	1093	Lake, Orange, Osceola, Seminole
Panama City, FL MSA	406	443	503	642	688	Bay
Pensacola, FL MSA	406	443	503	673	793	Escambia, Santa Rosa
Punta Gorda, FL MSA	406	466	620	860	1015	Charlotte
Sarasota-Bradenton, FL MSA	407	517	658	846	920	Manatee, Sarasota
Tallahassee, FL MSA	415	460	606	792	954	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	427	509	630	837	1014	Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton, FL MSA	498	581	719	955	1182	Palm Beach

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	385	421	476	591	642
Calhoun	385	421	476	591	642
Columbia	385	421	476	591	642
Dixie	385	421	476	591	642
Gilchrist	385	421	476	591	642
Gulf	385	421	476	591	642
Hardee	385	421	476	591	642
Highlands	385	421	476	593	662
Indian River	385	481	619	774	866
Jefferson	385	421	476	591	642
Levy	385	421	476	591	642
Madison	385	421	476	591	642
Okeechobee	385	421	476	591	648
Sumter	385	421	476	591	642
Taylor	385	421	476	591	643
Wakulla	385	421	476	591	642
Washington	385	421	476	591	642

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bradford	385	421	476	591	642
Citrus	385	421	476	591	642
Desoto	385	421	476	591	642
Franklin	385	421	476	591	642
Glades	385	421	476	591	642
Hamilton	385	421	476	591	642
Hendry	385	421	490	615	689
Holmes	385	421	476	591	642
Jackson	385	421	476	591	642
Lafayette	385	421	476	591	642
Liberty	385	421	476	591	642
Monroe	551	622	799	1101	1310
Putnam	385	421	476	591	642
Suwannee	385	421	476	591	642
Union	385	421	476	591	642
Walton	385	421	476	613	766

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 9

G E O R G I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	303	355	433	591	640	Dougherty, Lee
Athens, GA MSA	373	402	520	710	855	Clarke, Madison, Oconee
Atlanta, GA MSA	549	611	712	949	1148	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett Henry, Newton, Paulding, Pickens, Rockdale, Spalding Walton
Augusta-Aiken, GA-SC MSA	359	429	506	687	813	Columbia, Mcduffie, Richmond
Chattanooga, TN-GA MSA	366	427	513	663	755	Catoosa, Dade, Walker
Columbus, GA-AL MSA	350	389	467	610	662	Chattahoochee, Harris, Muscogee
Macon, GA MSA	391	436	507	699	719	Bibb, Houston, Jones, Peach, Twiggs
Savannah, GA MSA	365	453	527	711	739	Bryan, Chatham, Effingham

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Appling	280	337	412	534	607	Atkinson	280	337	412	534	607
Bacon	280	337	412	534	607	Baker	280	337	412	534	607
Baldwin	280	358	437	559	611	Banks	280	337	412	534	607
Ben Hill	280	337	412	534	615	Berrien	280	337	412	534	607
Bleckley	280	337	412	534	607	Brantley	280	337	412	534	607
Brooks	280	337	412	534	607	Bulloch	337	342	440	566	719
Burke	280	337	412	534	607	Butts	280	370	491	657	689
Calhoun	280	337	412	534	607	Camden	391	443	495	689	814
Candler	280	337	412	534	607	Charlton	280	337	412	534	607
Chattooga	280	337	412	534	607	Clay	280	337	412	534	607
Clinch	280	337	412	534	607	Coffee	280	337	412	534	615
Colquitt	280	337	412	534	607	Cook	280	337	412	534	607
Crawford	280	337	412	534	607	Crisp	283	337	412	534	607
Dawson	280	364	484	606	747	Decatur	280	337	412	534	607
Dodge	280	337	412	534	607	Dooly	280	337	412	534	607
Early	280	337	412	534	607	Echols	280	337	412	534	607
Elbert	280	337	412	534	607	Emanuel	280	337	412	534	607
Evans	280	337	412	534	607	Fannin	280	337	412	534	607
Floyd	280	337	413	545	607	Franklin	280	337	412	534	607
Gilmer	280	337	412	534	607	Glascock	280	337	412	534	607
Glynn	390	437	494	663	813	Gordon	332	337	420	542	692
Grady	285	337	412	534	607	Greene	280	337	412	534	607
Habersham	300	337	412	534	612	Hall	296	450	529	662	739
Hancock	280	337	412	534	607	Haralson	280	337	412	534	607
Hart	280	337	412	534	607	Heard	280	337	412	534	607
Irwin	280	337	412	534	607	Jackson	311	337	423	534	696
Jasper	280	337	417	566	607	Jeff Davis	280	337	412	534	607
Jefferson	280	337	412	534	615	Jenkins	280	337	412	534	607

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Johnson	280	337	412	534	607
Lanier	280	337	412	534	607
Liberty	348	388	442	614	619
Long	280	364	412	534	607
Lumpkin	280	377	424	567	696
Macon	280	337	412	534	607
Meriwether	280	337	412	534	607
Mitchell	280	337	412	534	607
Montgomery	280	337	412	534	607
Murray	280	337	412	534	607
Pierce	280	337	412	534	607
Polk	280	337	412	557	607
Putnam	280	337	412	534	615
Rabun	280	337	412	534	607
Schley	280	337	412	534	607
Seminole	280	337	412	534	607
Stewart	280	337	412	534	607
Talbot	280	337	412	534	607
Tattnall	280	337	412	534	607
Telfair	280	337	412	534	607
Thomas	280	347	412	534	607
Toombs	280	337	412	534	607
Treutlen	280	337	412	534	607
Turner	280	337	412	534	607
Upson	289	337	412	534	607
Warren	280	337	412	534	607
Wayne	289	337	412	534	607
Wheeler	280	337	412	534	607
Whitfield	280	367	442	564	665
Wilkes	280	337	412	534	607
Worth	280	337	412	534	607

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Lamar	280	346	412	534	653
Laurens	286	337	412	534	607
Lincoln	280	337	412	534	607
Lowndes	313	379	458	643	711
Mcintosh	280	337	412	534	607
Marion	280	337	412	534	607
Miller	280	337	412	534	607
Monroe	280	337	412	543	607
Morgan	280	337	427	534	607
Oglethorpe	280	337	412	534	607
Pike	325	352	446	621	625
Pulaski	280	337	412	534	607
Quitman	280	337	412	534	607
Randolph	280	337	412	534	607
Screven	280	337	412	534	607
Stephens	280	337	412	534	607
Sumter	280	342	412	534	607
Taliaferro	280	337	412	534	607
Taylor	280	337	412	534	607
Terrell	280	337	412	534	607
Tift	280	337	412	534	607
Towns	280	337	412	534	607
Troup	280	381	429	536	607
Union	280	337	430	539	607
Ware	309	347	412	534	641
Washington	280	337	412	534	607
Webster	280	337	412	534	607
White	280	337	412	534	621
Wilcox	280	337	412	534	607
Wilkinson	280	337	412	534	607

H A W A I I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	604	723	851	1150	1244	Honolulu

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 11

H A W A I I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hawaii	470	613	705	936	1153
Maui	759	941	1148	1483	1680
Kauai	600	897	1092	1445	1562

I D A H O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City, ID MSA	392	447	543	754	892	Ada, Canyon
Pocatello, ID MSA	281	326	419	571	675	Bannock

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	280	325	419	555	657
Benewah	280	325	419	555	657
Blaine	433	477	635	886	1043
Bonner	322	399	494	684	787
Boundary	280	325	419	555	657
Camas	280	325	419	555	657
Cassia	280	325	419	555	657
Clearwater	280	325	419	555	657
Elmore	280	325	419	555	657
Fremont	280	325	419	555	657
Gooding	280	325	419	555	657
Jefferson	288	325	419	555	657
Kootenai	356	419	548	763	902
Lemhi	280	325	419	555	657
Lincoln	280	325	419	555	657
Minidoka	280	325	419	555	657
Oneida	281	325	419	555	657
Payette	280	325	419	555	657
Shoshone	280	325	419	555	657
Twin Falls	280	325	424	559	657
Washington	280	325	419	555	657
Bear Lake	280	325	419	555	657
Bingham	298	325	419	555	657
Boise	280	361	419	555	657
Bonneville	285	359	494	664	810
Butte	280	325	419	555	657
Caribou	280	325	419	555	657
Clark	280	325	419	555	657
Custer	280	325	419	555	657
Franklin	280	325	419	555	657
Gem	280	325	419	555	657
Idaho	280	325	419	555	657
Jerome	280	325	419	555	657
Latah	280	325	419	555	666
Lewis	280	325	419	555	657
Madison	280	325	419	555	657
Nez Perce	285	325	419	555	657
Owyhee	280	325	419	555	657
Power	280	325	419	555	657
Teton	305	325	419	567	671
Valley	291	325	419	555	657

I L L I N O I S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	341	416	558	775	818	Mclean
Champaign-Urbana, IL MSA	376	461	597	819	981	Champaign
Chicago, IL	533	640	762	953	1066	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	282	390	483	624	676	Henry, Rock Island

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

I L L I N O I S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Decatur, IL MSA	272	352	453	612	634	Macon
De Kalb County, IL	440	512	648	901	1044	Dekalb
Grundy County, IL	383	443	588	776	826	Grundy
Kankakee, IL PMSA	348	421	561	717	787	Kankakee
Kendall County, Il	531	605	729	1015	1020	Kendall
Peoria-Pekin, IL MSA	379	417	560	745	915	Peoria, Tazewell, Woodford
Rockford, IL MSA	363	465	566	712	830	Boone, Ogle, Winnebago
St. Louis, MO-IL MSA	323	393	510	664	734	Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	313	388	517	688	783	Menard, Sangamon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	260	292	376	493	599	Alexander	260	292	376	493	554
Bond	260	292	376	493	554	Brown	260	292	376	493	554
Bureau	260	328	385	493	554	Calhoun	260	292	376	493	554
Carroll	260	292	376	493	554	Cass	261	292	376	493	554
Christian	280	292	378	495	554	Clark	260	292	376	493	554
Clay	260	292	376	493	554	Coles	275	327	435	578	683
Crawford	260	292	376	493	554	Cumberland	260	292	376	493	554
De Witt	264	292	376	497	554	Douglas	278	292	376	493	554
Edgar	260	292	376	493	554	Edwards	260	292	376	493	554
Effingham	260	301	376	493	554	Fayette	260	292	376	493	554
Ford	247	348	452	580	634	Franklin	260	292	376	493	554
Fulton	268	300	387	507	570	Gallatin	260	292	376	493	554
Greene	260	292	376	493	554	Hamilton	260	293	376	493	554
Hancock	260	292	376	493	554	Hardin	260	292	376	493	554
Henderson	260	292	376	493	554	Iroquois	260	292	376	493	554
Jackson	315	316	400	567	635	Jasper	260	294	376	493	554
Jefferson	261	306	383	522	554	Jo Daviess	288	311	376	493	554
Johnson	260	292	376	493	554	Knox	260	292	376	493	572
La Salle	315	370	493	666	747	Lawrence	260	292	376	493	554
Lee	290	298	399	498	560	Livingston	260	320	428	552	602
Logan	291	309	412	516	647	Mcdonough	260	297	376	493	593
Macoupin	260	292	376	493	554	Marion	265	292	376	493	554
Marshall	260	292	376	493	554	Mason	260	292	376	493	561
Massac	261	292	376	493	554	Mercer	260	292	376	493	554
Montgomery	260	292	376	493	554	Morgan	260	330	438	584	615
Moultrie	260	292	376	506	554	Perry	261	292	376	493	554
Piatt	260	316	411	561	576	Pike	260	292	376	493	554
Pope	260	292	376	493	554	Pulaski	260	292	376	493	554
Putnam	260	292	376	493	554	Randolph	260	292	376	493	554

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Richland	260	292	376	493	554
Schuyler	260	292	376	493	554
Shelby	260	292	376	493	554
Stephenson	275	314	398	497	558
Vermilion	260	332	414	518	580
Warren	275	292	376	493	554
Wayne	260	292	376	493	554
Whiteside	275	312	416	521	587
Saline	260	292	376	493	554
Scott	260	292	376	493	554
Stark	260	292	376	493	554
Union	260	292	376	493	554
Wabash	260	292	376	493	585
Washington	260	311	415	520	675
White	260	292	376	493	554
Williamson	260	292	378	525	554

I N D I A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington, IN MSA	371	480	639	888	1049	Monroe
Cincinnati, OH-KY-IN	316	406	544	729	787	Dearborn
Elkhart-Goshen, IN MSA	375	427	540	691	793	Elkhart
Evansville-Henderson, IN-KY MSA	321	382	496	620	694	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	321	409	508	655	711	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA	389	511	638	801	895	Lake, Porter
Indianapolis, IN MSA	366	459	552	691	775	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA	345	408	532	684	745	Howard, Tipton
Lafayette, IN MSA	349	444	591	822	971	Clinton, Tippecanoe
Louisville, KY-IN MSA	318	408	501	691	729	Clark, Floyd, Harrison, Scott
Muncie, IN MSA	298	371	440	596	704	Delaware
Ohio County, IN	294	330	422	544	599	Ohio
South Bend, IN MSA	322	428	563	703	789	St. Joseph
Terre Haute, IN MSA	290	339	433	540	603	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bartholomew	399	429	518	647	851
Blackford	281	316	417	522	585
Carroll	281	316	405	521	573
Crawford	281	316	405	521	573
Decatur	281	343	438	567	617
Fayette	297	335	428	551	648
Franklin	281	316	405	521	641
Gibson	281	316	405	521	573
Greene	281	316	405	521	573
Jackson	345	361	446	590	634
Jay	281	316	405	521	573
Benton	281	316	405	521	573
Brown	281	373	491	682	706
Cass	281	316	405	521	573
Daviess	281	316	405	521	573
Dubois	281	316	405	521	591
Fountain	281	316	405	521	573
Fulton	309	324	405	545	573
Grant	296	316	405	523	573
Henry	308	347	444	572	628
Jasper	281	341	405	521	573
Jefferson	281	316	405	521	573

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

I N D I A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Jennings	293	316	405	521	573
Kosciusko	281	372	449	582	629
La Porte	286	346	463	593	648
Marshall	333	338	449	565	629
Miami	281	316	405	521	573
Newton	293	316	405	521	573
Orange	281	316	405	521	573
Parke	281	316	405	521	599
Pike	281	316	405	521	573
Putnam	305	356	437	587	592
Ripley	281	316	405	529	600
Spencer	281	316	405	521	573
Steuben	344	388	464	580	648
Switzerland	281	316	405	521	573
Wabash	281	316	405	521	573
Washington	281	316	405	521	573
White	281	316	405	521	633

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Knox	286	316	410	521	574
Lagrange	286	330	420	547	636
Lawrence	281	316	405	525	573
Martin	281	316	405	521	573
Montgomery	328	345	430	546	604
Noble	324	331	411	530	587
Owen	281	316	405	521	600
Perry	281	316	405	521	573
Pulaski	281	316	405	521	573
Randolph	281	316	405	521	573
Rush	289	316	405	521	600
Starke	281	316	405	521	573
Sullivan	281	316	405	521	573
Union	281	316	405	521	573
Warren	281	316	405	521	573
Wayne	339	381	488	628	690

I O W A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA	275	389	500	696	747	Linn
Davenport-Moline-Rock Island, IA-IL MSA	282	390	483	624	676	Scott
Des Moines, IA MSA	358	452	558	723	760	Dallas, Polk, Warren
Dubuque, IA MSA	293	358	460	588	717	Dubuque
Iowa City, IA MSA	346	446	574	796	941	Johnson
Omaha, NE-IA MSA	338	463	585	767	860	Pottawattamie
Sioux City, IA-NE MSA	344	413	515	642	734	Woodbury
Waterloo-Cedar Falls, IA MSA	322	412	515	686	806	Black Hawk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	265	328	411	522	576
Allamakee	265	328	411	528	604
Audubon	265	328	411	522	576
Boone	265	348	411	528	625
Buchanan	279	328	411	522	576
Butler	282	328	411	522	576
Carroll	265	328	411	522	576
Cedar	265	332	411	522	576
Cherokee	265	328	411	522	576

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	265	328	411	522	576
Appanoose	265	328	411	522	580
Benton	272	328	411	522	576
Bremer	265	328	411	522	612
Buena Vista	280	328	411	522	576
Calhoun	265	328	411	522	576
Cass	265	328	411	522	576
Cerro Gordo	265	347	430	573	601
Chickasaw	265	328	411	522	576

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Clarke	272	328	411	522	576
Clayton	265	328	411	522	576
Crawford	265	328	411	522	576
Decatur	265	328	411	522	576
Des Moines	265	338	435	545	608
Emmet	265	328	411	522	608
Floyd	288	328	411	522	576
Fremont	291	328	411	522	606
Grundy	265	328	411	522	592
Hamilton	303	343	416	522	583
Hardin	265	328	411	522	576
Henry	265	336	427	534	604
Humboldt	265	328	411	522	576
Iowa	265	328	411	522	576
Jasper	265	336	426	532	596
Jones	274	328	411	522	576
Kossuth	265	328	411	522	576
Louisa	265	328	411	522	576
Lyon	265	328	411	522	576
Mahaska	265	328	411	522	576
Marshall	292	361	453	575	635
Mitchell	265	328	411	522	576
Monroe	265	345	411	522	606
Muscatine	265	328	435	579	608
Osceola	265	328	411	522	576
Palo Alto	265	328	411	522	576
Pocahontas	265	328	411	522	576
Ringgold	265	328	411	522	576
Shelby	265	328	411	522	576
Story	345	419	495	684	784
Taylor	265	328	411	522	577
Van Buren	265	328	411	522	576
Washington	265	328	411	522	606
Webster	265	328	417	525	585
Winneshiek	265	328	411	522	576
Wright	265	328	411	522	576

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Clay	265	328	411	522	576
Clinton	265	328	417	522	584
Davis	265	328	411	522	576
Delaware	265	328	411	522	576
Dickinson	265	328	411	522	576
Fayette	265	328	411	522	576
Franklin	272	328	411	522	576
Greene	265	328	411	522	576
Guthrie	265	328	411	522	605
Hancock	265	328	411	522	576
Harrison	265	328	411	522	576
Howard	265	328	411	522	601
Ida	272	328	411	522	576
Jackson	265	328	414	522	580
Jefferson	265	335	446	581	733
Keokuk	265	328	411	522	576
Lee	265	328	424	531	595
Lucas	265	328	411	522	576
Madison	265	328	428	548	600
Marion	265	364	446	558	625
Mills	265	354	418	525	586
Monona	265	328	411	522	576
Montgomery	291	329	411	522	576
O'Brien	265	328	411	522	576
Page	265	328	411	522	576
Plymouth	265	328	430	537	601
Poweshiek	280	348	446	558	625
Sac	265	328	411	522	576
Sioux	265	328	411	522	576
Tama	265	328	411	522	576
Union	265	328	411	522	606
Wapello	265	328	415	522	581
Wayne	265	328	411	522	576
Winnebago	265	333	411	522	576
Worth	265	328	411	522	585

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kansas City, MO-KS MSA	379	477	574	794	880	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	356	426	547	761	876	Douglas
Topeka, KS MSA	334	384	500	676	762	Shawnee
Wichita, KS MSA	328	394	527	712	770	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen	270	307	393	507	564
Atchison	270	307	393	507	604
Barton	270	307	393	507	564
Brown	270	307	393	507	564
Chautauqua	270	307	393	507	564
Cheyenne	270	307	393	507	564
Clay	270	307	393	507	564
Coffey	279	307	393	507	589
Cowley	288	307	393	519	564
Decatur	270	307	393	507	564
Doniphan	270	307	393	507	564
Elk	270	307	393	507	564
Ellsworth	270	307	393	507	564
Ford	311	367	457	576	648
Geary	332	349	437	564	611
Graham	270	307	393	507	564
Gray	270	307	393	507	564
Greenwood	270	307	393	507	564
Harper	270	307	393	507	564
Hodgeman	270	307	393	507	564
Jefferson	270	307	400	531	564
Kearny	301	307	404	544	597
Kiowa	270	307	393	507	564
Lane	270	307	393	507	564
Linn	270	307	393	507	564
Lyon	270	307	393	507	601
Marion	270	307	393	507	564
Meade	270	307	393	507	564
Montgomery	270	307	393	507	564
Morton	270	329	393	507	564
Neosho	270	307	393	507	564
Norton	270	307	393	507	564
Osborne	270	307	393	507	565
Pawnee	270	307	393	507	564

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anderson	270	307	393	507	564
Barber	270	307	393	507	564
Bourbon	270	307	393	507	564
Chase	270	307	393	507	564
Cherokee	270	307	393	507	564
Clark	270	307	393	507	564
Cloud	270	307	393	507	564
Comanche	270	307	393	507	564
Crawford	270	307	400	507	564
Dickinson	270	307	393	507	564
Edwards	270	307	393	507	564
Ellis	270	307	393	507	564
Finney	354	378	484	631	798
Franklin	304	319	411	526	641
Gove	270	307	393	507	564
Grant	280	355	407	557	607
Greeley	270	307	393	507	564
Hamilton	270	307	393	507	564
Haskell	270	314	393	507	564
Jackson	270	307	393	507	564
Jewell	270	307	393	507	564
Kingman	270	307	393	507	564
Labette	270	307	393	507	564
Lincoln	270	307	393	507	564
Logan	270	307	393	507	564
Mcpherson	272	307	393	507	564
Marshall	270	307	393	507	564
Mitchell	270	307	393	507	564
Morris	270	307	393	507	564
Nemaha	270	307	393	507	564
Ness	270	307	393	507	564
Osage	270	307	393	507	564
Ottawa	270	307	393	507	564
Phillips	270	307	393	507	564

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pottawatomie	270	307	393	507	577
Rawlins	270	307	393	507	564
Republic	270	307	393	507	564
Riley	335	369	491	613	745
Rush	270	307	393	507	564
Saline	353	365	481	665	673
Seward	326	355	472	592	660
Sherman	270	307	393	507	564
Stafford	270	307	393	507	564
Stevens	270	308	393	507	580
Thomas	270	307	393	507	564
Wabaunsee	270	307	393	507	564
Washington	270	307	393	507	564
Wilson	270	307	393	507	564

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pratt	270	307	393	517	564
Reno	270	307	393	507	612
Rice	270	307	393	507	564
Rooks	270	307	393	507	564
Russell	270	307	393	507	564
Scott	270	307	393	517	594
Sheridan	270	307	393	507	564
Smith	270	307	393	507	564
Stanton	270	307	393	507	564
Sumner	270	307	393	531	564
Trego	270	307	393	507	564
Wallace	270	307	393	507	564
Wichita	270	307	404	507	629
Woodson	270	307	393	507	564

K E N T U C K Y

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN	316	406	544	729	787	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	339	380	446	608	625	Christian
Evansville-Henderson, IN-KY MSA	321	382	496	620	694	Henderson
Gallatin County, KY	264	360	440	552	721	Gallatin
Grant County, KY	263	313	414	578	684	Grant
Huntington-Ashland, WV-KY-OH MSA	304	357	440	561	618	Boyd, Carter, Greenup
Lexington, KY MSA	344	428	524	715	807	Bourbon, Clark, Fayette, Jessamine, Madison, Scott Woodford
Louisville, KY-IN MSA	318	408	501	691	729	Bullitt, Jefferson, Oldham
Owensboro, KY MSA	300	311	408	548	573	Daviess
Pendleton County, KY	265	307	409	514	574	Pendleton

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	249	304	359	475	522
Anderson	274	290	376	469	527
Barren	249	301	359	464	522
Bell	249	290	362	464	522
Bracken	249	290	359	464	522
Breckinridge	249	290	359	464	522
Caldwell	249	290	359	464	522
Carlisle	249	290	359	464	522
Casey	249	290	359	464	522
Clinton	249	290	359	464	522

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	249	290	359	464	522
Ballard	249	290	359	464	522
Bath	249	290	359	464	522
Boyle	296	300	400	501	561
Breathitt	249	290	359	464	522
Butler	249	290	359	464	522
Calloway	249	290	359	464	522
Carroll	249	290	359	464	522
Clay	249	290	359	464	522
Crittenden	249	290	359	464	522

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 18

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cumberland	249	290	359	464	522
Elliott	249	290	359	464	522
Fleming	249	290	359	464	522
Franklin	249	366	449	579	732
Garrard	249	290	359	464	522
Grayson	249	290	359	464	522
Hancock	249	290	359	468	555
Harlan	249	378	431	562	663
Hart	249	290	359	464	522
Hickman	249	290	359	464	522
Jackson	249	290	359	464	522
Knott	249	290	359	464	522
Larue	249	290	359	464	522
Lawrence	249	290	359	464	522
Leslie	249	290	359	464	522
Lewis	249	290	359	464	522
Livingston	287	290	387	538	542
Lyon	249	290	359	464	522
Mccreary	249	290	359	464	522
Magoffin	249	290	359	464	522
Marshall	249	296	359	464	558
Mason	249	290	359	464	522
Menifee	249	290	359	464	522
Metcalfe	249	290	359	464	522
Montgomery	249	290	359	464	522
Muhlenberg	249	290	359	464	522
Nicholas	249	290	359	464	522
Owen	249	290	359	464	535
Perry	279	290	374	467	524
Powell	249	290	359	464	522
Robertson	249	290	359	464	522
Rowan	249	290	359	464	542
Shelby	250	329	368	514	522
Spencer	249	296	359	464	522
Todd	249	290	359	464	522
Trimble	249	290	359	464	522
Warren	249	322	430	537	621
Wayne	249	290	359	464	522
Whitley	249	290	359	464	522

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Edmonson	249	290	359	464	522
Estill	249	290	359	464	522
Floyd	262	319	359	498	572
Fulton	249	290	359	464	522
Graves	249	290	359	464	522
Green	249	290	359	464	522
Hardin	309	318	397	535	634
Harrison	249	291	368	464	568
Henry	249	290	359	464	522
Hopkins	249	290	359	464	527
Johnson	249	290	359	464	522
Knox	249	344	441	552	678
Laurel	325	367	436	587	609
Lee	249	290	359	464	522
Letcher	249	290	359	464	522
Lincoln	249	290	359	464	522
Logan	249	290	359	473	522
Mccracken	282	303	379	485	623
Mclean	249	290	359	464	522
Marion	249	290	359	464	522
Martin	249	290	359	464	522
Meade	257	320	368	486	606
Mercer	249	290	359	473	522
Monroe	249	290	359	464	522
Morgan	249	290	359	464	522
Nelson	273	290	370	464	522
Ohio	249	290	359	464	522
Owsley	249	290	359	464	522
Pike	267	305	370	464	548
Pulaski	273	290	368	465	522
Rockcastle	249	290	359	464	522
Russell	249	290	359	464	522
Simpson	249	311	364	465	522
Taylor	300	355	397	532	601
Trigg	249	290	359	464	522
Union	249	290	359	464	522
Washington	249	294	359	464	522
Webster	249	290	359	464	522
Wolfe	249	290	359	464	522

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 19

L O U I S I A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	280	350	439	608	618	Rapides
Baton Rouge, LA MSA	304	377	468	649	766	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA	276	323	414	575	680	Lafourche, Terrebonne
Lafayette, LA MSA	293	337	401	552	653	Lafayette, Acadia, St. Landry, St. Martin
Lake Charles, LA MSA	376	437	554	726	910	Calcasieu
Monroe, LA MSA	303	339	452	609	633	Ouachita
New Orleans, LA	365	418	521	709	858	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA	275	312	415	517	580	St. James
Shreveport-Bossier City, LA MSA	341	388	487	651	799	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	268	291	358	469	523
Avoyelles	268	291	358	469	525
Bienville	268	291	358	475	562
Cameron	268	291	358	469	523
Claiborne	268	291	358	469	523
De Soto	268	291	358	469	527
East Feliciana	268	291	358	469	523
Franklin	268	291	358	469	527
Iberia	283	295	366	469	523
Jackson	268	291	358	469	523
La Salle	268	291	358	469	527
Madison	268	291	358	469	523
Natchitoches	286	293	378	524	527
Red River	268	291	358	469	527
Sabine	268	298	358	469	552
St. Mary	293	314	394	537	560
Tensas	268	291	358	469	523
Vermilion	268	291	358	469	523
Washington	268	291	358	469	523
West Feliciana	268	348	466	583	654

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Assumption	293	315	373	469	523
Beauregard	326	355	421	550	605
Caldwell	268	291	358	469	523
Catahoula	268	291	358	469	523
Concordia	268	291	358	469	523
East Carroll	268	291	358	469	523
Evangeline	268	291	358	469	523
Grant	268	291	358	469	523
Iberville	268	291	358	469	539
Jefferson Davis	268	291	358	469	531
Lincoln	315	317	395	542	650
Morehouse	268	291	358	469	523
Pointe Coupee	268	291	358	469	568
Richland	268	291	358	469	527
St. Helena	268	291	358	469	523
Tangipahoa	287	298	383	502	535
Union	268	291	358	469	527
Vernon	307	342	390	505	596
West Carroll	268	291	358	469	523
Winn	268	291	358	469	523

M A I N E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME MSA	350	427	547	715	767	Penobscot county towns of Bangor city, Brewer city Eddington town, Glenburn town, Hampden town, Hermon town Holden town, Kenduskeag town, Milford town Old Town city, Orono town, Orrington town Penobscot Indian I, Veazie town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 20

M A I N E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Lewiston-Auburn, ME MSA	322	388	499	625	709	Androscoggin county towns of Auburn city, Greene town Lewiston city, Lisbon town, Mechanic Falls tow Poland town, Sabattus town, Turner town, Wales town
Portland, ME MSA	381	491	646	808	906	Cumberland county towns of Cape Elizabeth tow, Casco town Cumberland town, Falmouth town, Freeport town Gorham town, Gray town, North Yarmouth tow Portland city, Raymond town, Scarborough town South Portland cit, Standish town, Westbrook city Windham town, Yarmouth town
Portsmouth-Rochester, NH-ME PMSA	479	573	737	945	1159	Waldo county towns of Winterport town York county towns of Buxton town, Hollis town Limington town, Old Orchard Beach York county towns of Berwick town, Eliot town Kittery town, South Berwick town, York town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin	321	397	527	658	737	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Aroostook	321	377	483	615	708	
Cumberland	470	479	638	868	996	Baldwin town, Bridgton town, Brunswick town Harpswell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town
Franklin	328	377	483	615	708	
Hancock	346	424	525	661	734	
Kennebec	334	417	501	629	708	
Knox	321	414	537	716	754	
Lincoln	418	465	529	735	868	
Oxford	321	377	483	615	708	
Penobscot	321	377	483	615	708	Alton town, Argyle unorg., Bradford town, Bradley town Burlington town, Carmel town, Carroll plantation Charleston town, Chester town, Clifton town Corinna town, Corinth town, Dexter town, Dixmont town Drew plantation, East Central Penob, East Millinocket t Edinburg town, Enfield town, Etna town, Exeter town Garland town, Greenbush town, Greenfield town Howland town, Hudson town, Kingman unorg., Lagrange town Lakeville town, Lee town, Levant town, Lincoln town Lowell town, Mattawamkeag town, Maxfield town Medway town, Millinocket town, Mount Chase town Newburgh town, Newport town, North Penobscot un Passadumkeag town, Patten town, Plymouth town Prentiss plantatio, Seboeis plantation, Springfield town Stacyville town, Stetson town, Twombly unorg. Webster plantation, Whitney unorg., Winn town Woodville town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 21

M A I N E continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Piscataquis	321	377	483	615	708	
Sagadahoc	452	517	638	849	1048	
Somerset	336	384	483	615	726	
Waldo	321	377	483	615	708	Belfast city, Belmont town, Brooks town, Burnham town Frankfort town, Freedom town, Islesboro town Jackson town, Knox town, Liberty town, Lincolnville town Monroe town, Montville town, Morrill town Northport town, Palermo town, Prospect town Searsmont town, Searsport town, Stockton Springs t Swanville town, Thorndike town, Troy town, Unity town Waldo town
Washington	321	377	483	615	708	
York	397	454	608	761	851	Acton town, Alfred town, Arundel town, Biddeford city Cornish town, Dayton town, Kennebunk town Kennebunkport town, Lebanon town, Limerick town Lyman town, Newfield town, North Berwick town Ogunquit town, Parsonsfield town, Saco city Sanford town, Shapleigh town, Waterboro town, Wells town

M A R Y L A N D

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baltimore, MD	431	527	643	851	974	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Anne's, Baltimore city
Columbia, MD	570	766	892	1179	1473	Columbia
Cumberland, MD-WV MSA	337	405	501	662	756	Allegany
Hagerstown, MD PMSA	338	406	507	664	758	Washington
Washington, DC-MD-VA	630	716	840	1145	1380	Calvert, Charles, Frederick, Montgomery, Prince George's
Wilmington-Newark, DE-MD PMSA	446	589	687	932	1126	Cecil

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Caroline	369	398	497	652	741
Garrett	330	442	497	648	817
St. Mary's	503	598	689	961	1098
Talbot	436	462	616	772	1011
Worcester	330	398	498	692	741
Dorchester	330	426	497	648	741
Kent	334	411	549	685	826
Somerset	393	441	497	690	816
Wicomico	371	429	554	703	775

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable-Yarmouth, MA MSA	495	663	885	1108	1241	Barnstable county towns of Barnstable town, Brewster town Chatham town, Dennis town, Eastham town, Harwich town Mashpee town, Orleans town, Sandwich town, Yarmouth town

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M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	669	752	942	1177	1382	Bristol county towns of Berkley town, Dighton town Mansfield town, Norton town, Taunton city Essex county towns of Amesbury town, Beverly city Danvers town, Essex town, Gloucester city, Hamilton town Ipswich town, Lynn city, Lynnfield town, Manchester town Marblehead town, Middleton town, Nahant town Newbury town, Newburyport city, Peabody city Rockport town, Rowley town, Salem city, Salisbury town Saugus town, Swampscott town, Topsfield town Wenham town Middlesex county towns of Acton town, Arlington town Ashland town, Ayer town, Bedford town, Belmont town Boxborough town, Burlington town, Cambridge city Carlisle town, Concord town, Everett city Framingham town, Holliston town, Hopkinton town Hudson town, Lexington town, Lincoln town Littleton town, Malden city, Marlborough city Maynard town, Medford city, Melrose city, Natick town Newton city, North Reading town, Reading town Sherborn town, Shirley town, Somerville city Stoneham town, Stow town, Sudbury town, Townsend town Wakefield town, Waltham city, Watertown town Wayland town, Weston town, Wilmington town Winchester town, Woburn city Norfolk county towns of Bellingham town, Braintree town Brookline town, Canton town, Cohasset town, Dedham town Dover town, Foxborough town, Franklin town Holbrook town, Medfield town, Medway town, Millis town Milton town, Needham town, Norfolk town, Norwood town Plainville town, Quincy city, Randolph town, Sharon town Stoughton town, Walpole town, Wellesley town Westwood town, Weymouth town, Wrentham town Plymouth county towns of Carver town, Duxbury town Hanover town, Hingham town, Hull town, Kingston town Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town
Brockton, MA PMSA	447	589	722	898	1024	Bristol county towns of Easton town, Raynham town Norfolk county towns of Avon town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

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M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Hanson town, Lakeville town, Middleborough town Plympton town, West Bridgewater t, Whitman town
Fitchburg-Leominster, MA MSA.....	350	491	638	820	891	Middlesex county towns of Ashby town Worcester county towns of Ashburnham town, Fitchburg city Gardner city, Leominster city, Lunenburg town Templeton town, Westminster town, Winchendon town
Lawrence, MA-NH PMSA.....	484	584	735	919	1130	Essex county towns of Andover town, Boxford town Georgetown town, Groveland town, Haverhill city Lawrence city, Merrimac town, Methuen town North Andover town, West Newbury town
Lowell, MA-NH PMSA.....	491	634	766	960	1073	Middlesex county towns of Billerica town, Chelmsford town Dracut town, Dunstable town, Groton town, Lowell city Pepperell town, Tewksbury town, Tyngsborough town Westford town
New Bedford, MA PMSA.....	469	573	652	815	915	Bristol county towns of Acushnet town, Dartmouth town Fairhaven town, Freetown town, New Bedford city Plymouth county towns of Marion town, Mattapoisett town Rochester town
Pittsfield, MA MSA.....	323	458	564	708	877	Berkshire county towns of Adams town, Cheshire town Dalton town, Hinsdale town, Lanesborough town, Lee town Lenox town, Pittsfield city, Richmond town Stockbridge town
Providence-Fall River-Warwick, RI-MA MSA.....	408	555	667	838	1032	Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehoboth town, Seekonk town Somerset town, Swansea town, Westport town
Springfield, MA MSA.....	419	518	654	817	1005	Franklin county towns of Sunderland town Hampden county towns of Agawam town, Chicopee city East Longmeadow to, Hampden town, Holyoke city Longmeadow town, Ludlow town, Monson town Montgomery town, Palmer town, Russell town Southwick town, Springfield city, Westfield city West Springfield t, Wilbraham town Hampshire county towns of Amherst town, Belchertown town Easthampton town, Granby town, Hadley town Hatfield town, Huntington town, Northampton city Southampton town, South Hadley town, Ware town Williamsburg town
Worcester, MA-CT PMSA.....	434	526	656	819	918	Hampden county towns of Holland town Worcester county towns of Auburn town, Barre town Boylston town, Brookfield town, Charlton town Clinton town, Douglas town, Dudley town East Brookfield to, Grafton town, Holden town Leicester town, Millbury town, Northborough town Northbridge town, North Brookfield t, Oakham town Oxford town, Paxton town, Princeton town, Rutland town Shrewsbury town, Southbridge town, Spencer town Sterling town, Sturbridge town, Sutton town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 24

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city
NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable	478	656	874	1093	1224	Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Berkshire	381	463	546	749	897	Alford town, Becket town, Clarksburg town, Egremont town Florida town, Great Barrington t, Hancock town Monterey town, Mount Washington t, New Ashford town New Marlborough to, North Adams city, Otis town Peru town, Sandisfield town, Savoy town, Sheffield town Tyringham town, Washington town, West Stockbridge t Williamstown town, Windsor town
Dukes	646	657	875	1094	1227	
Franklin	411	509	651	816	985	Ashfield town, Bernardston town, Buckland town Charlemont town, Colrain town, Conway town Deerfield town, Erving town, Gill town, Greenfield town Hawley town, Heath town, Leverett town, Leyden town Monroe town, Montague town, New Salem town Northfield town, Orange town, Rowe town, Shelburne town Shutesbury town, Warwick town, Wendell town Whately town
Hampden	415	565	754	1003	1237	Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Hampshire	581	588	785	984	1101	Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Nantucket	734	984	1312	1640	1836	
Worcester	462	482	642	804	899	Athol town, Hardwick town, Hubbardston town New Braintree town, Petersham town, Phillipston town Royalston town, Warren town

M I C H I G A N

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	480	581	717	940	1054	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	380	384	504	630	707	Berrien
Detroit, MI PMSA	396	538	650	813	911	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
Flint, MI PMSA	375	426	534	682	747	Genesee
Grand Rapids-Muskegon-Holland, MI MSA	397	464	566	710	794	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	299	402	509	636	713	Jackson
Kalamazoo-Battle Creek, MI MSA	353	426	537	673	751	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	398	468	605	790	913	Clinton, Eaton, Ingham

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 25

M I C H I G A N continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Saginaw-Bay City-Midland, MI MSA	347	383	509	636	713	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcona	290	331	419	545	621	Alger	290	331	419	545	621
Alpena	290	331	419	545	625	Antrim	290	348	419	545	621
Arenac	290	331	419	545	621	Baraga	290	331	419	545	621
Barry	290	358	476	597	668	Benzie	303	331	419	563	621
Branch	336	344	422	577	621	Cass	290	331	421	575	621
Charlevoix	353	357	452	614	636	Cheboygan	305	331	419	545	637
Chippewa	290	331	419	545	621	Clare	301	331	419	545	621
Crawford	317	331	428	585	621	Delta	290	331	419	545	621
Dickinson	290	357	440	550	621	Emmet	324	388	459	602	641
Gladwin	290	331	419	545	621	Gogebic	290	331	419	545	621
Grand Traverse	384	411	549	686	770	Gratiot	303	331	419	545	621
Hillsdale	290	331	419	545	621	Houghton	290	331	419	545	621
Huron	290	331	419	545	621	Ionia	356	360	451	562	632
Iosco	290	331	419	545	657	Iron	290	331	419	545	621
Isabella	324	346	463	625	759	Kalkaska	290	331	420	547	691
Keweenaw	290	331	419	545	621	Lake	293	331	419	545	621
Leelanau	393	425	497	650	816	Luce	290	331	419	545	621
Mackinac	290	331	419	545	621	Manistee	290	331	419	545	621
Marquette	290	331	419	545	621	Mason	290	331	419	545	621
Mecosta	290	331	419	567	673	Menominee	290	331	419	545	621
Missaukee	305	331	419	545	621	Montcalm	294	331	419	545	621
Montmorency	290	331	419	545	621	Newaygo	334	358	420	545	621
Oceana	309	331	419	545	621	Ogemaw	302	332	419	545	621
Ontonagon	290	331	419	545	621	Osceola	290	331	419	545	621
Oscoda	290	331	419	545	621	Otsego	297	360	454	631	731
Presque Isle	290	331	419	545	621	Roscommon	320	331	419	545	621
St. Joseph	290	338	419	547	621	Sanilac	290	341	419	547	621
Schoolcraft	290	331	419	545	621	Shiawassee	290	364	438	610	653
Tuscola	315	344	459	573	641	Wexford	290	335	434	569	673

M I N N E S O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	281	362	465	621	723	St. Louis
Fargo-Moorhead, ND-MN MSA	337	464	560	777	832	Clay
Grand Forks, ND-MN MSA	348	415	546	753	840	Polk

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 26

M I N N E S O T A continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
La Crosse, WI-MN MSA	285	367	467	625	757	Houston
Minneapolis-St. Paul, MN-WI MSA	416	535	684	925	1048	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright
Rochester, MN MSA	328	460	602	832	935	Olmsted
St. Cloud, MN MSA	326	421	498	629	802	Benton, Stearns

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aitkin	270	350	466	584	652
Beltrami	266	341	456	597	638
Blue Earth	363	438	546	699	887
Carlton	266	324	411	515	589
Chippewa	266	324	411	515	589
Cook	315	324	423	578	602
Crow Wing	266	324	432	541	679
Douglas	266	324	411	515	589
Fillmore	266	324	411	515	589
Goodhue	307	395	527	672	738
Hubbard	272	324	411	515	589
Jackson	266	324	411	515	589
Kandiyohi	328	414	504	632	761
Koochiching	322	328	436	545	714
Lake	266	324	411	515	589
Le Sueur	266	324	411	515	635
Lyon	266	324	411	515	610
Mahnomen	266	324	411	515	589
Martin	266	324	411	515	589
Mille Lacs	283	324	412	574	676
Mower	266	324	411	515	589
Nicollet	334	357	475	630	666
Norman	266	324	411	515	589
Pennington	266	324	411	550	589
Pipestone	266	324	411	515	589
Red Lake	266	336	411	515	589
Renville	266	324	411	515	589
Rock	266	324	411	515	589
Sibley	266	324	411	515	589
Stevens	303	383	432	541	606
Todd	266	324	411	515	589
Wabasha	288	351	444	557	636
Waseca	347	381	483	606	693

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Becker	266	382	429	537	602
Big Stone	266	324	411	515	589
Brown	266	344	411	515	589
Cass	266	324	411	515	589
Clearwater	266	324	411	515	589
Cottonwood	266	324	411	515	589
Dodge	266	324	411	515	589
Faribault	266	324	411	515	589
Freeborn	266	324	419	552	591
Grant	266	324	411	515	589
Itasca	341	345	450	562	630
Kanabec	266	335	434	543	608
Kittson	266	324	411	515	589
Lac qui Parle	266	324	411	515	589
Lake of the Woods	266	324	411	515	589
Lincoln	266	324	411	515	589
Mcleod	316	407	543	674	757
Marshall	266	324	411	515	589
Meeker	317	373	473	594	678
Morrison	295	324	411	515	589
Murray	266	324	411	515	589
Nobles	266	324	411	515	589
Otter Tail	266	324	411	515	589
Pine	294	324	411	518	589
Pope	266	324	411	515	589
Redwood	266	324	411	515	589
Rice	315	431	575	717	803
Roseau	322	328	430	555	604
Steele	315	366	487	609	682
Swift	266	324	411	515	589
Traverse	266	324	411	515	589
Wadena	266	324	411	515	589
Watonwan	266	324	411	515	589

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 27

M I N N E S O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wilkin	266	324	411	515	589
Yellow Medicine	266	324	411	515	589
Winona	310	404	512	640	717

M I S S I S S I P P I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Biloxi-Gulfport-Pascagpula, MS MSA	357	419	482	672	792	Hancock, Harrison, Jackson
Hattiesburg, MS MSA	275	337	413	554	660	Forrest, Lamar
Jackson, MS MSA	363	414	507	674	711	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	389	454	533	740	778	Desoto

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	248	294	366	468	597
Amite	248	294	364	468	527
Benton	248	294	364	468	527
Calhoun	248	294	364	468	527
Chickasaw	248	294	364	468	527
Claiborne	248	294	364	468	527
Clay	248	294	364	468	532
Copiah	248	294	364	468	527
Franklin	251	294	364	468	527
Greene	248	294	364	468	527
Holmes	248	294	364	468	527
Issaquena	260	358	475	595	666
Jasper	248	294	364	468	527
Jefferson Davis	248	294	364	468	527
Kemper	250	294	364	468	527
Lauderdale	248	320	402	522	564
Leake	248	294	364	468	527
Leflore	248	294	364	469	563
Lowndes	306	330	391	490	553
Marshall	248	294	364	468	535
Montgomery	248	294	364	468	527
Newton	248	294	364	468	527
Oktibbeha	304	317	387	538	635
Pearl River	260	294	364	470	527
Pike	252	294	364	468	527
Prentiss	251	294	364	468	527
Scott	248	294	364	468	527
Simpson	251	294	364	468	527

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcorn	248	294	364	468	527
Attala	248	294	364	468	527
Bolivar	282	294	379	473	541
Carroll	248	294	364	468	527
Choctaw	248	294	364	468	527
Clarke	248	294	364	468	527
Coahoma	288	294	388	487	545
Covington	248	294	364	468	527
George	248	294	364	468	527
Grenada	248	295	364	497	527
Humphreys	248	294	364	468	527
Itawamba	248	294	364	468	527
Jefferson	248	294	364	468	527
Jones	248	294	364	468	527
Lafayette	251	344	458	574	642
Lawrence	248	294	364	468	527
Lee	310	334	402	503	564
Lincoln	248	294	364	468	527
Marion	248	294	364	468	527
Monroe	248	294	364	468	527
Neshoba	248	294	364	468	527
Noxubee	252	294	364	468	527
Panola	256	294	364	468	527
Perry	248	294	364	468	527
Pontotoc	248	294	364	468	527
Quitman	248	294	364	468	527
Sharkey	252	294	364	468	527
Smith	248	294	364	468	527

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Stone	248	294	364	468	527
Tallahatchie	248	294	364	468	527
Tippah	248	294	364	468	527
Tunica	248	294	364	468	527
Walthall	248	294	364	468	527
Washington	268	319	426	550	606
Webster	250	294	364	468	527
Winston	248	294	364	468	527
Yazoo	252	294	364	468	527

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Sunflower	274	298	364	468	559
Tate	248	335	387	485	637
Tishomingo	248	294	364	468	527
Union	248	294	364	468	527
Warren	248	324	404	558	669
Wayne	248	294	364	468	527
Wilkinson	248	294	364	468	527
Yalobusha	250	294	364	468	527

M I S S O U R I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Columbia, MO MSA	262	369	481	668	787	Boone
Joplin, MO MSA	256	296	393	517	556	Jasper, Newton
Kansas City, MO-KS MSA	379	477	574	794	880	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	246	298	398	502	558	Andrew, Buchanan
St. Louis, MO-IL MSA	323	393	510	664	734	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln St. Charles, St. Louis, Warren, St. Louis city
Springfield, MO MSA	268	340	440	608	633	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	239	299	396	499	598
Audrain	255	275	354	478	553
Barton	239	275	354	460	528
Benton	269	275	366	460	528
Butler	239	275	354	460	528
Callaway	282	286	381	483	626
Cape Girardeau	246	303	402	536	657
Carter	239	275	354	460	528
Chariton	239	275	354	460	528
Cole	239	316	420	561	588
Crawford	262	316	355	468	528
Dallas	239	275	354	460	528
Dekalb	247	275	354	465	528
Douglas	239	275	354	460	528
Gasconade	239	275	354	460	528
Grundy	239	275	354	460	528
Henry	272	277	370	463	608
Holt	239	275	354	460	528
Howell	239	275	354	460	528

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atchison	239	275	354	460	528
Barry	239	284	354	460	528
Bates	239	275	354	460	538
Bollinger	239	275	354	460	528
Caldwell	239	277	373	466	528
Camden	315	318	424	589	693
Carroll	239	275	354	460	528
Cedar	239	275	354	460	528
Clark	239	275	354	460	528
Cooper	239	275	354	460	528
Dade	239	275	354	460	528
Daviess	239	275	354	460	528
Dent	239	275	354	460	528
Dunklin	239	275	354	460	528
Gentry	239	275	354	460	528
Harrison	239	275	354	460	528
Hickory	239	275	354	460	528
Howard	239	275	354	460	530
Iron	239	275	354	460	528

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 29

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Johnson	287	321	418	554	655
Laclede	239	275	354	463	528
Lewis	239	275	354	460	528
Livingston	239	275	355	460	528
Macon	239	275	354	460	528
Maries	239	275	354	460	528
Mercer	239	275	354	460	528
Mississippi	239	275	354	460	528
Monroe	239	275	354	460	528
Morgan	239	275	354	460	528
Nodaway	252	306	376	477	576
Osage	239	275	354	460	528
Pemiscot	239	275	354	460	528
Pettis	256	301	402	506	605
Pike	239	275	354	460	555
Pulaski	239	335	376	498	555
Ralls	239	275	354	460	528
Reynolds	239	275	354	460	528
St. Clair	239	275	354	460	528
St. Francois	262	329	417	523	686
Schuyler	239	275	354	460	528
Scott	287	289	387	522	601
Shelby	239	275	354	460	528
Stone	277	295	367	468	528
Taney	270	299	391	528	620
Vernon	239	275	354	471	528
Wayne	239	275	354	460	528
Wright	239	275	354	460	528

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Knox	239	275	354	460	528
Lawrence	253	282	354	460	528
Linn	239	275	354	460	528
Mcdonald	239	275	354	460	528
Madison	239	275	354	460	528
Marion	239	275	354	460	528
Miller	262	316	354	463	548
Moniteau	239	275	354	460	528
Montgomery	239	275	354	460	528
New Madrid	239	275	354	460	528
Oregon	239	275	354	460	528
Ozark	239	275	354	460	528
Perry	289	294	393	523	550
Phelps	247	297	380	516	560
Polk	239	276	354	460	553
Putnam	239	275	354	460	528
Randolph	239	275	354	460	528
Ripley	239	275	354	460	528
Ste. Genevieve	239	284	366	468	593
Saline	239	275	364	460	528
Scotland	239	275	354	460	528
Shannon	239	275	354	460	528
Stoddard	239	275	354	460	528
Sullivan	239	275	354	460	528
Texas	239	275	354	460	528
Washington	279	338	379	473	531
Worth	239	275	354	460	528

M O N T A N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	328	381	510	685	831	Yellowstone
Great Falls, MT MSA	328	379	500	651	775	Cascade
Missoula County, MT PMSA	328	385	513	661	840	Missoula

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

M O N T A N A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	298	344	454	590	689
Blaine	298	344	454	590	689
Carbon	339	398	517	672	784
Chouteau	298	344	454	590	689
Daniels	298	365	454	590	689
Deer Lodge	298	344	454	590	689
Fergus	298	344	454	590	689
Gallatin	367	428	574	738	943
Glacier	298	344	454	590	689
Granite	298	344	454	590	689
Jefferson	314	344	454	590	689
Lake	324	344	454	590	689
Liberty	298	344	454	590	689
Mccone	298	363	454	590	689
Meagher	298	365	454	590	689
Musselshell	303	344	454	590	689
Petroleum	298	344	454	590	689
Pondera	298	364	454	590	689
Powell	303	344	454	590	689
Ravalli	298	344	454	590	689
Roosevelt	311	344	454	590	689
Sanders	298	344	454	590	689
Silver Bow	298	344	454	590	689
Sweet Grass	321	344	454	590	689
Toole	304	344	454	590	689
Valley	298	344	454	590	689
Wibaux	298	365	454	590	689

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Big Horn	298	344	454	590	689
Broadwater	298	344	454	590	735
Carter	298	365	454	590	689
Custer	298	344	454	590	689
Dawson	298	344	454	590	689
Fallon	298	344	454	590	689
Flathead	298	345	461	643	757
Garfield	298	344	454	590	689
Golden Valley	298	364	454	590	689
Hill	307	344	454	590	689
Judith Basin	298	365	454	590	689
Lewis and Clark	331	388	516	717	849
Lincoln	324	344	454	590	689
Madison	304	344	454	590	689
Mineral	298	344	454	590	704
Park	298	344	454	590	697
Phillips	298	344	454	590	689
Powder River	298	349	454	590	689
Prairie	298	344	454	590	689
Richland	298	372	454	590	689
Rosebud	298	344	454	590	689
Sheridan	306	344	454	590	689
Stillwater	304	344	454	590	689
Teton	298	344	454	590	689
Treasure	298	344	454	590	689
Wheatland	298	344	454	590	689

N E B R A S K A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE MSA	314	403	531	705	823	Lancaster
Omaha, NE-IA MSA	338	463	585	767	860	Cass, Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	344	413	515	642	734	Dakota

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 31

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	248	332	439	550	659
Arthur	238	307	391	500	569
Blaine	238	307	391	500	569
Box Butte	258	307	391	501	591
Brown	238	307	391	500	581
Burt	238	307	391	500	569
Cedar	238	307	391	500	569
Cherry	238	322	391	503	592
Clay	238	307	391	500	569
Cuming	238	323	391	500	569
Dawes	254	307	391	504	594
Deuel	238	307	391	500	569
Dodge	238	307	403	531	569
Fillmore	238	307	391	500	569
Frontier	267	307	391	500	569
Gage	238	308	398	507	569
Garfield	238	307	391	500	569
Grant	238	307	391	500	569
Hall	285	376	501	659	738
Harlan	238	307	391	501	569
Hitchcock	238	307	391	500	569
Hooker	238	321	391	501	569
Jefferson	238	307	391	500	569
Kearney	238	307	391	500	594
Keya Paha	238	307	391	500	569
Knox	238	318	391	500	569
Logan	238	307	391	500	595
Mcpherson	238	307	391	501	569
Merrick	238	307	391	500	569
Nance	238	307	391	500	569
Nuckolls	238	307	391	500	569
Pawnee	238	307	391	504	569
Phelps	266	307	391	501	594
Platte	238	307	391	546	569
Red Willow	238	307	391	500	579
Rock	238	314	391	500	569
Saunders	238	307	391	500	569
Seward	295	307	399	500	569
Sherman	238	309	391	500	595
Stanton	238	307	391	500	569

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Antelope	238	322	391	503	569
Banner	238	307	391	501	569
Boone	238	307	391	500	592
Boyd	238	320	391	500	569
Buffalo	256	371	465	581	702
Butler	238	307	391	500	569
Chase	238	323	391	500	596
Cheyenne	266	307	391	500	569
Colfax	259	319	391	500	569
Custer	266	309	391	500	591
Dawson	261	319	391	504	569
Dixon	265	307	391	500	569
Dundy	238	307	391	500	569
Franklin	238	307	391	505	569
Furnas	238	307	391	500	592
Garden	238	319	391	503	594
Gosper	238	307	391	500	576
Greeley	238	307	391	500	579
Hamilton	238	307	391	504	569
Hayes	238	321	391	500	592
Holt	238	307	391	500	569
Howard	238	307	391	500	569
Johnson	238	311	391	500	569
Keith	238	307	391	500	569
Kimball	238	307	391	501	594
Lincoln	244	319	391	500	569
Loup	238	307	391	500	593
Madison	244	321	424	549	669
Morrill	238	309	391	500	592
Nemaha	238	307	391	500	569
Otoe	238	307	391	500	595
Perkins	238	307	391	500	569
Pierce	238	307	391	500	569
Polk	238	307	391	500	569
Richardson	238	307	391	500	569
Saline	238	320	391	500	569
Scotts Bluff	242	318	403	500	592
Sheridan	238	307	391	500	570
Sioux	238	307	391	500	594
Thayer	238	322	391	500	569

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Thomas	238	307	391	500	569
Valley	238	307	391	500	569
Webster	238	307	391	500	569
York	238	307	396	500	569
Thurston	238	307	391	500	569
Wayne	272	307	391	500	592
Wheeler	238	307	391	501	569

N E V A D A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA	497	590	702	977	1154	Clark, Nye
Reno, NV MSA	481	558	717	999	1180	Washoe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Churchill	440	447	597	823	977
Elko	400	457	609	804	1001
Eureka	324	529	596	742	830
Lander	327	507	596	745	976
Lyon	388	464	596	829	977
Pershing	451	457	609	762	871
White Pine	325	448	596	804	845
Douglas	395	576	723	1003	1116
Esmeralda	424	529	596	743	833
Humboldt	477	500	603	791	846
Lincoln	325	489	596	746	834
Mineral	329	450	599	785	982
Storey	457	463	609	848	1001
Carson City	342	468	625	869	1026

N E W H A M P S H I R E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	669	752	942	1177	1382	Rockingham county towns of Seabrook town South Hampton town
Lawrence, MA-NH PMSA	484	584	735	919	1130	Rockingham county towns of Atkinson town, Chester town Danville town, Derry town, Fremont town, Hampstead town Kingston town, Newton town, Plaistow town, Raymond town Salem town, Sandown town, Windham town
Lowell, MA-NH PMSA	491	634	766	960	1073	Hillsborough county towns of Pelham town
Manchester, NH PMSA	395	563	703	879	985	Hillsborough county towns of Bedford town, Goffstown town Manchester city, Weare town Merrimack county towns of Allenstown town, Hooksett town Rockingham county towns of Auburn town, Candia town Londonderry town
Nashua, NH PMSA	465	648	804	1094	1302	Hillsborough county towns of Amherst town, Brookline town Greenville town, Hollis town, Hudson town Litchfield town, Mason town, Merrimack town Milford town, Mont Vernon town, Nashua city New Ipswich town, Wilton town
Portsmouth-Rochester, NH-ME PMSA	479	573	737	945	1159	Rockingham county towns of Brentwood town East Kingston town, Epping town, Exeter town Greenland town, Hampton town, Hampton Falls town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 33

N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Kensington town, New Castle town, Newfields town Newington town, Newmarket town, North Hampton town Portsmouth city, Rye town, Stratham town
						Strafford county towns of Barrington town, Dover city Durham town, Farmington town, Lee town, Madbury town Milton town, Rochester city, Rollinsford town Somersworth city
NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap	431	498	655	885	1076	
Carroll	360	494	658	825	1029	
Cheshire	447	531	679	884	1048	
Coos	308	377	483	630	746	
Grafton	397	479	638	825	1042	
Hillsborough	423	529	705	932	1122	Antrim town, Bennington town, Deering town Francestown town, Greenfield town, Hancock town Hillsborough town, Lyndeborough town, New Boston town Peterborough town, Sharon town, Temple town Windsor town
Merrimack	445	532	663	850	949	Andover town, Boscawen town, Bow town, Bradford town Canterbury town, Chichester town, Concord city Danbury town, Dunbarton town, Epsom town, Franklin city Henniker town, Hill town, Hopkinton town, Loudon town Newbury town, New London town, Northfield town Pembroke town, Pittsfield town, Salisbury town Sutton town, Warner town, Webster town, Wilmot town
Rockingham	462	541	724	1004	1159	Deerfield town, Northwood town, Nottingham town
Strafford	409	555	740	928	1040	Middleton town, New Durham town, Strafford town
Sullivan	430	437	567	745	794	

N E W J E R S E Y

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	499	568	756	947	1082	Atlantic, Cape May
Bergen-Passaic, NJ PMSA	634	773	906	1207	1489	Bergen, Passaic
Jersey City, NJ PMSA	583	687	801	1018	1120	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	678	743	927	1259	1454	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ PMSA	596	714	906	1204	1412	Monmouth, Ocean
Newark, NJ PMSA	550	702	846	1066	1347	Essex, Morris, Sussex, Union, Warren
Philadelphia, PA-NJ PMSA	486	597	738	923	1158	Burlington, Camden, Gloucester, Salem
Trenton, NJ PMSA	492	686	836	1132	1367	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	482	586	707	881	991	Cumberland

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

N E W M E X I C O

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albuquerque, NM MSA	393	468	585	807	952	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA	293	368	437	599	706	Dona Ana
Santa Fe, NM MSA	423	600	741	995	1126	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Catron	271	317	393	528	596
Cibola	282	308	393	528	596
Curry	271	315	412	528	596
Eddy	278	307	393	528	614
Guadalupe	271	307	393	528	600
Hidalgo	271	307	393	528	596
Lincoln	307	315	415	547	684
Mckinley	271	340	433	539	604
Otero	271	307	393	548	596
Rio Arriba	317	324	398	528	596
San Juan	306	328	409	568	673
Sierra	271	307	393	528	596
Taos	465	471	628	785	1034
Union	271	330	393	528	596

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Chaves	271	308	406	559	596
Colfax	271	315	393	528	596
Debaca	271	308	393	528	596
Grant	321	366	468	628	709
Harding	271	307	393	528	596
Lea	271	307	393	528	596
Luna	298	328	420	563	635
Mora	271	307	393	528	596
Quay	271	392	442	553	618
Roosevelt	271	307	393	528	596
San Miguel	300	307	405	528	596
Socorro	271	307	393	528	612
Torrance	297	321	393	528	596

N E W Y O R K

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	399	491	604	758	847	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA	358	402	501	637	714	Broome, Tioga
Buffalo-Niagara Falls, NY PMSA	356	423	510	637	714	Erie, Niagara
Dutchess County, NY PMSA	577	732	905	1176	1374	Dutchess
Elmira, NY MSA	358	402	493	624	744	Chemung
Glens Falls, NY MSA	358	466	568	711	795	Warren, Washington
Jamestown, NY MSA	358	402	483	624	714	Chautauqua
Nassau-Suffolk, NY PMSA	775	934	1139	1585	1698	Nassau, Suffolk
New York, NY PMSA	727	810	920	1150	1289	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY	698	910	1108	1440	1719	Westchester
Newburgh, NY-PA PMSA	462	600	734	931	1062	Orange
Rochester, NY MSA	385	501	609	781	853	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	383	462	572	730	810	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA	358	402	492	624	714	Herkimer, Oneida

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 35

N E W Y O R K continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allegany	356	400	480	621	710
Chenango	379	400	480	621	710
Columbia	445	467	599	785	840
Delaware	356	400	480	621	763
Franklin	356	400	480	621	710
Greene	356	461	553	714	871
Jefferson	383	452	531	665	744
Otsego	356	421	484	625	794
Schuyler	385	410	487	678	799
Steuben	368	419	480	628	710
Tompkins	464	500	642	896	1056
Wyoming	356	400	480	621	710

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cattaraugus	356	400	480	621	710
Clinton	356	400	517	646	724
Cortland	356	425	532	665	787
Essex	356	405	508	636	710
Fulton	356	400	480	621	710
Hamilton	356	428	492	621	710
Lewis	356	400	480	621	710
St. Lawrence	356	400	480	621	710
Seneca	380	408	493	637	710
Sullivan	461	517	630	871	883
Ulster	437	607	730	951	1197
Yates	356	400	480	621	710

N O R T H C A R O L I N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC MSA	343	415	541	705	760	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA	510	575	648	854	1023	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	376	427	479	663	788	Cumberland
Goldsboro, NC MSA	308	355	431	555	648	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	407	464	553	762	775	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA	402	407	528	712	871	Pitt
Hickory-Morganton, NC MSA	388	423	491	619	734	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA	351	409	463	642	759	Onslow
Norfolk-Virginia Beach-Newport News, VA-NC MSA	436	491	580	809	951	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	456	553	649	871	1027	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA	328	355	431	571	630	Edgecombe, Nash
Wilmington, NC MSA	450	494	605	828	987	Brunswick, New Hanover

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alleghany	292	342	409	527	624
Ashe	292	337	409	527	598
Beaufort	292	337	409	527	598
Bladen	292	337	409	527	598
Carteret	331	362	442	614	683
Cherokee	292	337	409	527	598
Clay	292	337	409	527	598
Columbus	292	337	409	527	598
Dare	303	480	553	758	775
Gates	292	337	409	527	598

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anson	292	337	409	527	598
Avery	326	367	447	560	626
Bertie	292	337	409	527	598
Camden	292	373	497	622	698
Caswell	292	337	409	527	598
Chowan	292	337	409	527	598
Cleveland	292	343	409	542	598
Craven	292	365	440	575	616
Duplin	292	337	409	527	598
Graham	292	337	409	527	598

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Granville	308	337	409	542	613
Halifax	292	337	409	527	598
Haywood	304	346	421	565	615
Hertford	292	337	409	527	598
Hyde	292	337	409	527	598
Jackson	292	337	409	572	748
Lee	292	373	442	572	620
Mcdowell	292	356	427	583	691
Martin	292	337	409	527	598
Montgomery	292	337	409	527	598
Northampton	292	337	409	527	598
Pasquotank	337	360	449	624	630
Perquimans	292	337	409	527	598
Polk	292	370	415	527	598
Robeson	292	344	409	527	598
Rutherford	295	337	409	527	598
Scotland	292	337	409	527	598
Surry	292	337	409	527	598
Transylvania	338	361	457	606	648
Vance	309	350	409	527	598
Washington	292	337	409	527	598
Wilkes	332	374	421	582	654
Yancey	292	343	409	527	617

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Greene	292	337	409	527	598
Harnett	330	381	462	598	675
Henderson	378	389	481	640	737
Hoke	292	337	409	527	598
Iredell	394	404	533	666	745
Jones	292	337	409	527	598
Lenoir	292	337	409	527	598
Macon	292	349	409	527	598
Mitchell	292	382	439	599	626
Moore	336	405	484	661	793
Pamlico	292	337	409	527	598
Pender	292	354	409	527	644
Person	292	337	439	572	670
Richmond	292	337	409	527	598
Rockingham	292	337	409	527	598
Sampson	292	337	409	527	598
Stanly	292	337	415	560	598
Swain	292	337	409	527	598
Tyrrell	292	337	409	527	598
Warren	292	337	409	527	598
Watauga	381	457	578	787	949
Wilson	305	337	414	527	598

NORTH DAKOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	343	384	512	713	843	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	337	464	560	777	832	Cass
Grand Forks, ND-MN MSA	348	415	546	753	840	Grand Forks

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	229	288	371	482	563
Benson	260	288	371	482	563
Bottineau	229	288	371	482	563
Burke	249	288	371	482	563
Dickey	249	288	371	482	563
Dunn	229	288	371	482	563
Emmons	229	288	371	482	563
Golden Valley	229	295	392	490	563

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barnes	229	290	383	501	563
Billings	249	288	371	482	563
Bowman	229	288	371	482	563
Cavalier	229	296	394	491	606
Divide	229	288	371	482	563
Eddy	229	288	371	482	563
Foster	229	288	373	482	563
Grant	229	288	371	482	563

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 37

N O R T H D A K O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Griggs	229	288	371	482	563
Kidder	229	288	371	482	563
Logan	229	288	371	482	563
Mcintosh	229	288	371	482	563
Mclean	243	288	371	482	563
Mountrail	253	288	371	482	563
Oliver	229	288	371	482	563
Pierce	229	288	371	497	563
Ransom	234	288	371	482	563
Richland	241	288	378	482	563
Sargent	229	288	371	482	563
Sioux	229	288	371	482	563
Stark	229	288	371	482	563
Stutsman	274	288	375	523	616
Traill	241	306	371	482	563
Ward	229	315	420	568	677
Williams	229	288	371	482	563
Hettinger	229	288	371	482	563
Lamoure	249	288	371	482	563
Mchenry	229	288	371	482	563
Mckenzie	229	288	371	482	563
Mercer	229	288	371	482	563
Nelson	229	288	371	482	563
Pembina	229	288	371	489	581
Ramsey	236	315	420	526	687
Renville	265	288	371	485	573
Rolette	248	316	381	482	563
Sheridan	229	288	371	482	563
Slope	229	288	371	482	563
Steele	229	288	371	482	563
Towner	262	295	392	490	645
Walsh	305	326	405	507	567
Wells	244	288	371	482	563

O H I O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH PMSA	371	450	578	723	811	Portage, Summit
Brown County, OH	293	345	430	557	614	Brown
Canton-Massillon, OH MSA	288	375	478	598	672	Carroll, Stark
Cincinnati, OH-KY-IN	316	406	544	729	787	Clermont, Hamilton, Warren
Cleveland-Lorain-Elyria, OH PMSA	398	500	619	787	887	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA	393	465	597	758	871	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway
Dayton-Springfield, OH MSA	384	430	549	709	795	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	318	453	580	725	812	Butler
Huntington-Ashland, WV-KY-OH MSA	304	357	440	561	618	Lawrence
Lima, OH MSA	288	345	454	579	635	Allen, Auglaize
Mansfield, OH MSA	288	345	439	548	614	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	306	367	420	545	591	Washington
Steubenville-Weirton, OH-WV MSA	288	339	425	542	605	Jefferson
Toledo, OH MSA	360	438	535	689	748	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	314	344	425	542	605	Belmont
Youngstown-Warren, OH MSA	301	355	445	559	636	Columbiana, Mahoning, Trumbull

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OHIO continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	279	331	412	526	589
Athens	330	373	438	574	705
Clinton	318	408	490	683	689
Darke	306	331	415	526	589
Erie	279	372	464	626	759
Gallia	279	331	412	526	589
Hancock	354	358	453	578	633
Harrison	279	331	412	526	589
Highland	279	331	412	526	589
Holmes	279	331	412	526	589
Jackson	279	331	412	526	589
Logan	327	332	428	576	600
Meigs	279	331	412	526	589
Monroe	279	331	412	526	589
Morrow	279	331	412	526	589
Noble	279	331	412	526	597
Paulding	279	331	412	526	589
Pike	293	349	433	555	619
Putnam	289	331	412	526	589
Sandusky	279	362	464	585	647
Seneca	280	331	412	530	589
Tuscarawas	279	331	432	541	606
Van Wert	279	335	412	526	589
Wayne	279	369	454	576	635
Wyandot	279	331	412	526	589

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashland	279	331	435	544	609
Champaign	279	340	442	552	618
Coshocton	279	331	412	526	589
Defiance	291	331	436	550	611
Fayette	303	331	412	526	589
Guernsey	279	331	412	526	589
Hardin	279	331	412	526	589
Henry	301	334	416	537	611
Hocking	279	331	412	526	589
Huron	323	352	438	578	615
Knox	328	361	463	598	661
Marion	279	331	412	526	589
Mercer	279	331	412	526	606
Morgan	279	336	412	526	589
Muskingum	279	331	412	526	589
Ottawa	279	412	474	645	689
Perry	279	331	412	526	589
Preble	286	339	422	541	604
Ross	323	337	412	526	589
Scioto	279	331	412	526	589
Shelby	279	340	454	566	635
Union	279	386	509	637	737
Vinton	279	331	412	526	589
Williams	296	331	412	526	589

OKLAHOMA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA	297	301	399	555	635	Garfield
Fort Smith, AR-OK MSA	304	308	405	541	568	Sequoyah
Lawton, OK MSA	367	369	470	652	714	Comanche
Oklahoma City, OK MSA	332	362	469	652	729	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
Tulsa, OK MSA	333	398	521	725	855	Creek, Osage, Rogers, Tulsa, Wagoner

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 39

O K L A H O M A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	247	284	354	471	540
Atoka	247	284	354	471	540
Beckham	251	284	354	471	540
Bryan	247	284	354	471	540
Carter	247	286	357	497	540
Choctaw	247	284	354	471	540
Coal	247	284	354	471	540
Craig	247	284	354	483	572
Delaware	247	284	354	471	550
Ellis	247	284	354	471	540
Grady	271	284	367	499	602
Greer	247	284	354	471	540
Harper	247	284	354	471	540
Hughes	247	284	354	471	540
Jefferson	247	284	354	471	540
Kay	274	290	381	531	622
Kiowa	247	284	354	471	540
Le Flore	247	284	354	471	540
Love	247	284	358	471	540
Mcintosh	247	284	354	471	540
Marshall	247	284	354	471	540
Murray	247	284	354	471	540
Noble	247	284	354	471	540
Okfuskee	247	284	354	471	540
Ottawa	266	284	354	471	540
Payne	286	337	432	596	669
Pontotoc	247	284	354	471	540
Roger Mills	247	284	354	471	540
Stephens	251	284	354	471	562
Tillman	247	284	354	471	540
Washita	247	284	354	471	540
Woodward	247	284	354	471	540

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	247	284	354	471	540
Beaver	247	288	354	471	540
Blaine	247	284	354	471	540
Caddo	247	284	354	471	540
Cherokee	259	293	354	471	548
Cimarron	247	284	354	471	540
Cotton	247	284	354	471	540
Custer	247	284	363	505	583
Dewey	247	284	354	471	540
Garvin	247	284	354	471	544
Grant	247	284	354	471	540
Harmon	247	284	354	471	540
Haskell	247	284	354	471	540
Jackson	247	321	391	514	580
Johnston	247	284	354	471	540
Kingfisher	247	292	362	474	540
Latimer	247	284	354	471	540
Lincoln	265	284	354	471	540
Mccurtain	247	284	354	471	540
Major	247	297	354	491	540
Mayes	247	288	383	483	540
Muskogee	268	301	354	489	540
Nowata	247	284	354	471	540
Okmulgee	251	284	354	471	540
Pawnee	279	284	367	472	540
Pittsburg	247	284	354	471	540
Pushmataha	247	284	354	471	540
Seminole	247	284	354	471	540
Texas	247	294	354	472	540
Washington	247	339	413	548	640
Woods	247	284	354	471	540

O R E G O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Corvallis, OR MSA	374	485	615	925	983	Benton
Eugene-Springfield, OR MSA	336	461	600	838	968	Lane
Medford-Ashland, OR MSA	345	452	604	840	936	Jackson

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

O R E G O N continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Portland-Vancouver, OR-WA PMSA	463	569	702	976	1060	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR PMSA	391	461	591	813	852	Marion, Polk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	313	371	481	662	738
Coos	313	382	507	706	738
Curry	313	426	565	724	890
Douglas	313	371	481	662	788
Grant	313	371	481	662	738
Hood River	368	414	562	732	865
Josephine	313	380	489	662	772
Lake	313	371	481	662	738
Linn	376	446	579	796	888
Morrow	313	371	481	662	738
Tillamook	313	371	481	662	738
Union	313	371	481	662	738
Wasco	381	472	528	719	808
Clatsop	361	428	560	764	858
Crook	313	371	481	662	738
Deschutes	387	444	595	828	958
Gilliam	313	395	481	662	738
Harney	313	371	481	662	738
Jefferson	313	371	481	662	738
Klamath	313	371	481	662	783
Lincoln	380	386	514	715	777
Malheur	313	371	481	662	738
Sherman	313	371	481	662	738
Umatilla	313	371	481	662	738
Wallowa	313	371	481	662	738
Wheeler	313	371	481	662	738

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA MSA	373	506	602	784	881	Carbon, Lehigh, Northampton
Altoona, PA MSA	285	362	434	566	633	Blair
Erie, PA MSA	289	377	444	573	641	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	343	439	563	709	790	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	289	367	442	573	641	Cambria, Somerset
Lancaster, PA MSA	380	466	580	758	815	Lancaster
Newburgh, NY-PA PMSA	462	600	734	931	1062	Pike
Philadelphia, PA-NJ PMSA	486	597	738	923	1158	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	378	463	558	699	781	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland
Reading, PA MSA	300	444	548	684	772	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	289	404	484	604	730	Columbia, Lackawanna, Luzerne, Wyoming
Sharon, PA MSA	317	367	442	573	641	Mercer
State College, PA MSA	415	508	629	824	882	Centre
Williamsport, PA MSA	289	369	444	573	641	Lycoming
York, PA MSA	322	442	548	683	765	York

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 41

P E N N S Y L V A N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	283	381	505	655	829
Bedford	283	360	431	563	629
Cameron	283	360	431	563	629
Clearfield	283	360	431	563	629
Crawford	283	360	431	563	629
Forest	283	360	431	563	629
Fulton	283	360	431	563	629
Huntingdon	283	360	431	563	629
Jefferson	283	360	431	563	629
Lawrence	283	360	431	563	629
Mifflin	315	360	431	563	629
Montour	335	360	453	629	743
Potter	283	360	431	563	629
Snyder	341	360	432	563	629
Susquehanna	339	360	431	563	668
Union	342	454	567	709	792
Warren	283	360	431	563	629

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Armstrong	287	380	431	563	707
Bradford	287	364	444	581	636
Clarion	283	360	431	563	629
Clinton	283	360	431	563	629
Elk	283	360	431	563	629
Franklin	283	360	437	602	629
Greene	283	360	431	563	629
Indiana	325	362	431	563	629
Juniata	283	360	431	563	629
Mc Kean	283	362	431	563	629
Monroe	453	540	667	911	1018
Northumberland	299	378	462	614	683
Schuylkill	283	360	449	563	629
Sullivan	283	360	431	563	629
Tioga	283	360	431	563	629
Venango	283	360	431	563	629
Wayne	284	439	517	659	847

R H O D E I S L A N D

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
New London-Norwich, CT-RI MSA	495	599	729	912	1042	Washington county towns of Hopkinton town, Westerly town
Providence-Fall River-Warwick, RI-MA MSA	408	555	667	838	1032	Bristol county towns of Barrington town, Bristol town Warren town Kent county towns of Coventry town, East Greenwich tow Warwick city, West Greenwich tow, West Warwick town Newport county towns of Jamestown town Little Compton tow, Tiverton town Providence county towns of Burrillville town Central Falls city, Cranston city, Cumberland town East Providence ci, Foster town, Glocester town Johnston town, Lincoln town, North Providence t North Smithfield t, Pawtucket city, Providence city Scituate town, Smithfield town, Woonsocket city Washington county towns of Charlestown town, Exeter town Narragansett town, North Kingstown to, Richmond town South Kingstown to

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

R H O D E I S L A N D continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Newport	558	650	835	1045	1169	Middletown town, Newport city, Portsmouth town
Washington	659	742	834	1076	1185	New Shoreham town

S O U T H C A R O L I N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA	359	429	506	687	813	Aiken, Edgefield
Charleston-North Charleston, SC MSA	403	468	537	714	832	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	510	575	648	854	1023	York
Columbia, SC MSA	432	476	547	723	832	Lexington, Richland
Florence, SC MSA	327	364	473	590	662	Florence
Greenville-Spartanburg-Anderson, SC MSA	388	470	530	668	786	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA	424	431	552	690	773	Horry
Sumter, SC MSA	346	383	435	595	707	Sumter

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Abbeville	287	335	407	523	598	Allendale	287	335	407	523	598
Bamberg	287	335	407	523	598	Barnwell	302	335	409	523	598
Beaufort	410	503	579	723	810	Calhoun	287	335	407	523	598
Chester	287	335	407	523	598	Chesterfield	287	335	407	523	598
Clarendon	287	335	407	523	598	Colleton	287	335	407	523	598
Darlington	287	335	407	523	598	Dillon	287	335	407	523	598
Fairfield	287	385	439	547	613	Georgetown	287	365	410	523	623
Greenwood	288	335	407	523	598	Hampton	287	335	407	523	598
Jasper	287	335	407	523	598	Kershaw	287	335	407	523	598
Lancaster	301	336	407	523	598	Laurens	287	335	407	523	598
Lee	287	335	407	523	598	Mccormick	287	335	407	523	637
Marion	287	335	407	523	598	Marlboro	287	335	407	523	598
Newberry	287	335	407	523	598	Oconee	287	335	407	523	598
Orangeburg	287	335	407	523	598	Saluda	287	335	407	523	598
Union	287	335	407	523	598	Williamsburg	287	335	407	523	598

S O U T H D A K O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Rapid City, SD MSA	355	423	563	766	926	Pennington
Sioux Falls, SD MSA	343	475	602	762	875	Lincoln, Minnehaha

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

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S O U T H D A K O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aurora	254	340	423	560	648
Bennett	254	337	423	560	648
Brookings	272	431	478	646	762
Brule	254	337	423	560	648
Butte	293	400	531	694	818
Charles Mix	254	337	423	560	648
Clay	254	337	423	560	695
Corson	254	337	423	560	648
Davison	266	337	423	567	648
Deuel	254	337	423	560	648
Douglas	282	337	423	560	648
Fall River	290	337	423	560	648
Grant	254	337	423	560	648
Haakon	254	345	423	560	648
Hand	254	337	423	560	648
Harding	254	345	423	560	648
Hutchinson	254	337	423	560	648
Jackson	254	342	423	560	648
Jones	254	337	423	560	648
Lake	254	342	423	560	648
Lyman	254	337	423	560	648
Mcpherson	254	337	423	560	648
Meade	357	403	537	703	830
Miner	254	342	423	560	648
Perkins	254	337	423	560	648
Roberts	254	337	423	560	648
Shannon	254	342	423	560	648
Stanley	254	345	423	560	648
Todd	280	337	423	560	648
Turner	254	337	423	560	648
Walworth	254	345	423	560	648
Ziebach	254	337	423	560	648

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beadle	254	337	423	560	648
Bon Homme	282	337	423	560	648
Brown	254	337	423	560	648
Buffalo	254	337	423	560	654
Campbell	254	337	423	560	648
Clark	254	337	423	560	648
Codington	254	337	423	560	648
Custer	254	337	423	560	648
Day	284	337	423	560	648
Dewey	254	337	423	560	648
Edmunds	254	337	423	560	648
Faulk	254	337	446	560	648
Gregory	255	337	423	560	648
Hamlin	254	337	423	560	648
Hanson	258	353	470	591	661
Hughes	279	337	446	587	695
Hyde	254	343	423	560	648
Jerauld	254	340	423	560	648
Kingsbury	277	337	423	560	648
Lawrence	291	419	527	722	817
Mccook	254	337	423	560	648
Marshall	300	337	423	560	648
Mellette	303	342	423	560	648
Moody	254	337	423	560	648
Potter	254	337	423	560	648
Sanborn	254	337	423	560	648
Spink	276	337	430	560	648
Sully	254	337	423	560	648
Tripp	254	337	423	560	648
Union	267	337	423	560	648
Yankton	254	337	423	560	648

T E N N E S S E E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	366	427	513	663	755	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA	339	380	446	608	625	Montgomery
Jackson, TN MSA	263	347	465	643	647	Madison, Chester

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T E N N E S S E E continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Johnson City-Kingsport-Bristol, TN-VA MSA	305	364	450	584	692	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA	305	375	471	628	754	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA	389	454	533	740	778	Fayette, Shelby, Tipton
Nashville, TN MSA	427	511	630	858	963	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bedford	238	306	374	471	524
Bledsoe	238	279	352	463	519
Campbell	240	279	352	463	519
Carroll	238	289	352	463	519
Clay	242	279	352	463	519
Coffee	238	332	373	519	591
Cumberland	251	279	365	509	519
Dekalb	238	279	352	463	519
Fentress	238	279	352	463	519
Gibson	238	279	352	463	519
Grainger	242	279	352	463	519
Grundy	238	279	352	463	519
Hancock	238	279	352	463	519
Hardin	238	279	352	463	519
Henderson	238	279	352	463	519
Hickman	281	285	378	498	529
Humphreys	238	290	352	463	519
Jefferson	259	279	361	463	574
Lake	238	279	352	463	519
Lawrence	238	279	352	463	519
Lincoln	238	279	356	463	519
Mcnairy	238	279	352	463	519
Marshall	280	305	397	502	558
Meigs	238	279	352	463	519
Moore	238	279	352	463	519
Obion	276	280	358	474	519
Perry	238	281	352	463	519
Polk	238	279	352	463	519
Rhea	238	297	352	468	519
Scott	238	279	352	463	519
Smith	238	279	352	463	519
Trousdale	238	292	388	487	638
Warren	264	279	360	463	519

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	256	292	352	463	519
Bradley	238	300	400	542	658
Cannon	238	279	352	463	519
Claiborne	238	279	352	463	519
Cocke	238	279	352	463	519
Crockett	238	279	352	463	519
Decatur	238	279	352	463	519
Dyer	297	301	401	502	626
Franklin	249	279	352	484	569
Giles	238	303	375	469	525
Greene	238	279	352	463	519
Hamblen	238	280	367	488	519
Hardeman	238	279	352	463	519
Haywood	250	290	387	484	542
Henry	238	279	352	463	519
Houston	238	279	352	463	519
Jackson	238	279	352	463	519
Johnson	238	279	352	463	519
Lauderdale	238	279	355	463	519
Lewis	238	279	352	463	519
Mcminn	238	279	352	465	519
Macon	238	279	352	463	519
Maury	341	348	463	580	647
Monroe	238	279	352	463	519
Morgan	238	279	352	463	519
Overton	238	279	352	463	519
Pickett	238	279	352	463	519
Putnam	289	292	375	516	555
Roane	256	279	352	473	569
Sequatchie	238	279	352	463	519
Stewart	238	279	352	463	519
Van Buren	238	279	352	463	519
Wayne	238	279	352	463	519

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 45

T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Weakley	257	279	352	463	519

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
White	242	279	352	463	519

T E X A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	334	372	480	647	786	Taylor
Amarillo, TX MSA	283	357	444	619	730	Potter, Randall
Austin-San Marcos, TX MSA	435	526	700	972	1149	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	322	390	475	629	666	Hardin, Jefferson, Orange
Brazoria, TX PMSA	458	511	638	889	1046	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	339	427	533	667	833	Cameron
Bryan-College Station, TX MSA	377	438	554	772	911	Brazos
Corpus Christi, TX MSA	353	433	553	753	890	Nueces, San Patricio
Dallas, TX	508	584	749	1036	1225	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	398	446	528	731	867	El Paso
Fort Worth-Arlington, TX PMSA	434	472	612	854	1007	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	450	462	579	804	949	Galveston
Henderson County, TX	293	348	425	580	696	Henderson
Houston, TX PMSA	426	479	620	864	1018	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	397	413	523	727	799	Bell, Coryell
Laredo, TX MSA	321	370	486	607	683	Webb
Longview-Marshall, TX MSA	318	359	440	600	655	Gregg, Harrison, Upshur
Lubbock, TX MSA	305	386	500	696	771	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	275	366	419	523	587	Hidalgo
Odessa-Midland, TX MSA	305	352	470	653	757	Ector, Midland
San Angelo, TX MSA	283	361	438	601	709	Tom Green
San Antonio, TX MSA	372	429	555	772	913	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	283	387	467	596	713	Grayson
Texarkana, TX-Texarkana, AR MSA	308	376	459	605	642	Bowie
Tyler, TX MSA	354	391	477	661	699	Smith
Victoria, TX MSA	350	354	447	620	699	Victoria
Waco, TX MSA	308	377	496	660	695	Mclennan
Wichita Falls, TX MSA	339	379	457	608	717	Archer, Wichita

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 46

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anderson	330	372	417	581	587
Angelina	300	348	392	544	641
Armstrong	275	318	415	521	587
Austin	275	318	383	525	587
Bandera	295	318	383	521	587
Bee	275	318	383	514	587
Borden	275	318	383	514	587
Brewster	275	318	383	518	620
Brooks	275	318	383	514	587
Burleson	275	318	402	544	663
Calhoun	294	318	383	530	627
Camp	372	377	471	590	659
Cass	275	318	383	514	587
Cherokee	307	319	390	514	587
Clay	275	324	383	514	598
Coke	275	318	383	514	587
Collingsworth	275	318	383	514	587
Comanche	275	318	383	514	587
Cooke	298	318	403	548	608
Crane	275	318	383	514	587
Crosby	275	318	383	514	587
Dallam	275	318	383	514	587
Deaf Smith	275	318	383	514	596
Dewitt	275	318	383	514	587
Dimmit	275	318	383	514	587
Duval	275	318	383	514	587
Edwards	275	318	383	514	587
Falls	275	318	383	514	587
Fayette	275	318	383	514	587
Floyd	275	318	383	514	587
Franklin	275	318	383	530	587
Frio	275	318	383	514	587
Garza	275	318	383	514	587
Glasscock	275	318	383	514	587
Gonzales	275	318	383	514	587
Grimes	275	318	383	518	611
Hall	275	318	383	514	587
Hansford	275	318	383	514	602
Hartley	275	318	383	514	587
Hemphill	275	354	396	553	587

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Andrews	275	318	383	514	587
Aransas	275	338	451	627	631
Atascosa	275	318	383	514	587
Bailey	275	318	383	514	587
Baylor	275	318	383	514	587
Blanco	275	318	405	565	595
Bosque	275	318	383	514	587
Briscoe	275	318	383	514	587
Brown	275	318	384	516	630
Burnet	275	318	391	543	635
Callahan	275	318	383	514	587
Carson	275	318	383	514	587
Castro	277	318	383	514	587
Childress	275	318	383	514	587
Cochran	275	318	383	514	587
Coleman	275	318	383	514	587
Colorado	275	318	383	514	587
Concho	275	318	383	514	587
Cottle	275	318	383	514	587
Crockett	275	318	383	514	587
Culberson	275	318	383	514	587
Dawson	275	318	383	514	587
Delta	275	329	383	514	587
Dickens	275	318	383	514	587
Donley	275	318	383	514	587
Eastland	275	318	383	514	587
Erath	285	323	417	540	587
Fannin	279	318	383	516	587
Fisher	275	318	383	514	587
Foard	275	318	383	514	587
Freestone	275	318	383	514	587
Gaines	281	318	383	514	587
Gillespie	275	346	449	617	629
Goliad	275	318	383	514	587
Gray	301	318	408	514	606
Hale	275	318	383	514	587
Hamilton	275	318	383	514	587
Hardeman	275	318	383	514	587
Haskell	275	318	383	514	587
Hill	275	318	383	514	587

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hockley	281	328	383	519	587
Houston	275	318	383	514	587
Hudspeth	331	374	417	524	688
Irion	275	318	383	514	587
Jackson	275	319	383	514	587
Jeff Davis	275	318	383	514	587
Jim Wells	275	318	383	514	594
Karnes	275	318	383	514	587
Kenedy	275	318	383	514	587
Kerr	275	356	445	619	730
King	275	318	383	514	587
Kleberg	334	346	422	590	694
Lamar	275	341	401	561	663
Lampasas	275	318	383	521	615
Lavaca	275	318	383	514	587
Leon	275	353	395	514	651
Lipscomb	275	318	383	514	587
Llano	275	354	471	591	774
Lynn	275	318	383	514	587
Mcmullen	275	318	383	514	587
Marion	275	318	383	514	608
Mason	275	318	383	514	587
Maverick	275	318	383	514	587
Menard	275	318	383	514	587
Mills	275	318	383	514	587
Montague	275	318	383	514	587
Morris	275	318	383	514	587
Nacogdoches	290	350	454	567	670
Newton	275	318	383	514	587
Ochiltree	275	318	383	514	587
Palo Pinto	275	318	383	514	610
Parmer	275	318	383	514	587
Polk	307	335	390	525	637
Rains	275	356	431	597	602
Real	275	318	383	514	587
Reeves	275	318	383	514	587
Roberts	275	321	383	514	587
Runnels	275	318	383	514	587
Sabine	275	318	383	514	587
San Jacinto	288	325	383	514	600

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hopkins	321	345	405	565	608
Howard	293	318	383	518	587
Hutchinson	275	318	396	553	653
Jack	275	318	383	514	587
Jasper	275	318	391	521	639
Jim Hogg	275	318	383	514	587
Jones	275	318	383	514	587
Kendall	275	401	451	627	741
Kent	275	318	383	514	587
Kimble	275	318	417	523	587
Kinney	275	318	383	514	587
Knox	275	318	383	514	587
Lamb	275	318	383	514	587
La Salle	275	318	383	514	587
Lee	312	350	393	549	616
Limestone	275	318	383	514	587
Live Oak	275	318	383	514	587
Loving	275	318	383	514	587
Mcculloch	283	318	383	514	587
Madison	275	327	383	514	604
Martin	275	318	383	514	587
Matagorda	318	347	431	597	602
Medina	275	318	383	514	587
Milam	275	318	383	514	587
Mitchell	275	318	383	514	587
Moore	275	323	383	514	596
Motley	275	318	383	514	587
Navarro	329	346	416	528	587
Nolan	283	318	383	514	587
Oldham	275	318	415	521	609
Panola	275	324	383	514	587
Pecos	275	318	383	518	611
Presidio	275	318	383	514	587
Reagan	350	356	473	594	777
Red River	275	354	396	514	587
Refugio	275	318	383	514	587
Robertson	275	364	406	514	587
Rusk	287	318	383	514	587
San Augustine	275	318	383	514	587
San Saba	275	318	383	514	587

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Schleicher	275	318	383	514	587
Shackelford	275	318	383	514	587
Sherman	275	318	383	514	587
Starr	275	318	383	514	587
Sterling	275	318	383	514	587
Sutton	275	318	383	514	587
Terrell	275	318	383	514	587
Throckmorton	275	318	383	514	587
Trinity	286	323	383	514	587
Upton	275	318	383	514	587
Val Verde	275	365	430	536	632
Walker	371	394	482	640	676
Washington	341	348	465	581	763
Wheeler	275	318	383	514	587
Willacy	275	318	383	514	587
Wise	275	321	385	537	587
Yoakum	275	362	445	556	730
Zapata	275	318	383	514	587

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Scurry	275	318	397	555	655
Shelby	275	318	383	514	587
Somervell	315	354	396	544	587
Stephens	275	318	383	514	587
Stonewall	275	318	383	514	587
Swisher	275	318	383	514	587
Terry	275	318	383	514	587
Titus	292	363	411	568	587
Tyler	275	318	409	514	674
Uvalde	275	318	383	514	587
Van Zandt	294	318	397	542	655
Ward	275	318	383	514	587
Wharton	275	318	383	514	587
Wilbarger	275	318	383	514	605
Winkler	275	318	383	514	587
Wood	275	318	396	553	653
Young	275	318	383	514	594
Zavala	275	318	383	514	587

U T A H

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kane County, UT	312	383	479	642	773	Kane
Provo-Orem, UT MSA	431	455	563	780	923	Utah
Salt Lake City-Ogden, UT MSA	440	510	647	900	1055	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaver	298	365	457	612	736
Cache	332	408	512	684	823
Daggett	324	443	588	738	826
Emery	298	365	457	612	736
Grand	298	365	457	612	736
Juab	298	365	457	612	736
Morgan	298	365	457	612	736
Rich	298	365	457	612	736
Sanpete	298	365	457	612	736
Summit	441	544	679	916	1114
Uintah	298	365	457	612	736
Washington	367	452	600	802	982

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Box Elder	332	368	461	617	744
Carbon	320	365	457	612	736
Duchesne	298	365	457	612	736
Garfield	298	365	457	612	736
Iron	304	414	516	645	758
Millard	298	365	457	612	736
Piute	298	365	457	612	736
San Juan	298	365	457	612	736
Sevier	302	365	457	612	736
Tooele	298	379	457	612	736
Wasatch	298	379	457	612	736
Wayne	298	365	457	612	736

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

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V E R M O N T

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington, VT MSA	427	523	697	950	1147	Chittenden county towns of Burlington city Charlotte town, Colchester town, Essex town Hinesburg town, Jericho town, Milton town, Richmond town St. George town, Shelburne town, South Burlington c Williston town, Winooski city Franklin county towns of Fairfax town, Georgia town St. Albans city, St. Albans town, Swanton town Grand Isle county towns of Grand Isle town South Hero town

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison	421	508	591	824	924	
Bennington	374	471	606	770	897	
Caledonia	331	396	483	609	699	
Chittenden	387	625	705	979	1154	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Essex	324	390	483	609	699	
Franklin	348	394	483	613	705	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Grand Isle	324	390	483	609	699	Alburg town, Isle La Motte town, North Hero town
Lamoille	336	467	557	763	875	
Orange	349	458	564	745	835	
Orleans	324	390	483	609	699	
Rutland	378	490	599	751	841	
Washington	362	449	606	758	850	
Windham	410	474	629	798	879	
Windsor	441	498	623	800	948	

V I R G I N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Charlottesville, VA MSA	430	508	650	864	968	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA	312	440	569	782	798	Clarke
Culpeper County, VA	384	561	652	862	1032	Culpeper
Danville, VA MSA	293	369	434	582	702	Pittsylvania, Danville city
Johnson City-Kingsport-Bristol, TN-VA MSA	305	364	450	584	692	Scott, Washington, Bristol city
King George County, VA	378	502	564	784	790	King George
Lynchburg, VA MSA	349	384	443	582	702	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
Norfolk-Virginia Beach-Newport News, VA-NC MSA	436	491	580	809	951	Gloucester, Isle of Wight, James City, Mathews, York Chesapeake city, Hampton city, Newport News city Norfolk city, Poquoson city, Portsmouth city

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 50

V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Richmond-Petersburg, VA MSA	474	537	625	870	1026	Suffolk city, Virginia Beach city, Williamsburg city Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA	295	369	479	615	766	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	305	418	557	730	912	Warren
Washington, DC-MD-VA	630	716	840	1145	1380	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Accomack	341	368	430	571	688	Alleghany	299	362	425	571	688
Amelia	287	362	425	571	688	Appomattox	287	362	425	571	688
Augusta	287	372	452	595	724	Bath	287	362	425	571	688
Bland	287	362	425	571	688	Brunswick	287	362	425	571	688
Buchanan	287	362	425	571	688	Buckingham	287	362	425	571	688
Caroline	407	412	551	731	771	Carroll	287	362	425	571	688
Charlotte	287	362	425	571	688	Craig	287	362	425	571	688
Cumberland	287	394	457	571	688	Dickenson	287	362	425	571	688
Essex	287	404	477	664	783	Floyd	287	362	425	571	688
Franklin	287	362	425	571	688	Frederick	390	450	541	741	887
Giles	287	362	425	571	688	Grayson	287	362	425	571	688
Greensville	287	372	425	571	688	Halifax	287	362	425	571	688
Henry	287	362	425	571	688	Highland	287	362	425	571	688
King and Queen	287	412	464	580	688	King William	287	394	441	571	688
Lancaster	359	403	455	606	738	Lee	287	362	425	571	688
Louisa	287	374	461	640	688	Lunenburg	287	362	425	571	688
Madison	288	428	482	604	790	Mecklenburg	287	362	425	571	688
Middlesex	287	364	425	571	688	Montgomery	295	388	456	633	749
Nelson	287	362	425	571	688	Northampton	287	362	425	571	688
Northumberland	287	362	425	571	688	Nottoway	287	362	425	571	688
Orange	319	433	580	807	947	Page	334	376	425	571	688
Patrick	287	362	425	571	688	Prince Edward	322	364	425	571	688
Pulaski	287	362	425	571	688	Rappahannock	291	472	531	737	869
Richmond	287	383	429	571	705	Rockbridge	287	362	425	571	688
Rockingham	287	398	503	690	809	Russell	287	362	425	571	688
Shenandoah	378	388	478	662	752	Smyth	287	362	425	571	688
Southampton	287	362	425	571	688	Surry	298	362	425	571	688
Sussex	287	362	425	571	688	Tazewell	287	362	425	571	688

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Westmoreland	287	388	515	648	839
Wythe	300	362	425	571	688
Wise	287	362	425	571	688

W A S H I N G T O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	397	515	686	947	1123	Whatcom
Bremerton, WA PMSA	434	501	649	877	1066	Kitsap
Olympia, WA PMSA	447	548	685	942	1111	Thurston
Portland-Vancouver, OR-WA PMSA	463	569	702	976	1060	Clark
Richland-Kennewick-Pasco, WA MSA	495	567	679	945	1109	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	501	610	772	1071	1266	Island, King, Snohomish
Spokane, WA MSA	318	432	522	709	794	Spokane
Tacoma, WA PMSA	386	461	613	853	964	Pierce
Yakima, WA MSA	358	440	546	732	764	Yakima

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	317	380	494	652	724
Chelan	317	380	494	652	724
Columbia	317	380	494	652	724
Douglas	371	392	494	652	724
Garfield	317	380	494	652	724
Grays Harbor	324	380	499	673	776
Kittitas	317	380	494	652	724
Lewis	317	380	494	652	724
Mason	360	446	549	722	776
Pacific	317	380	494	652	724
San Juan	392	535	713	940	1119
Skamania	317	380	494	652	724
Wahkiakum	317	380	494	652	724
Whitman	342	389	518	719	852
Asotin	317	380	494	652	724
Clallam	370	457	582	749	818
Cowlitz	356	398	513	712	724
Ferry	317	380	494	652	724
Grant	341	380	494	652	724
Jefferson	317	410	504	683	724
Klickitat	317	380	494	652	724
Lincoln	317	380	494	652	724
Okanogan	317	380	494	652	724
Pend Oreille	317	380	494	652	868
Skagit	432	528	623	778	870
Stevens	317	380	494	652	724
Walla Walla	317	380	494	661	781

W E S T V I R G I N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Berkeley County, WV	410	438	516	644	724	Berkeley
Charleston, WV MSA	287	389	494	678	742	Kanawha, Putnam
Cumberland, MD-WV MSA	337	405	501	662	756	Mineral
Huntington-Ashland, WV-KY-OH MSA	304	357	440	561	618	Cabell, Wayne
Jefferson County, WV	415	459	569	740	838	Jefferson

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

W E S T V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Parkersburg-Marietta, WV-OH MSA	306	367	420	545	591	Wood
Steubenville-Weirton, OH-WV MSA	288	339	425	542	605	Brooke, Hancock
Wheeling, WV-OH MSA	314	344	425	542	605	Marshall, Ohio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	255	324	362	466	542
Braxton	255	311	362	466	542
Clay	255	311	362	466	542
Fayette	255	311	362	466	542
Grant	255	311	362	466	542
Hampshire	255	311	364	479	542
Harrison	280	345	398	496	596
Lewis	255	341	362	466	542
Logan	261	311	362	469	555
Marion	255	322	397	508	587
Mercer	255	311	362	466	542
Monongalia	321	355	432	596	704
Morgan	347	391	438	550	613
Pendleton	255	311	362	466	542
Pocahontas	255	311	362	466	542
Raleigh	294	347	404	520	609
Ritchie	255	311	362	466	542
Summers	255	311	362	466	542
Tucker	255	311	362	466	542
Upshur	255	311	364	466	542
Wetzel	288	311	391	488	616
Wyoming	255	311	362	466	542

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Boone	255	311	362	466	542
Calhoun	255	311	362	466	542
Doddridge	264	311	362	466	542
Gilmer	280	311	362	466	542
Greenbrier	255	352	375	468	542
Hardy	255	311	362	466	542
Jackson	255	319	362	495	542
Lincoln	255	311	362	466	542
Mcdowell	255	311	362	466	542
Mason	255	311	362	466	557
Mingo	255	311	362	466	549
Monroe	255	311	362	466	542
Nicholas	255	311	362	466	542
Pleasants	263	311	362	466	556
Preston	255	327	362	466	542
Randolph	255	311	362	466	542
Roane	255	311	362	466	542
Taylor	312	337	368	466	542
Tyler	255	311	381	477	542
Webster	255	311	362	466	542
Wirt	255	311	362	466	542

W I S C O N S I N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton-Oshkosh-Neenah, WI MSA	321	395	502	633	730	Calumet, Outagamie, Winnebago
Duluth-Superior, MN-WI MSA	281	362	465	621	723	Douglas
Eau Claire, WI MSA	346	377	494	634	714	Chippewa, Eau Claire
Green Bay, WI MSA	380	418	537	746	750	Brown
Janesville-Beloit, WI MSA	353	446	552	691	775	Rock
Kenosha, WI PMSA	391	485	595	819	921	Kenosha
La Crosse, WI-MN MSA	285	367	467	625	757	La Crosse
Madison, WI MSA	439	552	667	926	1092	Dane

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W I S C O N S I N continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Milwaukee-Waukesha, WI PMSA	377	493	619	776	867	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA	416	535	684	925	1048	Pierce, St. Croix
Racine, WI PMSA	335	415	548	707	774	Racine
Sheboygan, WI MSA	306	394	481	601	746	Sheboygan
Wausau, WI MSA	376	389	486	663	735	Marathon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	276	322	410	523	590
Barron	276	322	410	523	590
Buffalo	276	322	410	523	590
Clark	276	322	410	523	590
Crawford	276	322	410	523	590
Door	276	342	424	546	662
Florence	276	322	410	523	590
Forest	276	322	410	523	590
Green	281	322	410	552	590
Iowa	286	322	410	539	590
Jackson	276	322	410	523	590
Juneau	282	322	410	523	590
Lafayette	281	322	410	523	590
Lincoln	276	322	410	523	590
Marinette	276	322	410	523	590
Menominee	276	322	410	523	590
Oconto	276	322	410	523	590
Pepin	276	322	410	523	590
Portage	336	355	460	574	710
Richland	276	322	410	523	590
Sauk	323	334	445	555	622
Shawano	281	322	410	523	590
Trempealeau	276	322	410	523	590
Vilas	276	322	410	523	590
Washburn	276	322	410	523	590
Waushara	276	322	410	523	590

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	301	334	410	523	590
Bayfield	276	322	410	523	590
Burnett	276	322	410	523	590
Columbia	276	328	431	565	634
Dodge	350	355	466	584	652
Dunn	276	322	421	563	695
Fond du Lac	320	434	514	699	721
Grant	280	322	410	523	590
Green Lake	276	322	410	523	590
Iron	276	322	410	523	590
Jefferson	276	366	475	614	671
Kewaunee	276	322	410	523	590
Langlade	276	322	410	523	590
Manitowoc	279	322	410	523	590
Marquette	276	322	410	523	590
Monroe	276	322	410	547	590
Oneida	276	323	410	527	632
Polk	276	322	417	523	590
Price	276	322	410	523	590
Rusk	276	322	410	523	590
Sawyer	276	322	410	523	590
Taylor	276	322	410	523	590
Vernon	276	322	410	523	590
Walworth	288	405	526	685	770
Waupaca	276	322	410	523	620
Wood	299	343	425	533	599

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

W Y O M I N G

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	322	374	477	654	773	Natrona
Cheyenne, WY MSA	364	456	609	778	945	Laramie

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Albany	308	386	515	715	845
Campbell	317	337	432	575	679
Converse	293	337	432	573	659
Fremont	293	337	432	573	659
Hot Springs	293	337	432	573	659
Lincoln	293	337	432	573	659
Park	293	337	432	573	666
Sheridan	293	337	432	573	666
Sweetwater	305	337	432	575	679
Uinta	307	337	432	574	694
Weston	293	337	432	573	659

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Big Horn	293	337	432	573	659
Carbon	293	337	432	573	659
Crook	293	337	432	573	659
Goshen	293	337	432	573	659
Johnson	293	337	432	573	659
Niobrara	293	337	432	573	659
Platte	293	337	432	573	659
Sublette	326	367	432	573	659
Teton	391	498	661	889	970
Washakie	293	337	432	573	659

P A C I F I C I S L A N D S

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	683	821	972	1218	1371

P U E R T O R I C O

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla, PR MSA	211	257	306	380	428	Aguada Municipio, Aguadilla Municipio, Moca Municipio
Arecibo, PR PMSA	228	277	325	408	459	Arecibo Municipio, Camuy Municipio, Hatillo Municipio
Caguas, PR PMSA	267	321	379	477	530	Caguas Municipio, Cayey Municipio, Cidra Municipio Gurabo Municipio, San Lorenzo Municipio
Mayaguez, PR MSA	251	306	363	451	508	Anasco Municipio, Cabo Rojo Municipio Hormigueros Municipio, Mayaguez Municipio Sabana Grande Municipio, San German Municipio
Ponce, PR MSA	249	305	359	449	504	Guayanilla Municipio, Juana Diaz Municipio Penuelas Municipio, Ponce Municipio, Villalba Municipio Yauco Municipio
San Juan-Bayamon, PR PMSA	335	409	483	604	678	Aguas Buenas Municipio, Barceloneta Municipio Bayamon Municipio, Canovanas Municipio Carolina Municipio, Catano Municipio, Ceiba Municipio Comerio Municipio, Corozal Municipio, Dorado Municipio Fajardo Municipio, Florida Municipio, Guaynabo Municipio Humacao Municipio, Juncos Municipio Las Piedras Municipio, Loiza Municipio Luquillo Municipio, Manati Municipio, Morovis Municipio

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 55

P U E R T O R I C O continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
						Naguabo Municipio, Naranjito Municipio Rio Grande Municipio, San Juan Municipio Toa Alta Municipio, Toa Baja Municipio Trujillo Alto Municipio, Vega Alta Municipio Vega Baja Municipio, Yabucoa Municipio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adjuntas Municipio.....	200	247	289	365	404
Arroyo Municipio.....	200	247	289	365	404
Ciales Municipio.....	200	247	289	365	404
Culebra Municipio.....	200	247	289	365	404
Guayama Municipio.....	200	247	289	365	404
Jayuya Municipio.....	200	247	289	365	404
Lares Municipio.....	200	247	289	365	404
Maricao Municipio.....	200	247	289	365	404
Orocovis Municipio.....	200	247	289	365	404
Quebradillas Municipio..	200	247	289	365	404
Salinas Municipio.....	200	247	289	365	404
Santa Isabel Municipio..	200	247	289	365	404
Vieques Municipio.....	200	247	289	365	404

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aibonito Municipio.....	200	247	289	365	404
Barranquitas Municipio..	200	247	289	365	404
Coamo Municipio.....	200	247	289	365	404
Guanica Municipio.....	200	247	289	365	404
Isabela Municipio.....	200	247	289	365	404
Lajas Municipio.....	200	247	289	365	404
Las Marias Municipio....	200	247	289	365	404
Maunabo Municipio.....	200	247	289	365	404
Patillas Municipio.....	200	247	289	365	404
Rincon Municipio.....	200	247	289	365	404
San Sebastian Municipio.	200	247	289	365	404
Utuado Municipio.....	200	247	289	365	404

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Croix.....	477	579	683	853	956

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Johns/St. Thomas....	613	743	875	1094	1225

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 092299

Schedule D: FY 2000 40th Percentile Fair Market Rents For Manufactured Home Spaces In The Section 8 Choice Housing Program

Area Name	Space Rent
California	
Los Angeles, CA	$383
Orange County, CA	$468
Riverside-San Bernardino, CA	$304
San Diego, CA	$423
San Jose, CA	$489
Vallejo-Fairfield-Napa, CA	$321
Mendocino County, CA	$246
Colorado	
Boulder-Longmont, CO	$344
Denver, CO	$327
Delaware	
Dover, DE	$176
Sussex County, DE	$121
Maryland	
Hagerstown, MD	$220
St. Mary's County, MD	$265
Minnesota	
Minneapolis-St. Paul, MN-WI	$275
Nevada	
Reno, NV	$289
New York	
Dutchess County, NY	$371
Jamestown, NY	$176
Newburgh, NY-PA	$349
Rochester, NY	$245
Utica-Rome, NY	$220
Tompkins County, NY	$205
Oregon	
Salem, OR	$236
Portland-Vancouver, OR-WA	$284
Benton County, OR	$209
Deschutes County, OR	$259
Linn County, OR	$189
Utah	
Provo-Orem, UT	$223
Vermont	
Washington County, VT	$211
West Virginia	
Berkeley County, WV	$143
Jefferson County, WV	$146
Morgan County, WV	$140

H:\TEE\FMR_MOB\MHFMR.XLS 09/21/1999

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Federal Register

Friday
October 1, 1999

Part III

Department of the Interior

Bureau of Land Management

43 CFR Part 3500, et al.

Leasing of Solid Minerals Other Than Coal and Oil Shale; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3500, 3510, 3520, 3530, 3540, 3550, 3560, and 3570

[WO–320–1330–01–24 A]

RIN 1004–AC49

Leasing of Solid Minerals Other Than Coal and Oil Shale

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is amending its regulations governing leasing of solid minerals other than coal and oil shale. The purpose of this rule is to comply with President Clinton's government-wide regulatory reform initiative to eliminate unnecessary regulations, and streamline and rewrite necessary regulations in plain English. Under the previous rule, each solid mineral commodity had its own separate regulations, much of which was repeated in each set of regulations. This rule now combines these solid minerals regulations into one set of regulations, streamlined, updated and re-written in plain English. The rule also clarifies the responsibilities of interested parties.

EFFECTIVE DATE: November 1, 1999.

ADDRESSES: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Philip Allard, (202) 452–5195, or Chris Fontecchio, (202) 452–5012.

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 1995, President Clinton issued a memorandum to all Federal Departments and Agencies directing them to simplify their regulations. In response, BLM analyzed 43 CFR part 3500 through 43 CFR part 3570 to determine whether the regulations were current and written in clear and understandable terms. As a result, BLM decided that we could reorganize the regulations to achieve significant reductions in length while greatly improving the clarity of the document.

BLM bases its regulatory program relating to solid minerals on several different statutes which give us the authority to regulate mineral leasing on Federal lands. The Mineral Leasing Act of 1920 (the Act), as amended and supplemented (30 U.S.C. 181 *et seq.*), provides for leasing of phosphate, potassium, gilsonite, and sodium mineral deposits on public domain lands. The Act also allows sulphur to be leased from public lands in Louisiana and New Mexico. The Act authorizes the Secretary of the Interior (Secretary) to grant to any qualified applicant a permit or lease for certain deposits of minerals on lands owned by the United States. Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix) transferred the responsibilities of the Department of Agriculture for hardrock mineral leasing to the Secretary in certain areas. The Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), provides for the leasing of minerals from certain acquired lands, and authorizes the Secretary to establish rules and regulations necessary to grant any qualified applicant a permit or lease to promote mining of phosphate, sodium, potassium, sulphur and gilsonite deposits on Federal acquired lands. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA) directs Federal agencies to consider the environmental impacts of their actions during the decision-making process. Finally, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) (FLPMA) authorizes the Secretary of the Interior to develop guidelines for the administration and protection of the Federal lands and their resources under BLM jurisdiction.

Other authorities which address programs related to specific commodities and lands include the following:

(a) Certain lands added to the Shasta National Forest (30 U.S.C. 192c);

(b) Public domain lands in National Forests in Minnesota (16 U.S.C. 508(b));

(c) Gold, silver, or quicksilver in confirmed private land grants (30 U.S.C. 291–293);

(d) Reserved minerals in lands patented to the State of California for parks or other purposes (47 Stat. 1487, as amended);

(e) National Park Service areas—

(i) Lake Mead National Recreation Area (16 U.S.C. 460n *et seq.*);

(ii) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area (16 U.S.C. 460q *et seq.*);

(iii) Glen Canyon National Recreation Area (16 U.S.C. 460dd *et seq.*);

(f) Shasta-Trinity Units of the Whiskeytown-Shasta Trinity National Recreation Area (16 U.S.C. 460q *et seq.*); and

(g) White Mountains National Recreation Area (16 U.S.C. 460mm–2 through 460mm–4).

When BLM last revised these regulations in 1986, they were written into separate parts covering specific mineral commodities. Under that organization, processes such as issuing exploration licenses and mineral leases were addressed in a similar or identical manner under each commodity section. This was designed to allow parties interested in each commodity to look in only one part of the regulations to find the provisions relating to their commodity. However, not all of the leasing or permitting regulations were included with the commodity, and the regulations were so extensive that the complete body of solid mineral regulations occupied about 100 pages of the Code of Federal Regulations (CFR).

As part of BLM's response to the Administration's regulatory initiatives, we reviewed this extensive body of material and decided to consolidate and to eliminate the repetitive language. BLM understands that our readers want to be able to find particular subject matter easily in our regulations. We believe that the plain English approach, particularly the expanded table of contents, and the overall reduction in volume of BLM regulations, will make it easy for readers to find material that is of concern to them.

In addition to rewriting the regulations for clarity, BLM is making the following substantive changes to the existing regulations:

1. We are eliminating the requirement to re-describe the lands in an application if you have already properly described them and BLM has issued you a previous authorization. Thus, for example, you will not have to submit a land description when you apply for a preference right lease or for an assignment if it relates to all the same lands described in the prospecting permit or original lease. We will still require land descriptions for assignments of parts of the land described in the original prospecting permit or lease, and applicants will still need to identify the permit or lease by serial number.

2. We have increased the State acreage limitation for potassium leases. Current 43 CFR 3530.3 specifies that there is a per-State acreage limitation of 51,200 acres for holders of potassium leases or permits. BLM is increasing this limitation to 96,000 acres. As the potash industry has matured, several mining operations are consolidating. BLM believes that increasing the State acreage limitation will enhance development of Federal reserves and help achieve the statutory goal of ultimate maximum recovery.

3. We will now require you to submit three maps, instead of one, with your preference right lease application. This is consistent with other provisions in these regulations and with BLM's need for maps during our review of these applications. While it is easy for BLM to make copies of most application material, it is often difficult to duplicate maps. Obtaining additional maps from you will speed up our review.

4. We state that we will not approve assignments of leases or issue or renew leases under these regulations to coal lessees and assignees who are not in compliance with the diligence requirements for coal leases found in section 2(a)2(A) of the Act (30 U.S.C. 201). This provision incorporates current BLM practice into regulations, thus it will not have any significant impact on the industry.

5. These regulations add a provision at 43 CFR 3502.42 specifying that we will allow unqualified heirs to own a lease or permit for two years. During this time they can either become qualified or divest the interest.

6. This final rule eliminates provisions authorizing future interest prospecting permits. BLM has rarely been called upon to issue such permits, since the current mineral interest holder can explore for minerals without a BLM permit until the mineral interest vests to the United States. If the mineral holder does demonstrate the existence of a valuable deposit of minerals before title transfers, we can issue future interest leases to the present interest holder for these minerals. We also added a provision to allow competitive bidding for future interest leases if there is more than one qualified present interest holder.

7. This rule clarifies that leases exchanged must be of equal, rather than comparable, value. This change implements the provisions of the Federal Land Exchange Facilitation Act of 1988 (Pub. L. 100–409), which amended section 206 of FLPMA (43 U.S.C. 1716). The same Act also provided the government and any applicant greater flexibility than did previous requirements for making exchanges equal. We are incorporating this provision into the regulations at 43 CFR 3515.22. Section 3515.12 states that the exchange-specific provisions of 43 CFR part 2200 apply.

8. This rule clarifies the definition of the term ''valuable deposit.'' The current definition at 43 CFR 3500.0–5 is circular because it uses the phrase ''valuable mine'' in describing the term ''valuable deposit.'' The new rule changes ''valuable mine'' to ''profitable mine.'' Accordingly, § 3507.18, which describes the information you must provide to us to prove that you have found a valuable deposit, says that we may request supplemental data to determine, among other things, mining and processing costs and the profitability of mineral development.

9. BLM is modifying the requirements for applicants to disclose the identity and citizenship of major stockholders to add the disclosure of the percentage of their stock holdings. This change would help us enforce acreage limitations against those stockholders. The rule also eliminates a requirement found in the current rules to submit such information on the basis of foreign residency. This information is not needed to enforce any statutory limitations.

10. This rule clarifies that we can issue noncompetitive fringe acre leases to extract sodium chloride to persons producing calcium chloride from an existing mine, under an authorization issued under 43 CFR part 3800 for locatable minerals. This addresses an issue restricted to a limited geographic area in California, where these two minerals are commingled.

II. Final Rule as Adopted

The most significant change in these regulations is that they are reorganized from several mineral-specific sections into sections based on the type of authorization. Since the proposed rule we have made slight changes to the organization, moving sections to put them in more logical sequences and groupings. Although the table of contents in the proposed rule divided section headers, in the form of questions, by subparts, we added subheadings in the final rule to help you find what you need more easily. We made this change because some of the subparts contain many sections, and the long list of questions made it difficult for readers to find what they need. Using the subheadings, you can narrow down your search for the regulatory section you need more quickly.

The following cross-reference chart lists every section of the final rule and its origin in the existing rule. It also shows the existing part 3500 and shows where it has been moved to in this final rule.

New 3500	Old 3500
3501.1	New
3501.5	3500.0–5
3501.10	New
3501.16	3500.6
3501.17	3500.7
3501.20	3511.1
	3512.9–2
	3512.9–3
	3521.1
	3522.8–2
	3531.1
	3532.8–2
	3532.9–3
	3541.1
	3542.8–2
	3551.1
	3552.8–2
	3552.9–3
	3561.1
	3562.8–2
	3562.9–3
	3571.1
3501.30	3500.4
3502.10	3502.1
3502.13	3502.1(b)
3502.15	3500.3
	3502.1(c)
3502.20	3502.1(d)
3502.25	3502.2–1
3502.26	3502.2–1
3502.27	3502.2–2
3502.28	3502.2–3
3502.29	3502.2–3
3502.30	3502.2–4
3502.33	3502.2–6
3502.34	3502.3
3502.40	3502.2–5(a)
3502.41	3502.2–5(b)
3502.42	New
3503.10	New
3503.11	3500.8
3503.12	3542.1
3503.13	3560.3–1
	3560.3–2
	3560.3–3
	3560.3–4
	3562.1
3503.14	3570.2
3503.15	New, also in 3581
3503.16	New, also in 3586
3503.20	3500.9–1
	3507.4
	3516.4
	3523.2–2
	3525.2
	3526.4
	3533.2–2
	3535.2
	3536.4
	3543.2–2
	3545.2
	3546.4
	3553.2–2
	3555.2
	3556.4
	3564.2
	3564.4
	3574.2
	3575.4
3503.21	3500.9–2
3503.25	3500.9–3
3503.28	3511.7
	3521.6
	3541.6
	3512.8–4
	3521.5
	3522.8–4
	3531.6
	3532.8–4
	3541.5
	3542.8–4

New 3500	Old 3500
	3551.6
	3552.8–4
	3561.5
	3562.8–4
	3571.5
3503.30	3501.1–1
	3501.1–2
3503.31	3501.1–1(c)
	3501.1–3
3503.32	3501.1–2(b)
3503.33	3501.1–1(a)
	3501.1–2(a)
3503.36	3501.1–1(d)
3503.37	3510.3
	3520.3
	3530.3
	3540.3
	3550.3
	3560.4
	3570.4
3503.38	3501.2
3503.40	3500.5(a)
3503.41	3500.5(b)
3504.11	3503.1–1
3504.12	3503.1–2
3504.12(a)(1)	3506.2
	3507.5
	3512.3–1(c)
	3516.3(b)
	3517.1–1
	3522.3–1(c)
	3525.3–1(c)
	3526.3(b)
	3527.1–1
	3528.1
	3532.3–1(c)
	3536.3(b)
	3542.3–1(c)
	3546.3(b)
	3547.1
	3552.3–1(c)
	3556.3(b)
	3562.3–1(c)
	3565.3(b)
	3575.3(b)
	3576.1
3504.15	3511.2–1(a)
	3511.2–1(c)
	3512.8–3
	3521.2–1(a)
	3522.8–3
	3531.2–1(a)
	3532.8–3
	3541.2–1(a)
	3542.8–3
	3551.2–1(a)
	3552.8–3
	3561.2–1(a)
	3562.8–3
	3571.2–1(a)
3504.16	3511.2–1(a)
	3521.2–1(a)
	3531.2–1(a)
	3541.2–1(a)
	3551.2–1(a)
	3561.2–1(a)
	3571.2–1(a)
3504.17	3511.2–1(b)
	3521.2–1(b)
	3531.2–1(b)
	3541.2–1(b)
	3551.2–1(b)
	3561.2–1(b)
	3571.2–1(b)
3504.20	3511.2–2
	3521.2–2
	3531.2–2
	3541.2–2
	3551.2–2
	3561.2–2
	3571.2–2
3504.21	3503.2–1
	3511.2–2
	3521.2–2
	3531.2–2
	3541.2–2
	3551.2–2
	3561.2–2
	3571.2–2
3504.22	3503.2–1
3504.25	3503.2–2
3504.26	3503.2–3
3504.50	3504.1–1
	3504.1–4
	3511.6
	3512.7
	3521.4
	3522.7
	3528.2
	3531.5
	3532.7
	3541.4
	3542.7
	3547.2
	3551.5
	3552.7
	3561.4
	3566.2
	3562.7
	3571.4
	3576.2
3504.51	3504.1–2
3504.55	3504.1–3
3504.56	3504.1–5
3504.60	3504.1–6
3504.65	3504.2(a)
3504.66	3504.2(b)
3504.70	3504.3
3504.71	3504.3
3505.10	3507.1
	3512.2
	3522.2
	3532.2
	3542.2
	3552.2
	3560.5
	3562.2
3505.12	3560.7
3505.12	3512.3–1
	3522.3–1
	3532.3–1
	3542.3–1
	3552.3–1
	3562.3–1
3505.13	3512.3–2
	3522.3–2
	3532.3–2
	3542.3–2
	3552.3–2
	3562.3–2
3505.15	3512.3–2(c)
	3522.3–2(c)
	3532.3–2(c)
	3542.3–2(c)
	3552.3–2(c)
	3562.3–2(c)
3505.20	3512.3–1(c)
	3522.3–1(c)
	3532.3–1(c)
	3542.3–1(c)
	3552.3–1(c)
	3562.3–1(c)
3505.25	3512.4
	3512.5
	3522.4
	3522.5
	3532.4
	3542.5
	3542.4
	3552.4
	3552.5
	3562.4
	3562.5
3505.30	3512.5
	3522.5
	3532.5
	3542.5
	3552.5
	3562.5
3505.31	3512.6
	3522.6
	3532.6
	3542.6
	3552.6
	3562.6
3505.40	3512.3–3
	3512.7
	3522.3–3
	3522.7
	3532.3–3
	3532.7
	3542.3–3
	3542.7
	3552.3–3
	3552.7
	3562.3–3
	3562.7
3505.45	3512.3–3
	3522.3–3
	3532.3–3
	3542.3–3
	3552.3–3
	3562.3–3
3505.50	3512.3–4
	3512.8–1
	3522.3–4
	3522.8–1
	3532.3–4
	3532.8–4
	3542.3–4
	3542.8–1
	3552.3–4
	3552.8–1
	3562.3–4
	3562.8–1
3505.51	3512.3–4
	3522.3–4
	3532.3–4
	3542.3–4
	3552.3–4
	3562.3–4
3505.55	3512.8
	3512.8–3
	3522.8
	3522.8–3
	3532.8
	3532.8–3
	3542.8
	3542.8–3
	3552.8
	3552.8–3
	3562.8

New 3500	Old 3500
	3562.8–3
3505.60	3512.8–1
	3522.8–1
	3532.8–1
	3542.8–1
	3552.8–1
	3562.8–1
3505.61	3512.9–1
	3532.9–1
	3552.9–1
	3562.9–1
3505.62	3512.9–1
	3532.9–1
	3552.9–1
	3562.9–1
3505.64	3512.9–2(a)
	3532.9–2(a)
	3552.9–2(a)
	3562.9–2(a)
3505.65	3512.9–2(b)
	3532.9–2(b)
	3552.9–2(b)
	3562.9–2(b)
3505.66	3512.9–3
	3532.9–3
	3552.9–3
	3562.9–3
3505.70	3509.1–1
3505.75	3509.2
3505.80	3509.3–1
3505.85	3509.4–1
3506.10	3514.1
	3524.1
	3534.1
	3544.1
	3554.1
3506.11	3514.2
	3514.3
	3524.2
	3524.3
	3534.2
	3534.3
	3544.2
	3544.3
	3554.2
	3554.3
3506.12	3514.4
	3514.4–2
	3524.4
	3524.4–2
	3534.4
	3534.4–2
	3544.4
	3544.4–2
	3554.4
	3554.4–2
	3512.1
	3522.1
	3532.1
	3552.1
3506.13	3514.4–1
	3524.4–1
	3534.4–1
	3544.4–1
	3554.4–1
3506.14	3514.4–3
	3524.4–3
	3534.4–3
	3544.4–3
	3554.4–3
3506.15	3514.4–4
	3524.4–4
	3534.4–4
	3544.4–4
	3554.4–4
3506.20	3514.6
	3524.6
	3534.6
	3544.6
	3554.6
3506.25	3514.5
	3524.5
	3534.5
	3544.5
	3554.5
3507.11	3513.3
	3523.3
	3533.3
	3543.3
	3553.3
	3563.3
3507.15	3513.1–1
	3523.1–1
	3533.1–1
	3543.1–1
	3553.1–1
	3563.1–1
3507.16	3513.1–1(c)
	3523.1–1(c)
	3533.1–1(c)
	3543.1–1(c)
	3553.1–1(c)
	3563.1–1(b)
3507.17	3513.1–2
	3523.1–2
	3533.1–2
	3543.1–2
	3553.1–2
	3563.1–2
3507.18	3513.2–1
	3523.2–1
	3533.2–1
	3543.2–1
	3553.2–1
	3563.2–1
3507.19	3513.4
	3523.4
	3533.4
	3543.4
	3553.4
	3563.4
3507.20	3513.4(b)
	3513.4(c)
	3523.4(b)
	3523.4(c)
	3533.4(b)
	3533.4(c)
	3543.4(b)
	3543.4(c)
	3553.4(b)
	3553.4(c)
	3563.4(b)
	3563.4(c)
3508.11	3515.1
	3525.1
	3535.1
	3545.1
	3555.1
	3564.1
	3574.1
3508.12(a)	3515.1
	3525.1
	3535.1
	3545.1
	3555.1
	3564.1
	3574.1
3508.12(b)	3515.3–1
	3525.3–1
	3535.3–1
	3545.3–1
	3555.3–1
	3564.3–1
	3574.3–1
3508.12(c)	3515.5
	3525.5
	3535.5
	3545.5
	3555.5
	3564.5
	3574.5
3508.14	3515.3–1
	3525.3–1
	3535.3–1
	3545.3–1
	3555.3–1
	3564.3–1
	3574.3–1
3508.15	3515.3–2
	3525.3–2
	3535.3–2
	3545.3–2
	3555.3–2
	3564.3–2
	3574.3–2
3508.16	3515.3–3
	3525.3–3
	3535.3–3
	3545.3–3
	3555.3–3
	3564.3–3
	3574.3–3
3508.20	3515.4
	3525.4
	3535.4
	3545.4
	3555.4
	3564.4
	3574.4
3508.21	3515.5
	3525.5
	3535.5
	3545.5
	3555.5
	3564.5
	3574.5
3508.22	3515.6
	3525.6
	3535.6
	3545.6
	3555.6
	3564.6
	3574.6
3509.10	3507.1–2
3509.11	3507.1–2
3509.12	3507.7–2
3509.12	3507.6
3509.15	3507.1–2(b)
3509.16	3507.2
	3507.5
	3507.9
3509.17	3507.2
	3507.7–2
3509.18	New
3509.20	3507.8
3509.25	3507.9
3509.30	New
3509.40	3507.1–1
3509.41	3507.1–1
	3507.1–2(a)
3509.45	3507.6
	3507.7–1

New 3500	Old 3500
3509.46	3507.2
	3507.5
3509.47	3507.6
	3507.7–1
	3507.7–2
3509.48	New
3509.49	3507.3
3509.50	3507.9(b)
3509.51	New
3510.11	3516.1
	3516.2(a)
	3526.1
	3526.2(a)
	3536.1
	3536.2(a)
	3546.1
	3546.2(a)
	3556.1
	3556.2(a)
	3565.1
	3565.2(a)
	3575.1
	3575.2(a)
3510.12	3516.3
	3526.3
	3536.3
	3546.3
	3556.3
	3565.3
	3575.3
3510.15	3516.2
	3516.2(b)
	3526.2
	3526.2(b)
	3536.2
	3536.2(b)
	3546.2
	3546.2(b)
	3556.2
	3556.2(b)
	3565.2
	3565.2(b)
	3575.2
	3575.2(b)
3510.20	3516.3(a)
	3516.5
	3526.3(a)
	3526.5
	3536.3(a)
	3536.5
	3546.3(a)
	3546.5
	3556.3(a)
	3556.5
	3565.3(a)
	3565.5
	3575.3(a)
	3575.5
3510.21	3516.6
	3526.6
	3536.6
	3546.6
	3556.6
	3565.6
	3575.6
3511.10	3511.5
	3521.1
	3531.1
3511.11	New
3511.15	3511.3
	3521.3
	3531.3
	3541.3
	3551.3
	3561.3
	3571.3
3511.25	3511.4(a)
	3528
	3531.4(a)
	3547
	3551.4(a)
	3566
	3576
3511.25(b)	3528.3
	3547.3
	3566.1
	3566.3
	3576.3
3511.26	3511.4(b)
	3531.4(b)
	3551.4(b)
3511.27	3528.3
	3547.3
	3566.1
	3576.3
3511.28	New
3511.30	3511.4(c)
	3531.4(c)
	3551.4(c)
3512.11	3506.1
3512.12	3506.2
3512.13	3506.1–3
3512.16	3506.1–3
3512.17	3506.3–2
3512.18	3506.4
	3506.5–1
3512.19	3506.3–3
3512.25	3506.5–2
	3506.6
3512.30	3506.5–2
3512.33	3506.5–2
	3506.7
3513.11	3503.2–4(a)
3513.12	3503.2–4(a)
3513.15	3503.2–4(b)
3513.20	3503.3–1
3513.21	3503.3–1(c)
	3503.3–1(d)
	3503.3–1(e)
3513.22	3503.3–1(b)
3513.25	3503.3–1(d)
3513.26	3503.3–1(d)
3513.30	3503.3–2(a)
3513.31	3503.3–2(c)
	3503.3–2(d)
	3503.3–2(e)
3513.32	3503.3–2(b)
3513.33	3503.3–2(d)
3513.34	3503.3–2(d)
3514.11	3509.1–2
3514.12	3509.1–2
3514.15	3509.1–2
3514.20	3509.1–2
3514.21	3509.1–2
3514.25	3509.3–2
3514.30	3509.4–2
3514.31	3509.4–2
3514.32	3509.4–2
3514.50	3509.4–3
3515	3508.1
3515.10	3508.0–1
3515.12	3508.0–7
3515.15	3508.0–1
3515.18	3508.1(a)
	3508.2(a)
3515.20	3508.0–1
3515.21	3508.0–1
3515.22	New
3515.23	3508.2(e)
3515.25	3508.2(f)
3515.26	3508.3(a)
3515.27	3508.3(b)
3516.10	3517.1
	3527.1
3516.11	New
3516.12	3517.1
	3527.1
3516.15	3517.1–1
	3527.1–1
3516.16	3517.1–3
	3527.1–3
3516.20	3517.1–2(a)
	3527.1–2(a)
3516.30	3517.1–2(b)
	3527.1–2(b)
3517.10	3567.1
3517.11	3567.2
3517.15	3567.3
3517.16	3567.4
Unnumbered	3500.0–3
Deleted	3500.1
Deleted	3500.2
Deleted	3500.4
Deleted	3510.0–3
Deleted	3510.1
Deleted	3510.2–1
Deleted	3510.2–2
Deleted	3511.8
Deleted	3512.8–2
Deleted	3513.2–2
Deleted	3514.0–3
Deleted	3517.2
Deleted	3520.0–3
Deleted	3520.1
Deleted	3520.2–1
Deleted	3520.2–2
Deleted	3524.0–3
Deleted	3527.2
Deleted	3528.4
Deleted	3530.0–3
Deleted	3530.1

Old 3500	New 3500
3500.0–3	Unnumbered
3500.0–5	3501.5
3500.1	Deleted
3500.2	Deleted
3500.3	3502.15
3500.4	3501.30
3500.5(a)	3503.40
3500.5(b)	3503.41
3500.6	3501.16
3500.7	3501.17
3500.8	3503.11
3500.9–1	3503.20
3500.9–2	3503.21
3500.9–3	3503.25
3501.1–1	3503.30
3501.1–1(a)	3503.33
3501.1–1(d)	3503.36
3501.1–1(c)	3503.31
3501.1–2	3503.30
3501.1–2(a)	3503.33
3501.1–2(b)	3503.32
3501.1–3	3503.31
3501.2	3503.38
3502.1	3502.10
3502.1(b)	3502.13
3502.1(c)	3502.15
3502.1(d)	3502.20

Old 3500	New 3500
3502.2–1	3502.25
	3502.26
3502.2–2	3502.27
3502.2–3	3502.28
	3502.29
3502.2–4	3502.30
3502.2–5(a)	3502.40
3502.2–5(b)	3502.41
3502.2–6	3502.33
3502.3	3502.34
3503.1–1	3504.11
3503.1–2	3504.12
3503.2–1	3504.21
	3504.22
3503.2–2	3504.25
3503.2–3	3504.26
3503.2–4(a)	3513.11
	3513.12
3503.2–4(b)	3513.15
3503.3–1	3513.20
3503.3–1(b)	3513.22
3503.3–1(c)	3513.21
3503.3–1(d)	3513.21
	3513.25
	3513.26
3503.3–1(e)	3513.21
3503.3–2(a)	3513.30
3503.3–2(b)	3513.32
3503.3–2(c)	3513.31
3503.3–2(d)	3513.31
	3513.33
	3513.34
3503.3–2(e)	3513.31
3504.1–1	3504.50
3504.1–2	3504.51
3504.1–3	3504.55
3504.1–4	3504.50
3504.1–5	3504.56
3504.1–6	3504.60
3504.2(a)	3504.65
3504.2(b)	3504.66
3504.3	3504.70
	3504.71
3506.1	3512.11
3506.2	3504.12(a)(1)
	3512.12
3506.3–1	3512.13
	3512.16
3506.3–2	3512.17
3506.3–3	3512.19
3506.4	3512.18
3506.5–1	3512.18
3506.5–2	3512.25
	3512.30
	3512.33
3506.6	3512.25
3506.7	3512.33
3507.1	3505.10
3507.1–1	3509.40
	3509.41
3507.1–2	3509.10
	3509.11
3507.1–2(a)	3509.41
3507.1–2(b)	3509.15
3507.2	3509.16
	3509.17
	3509.46
3507.3	3509.49
3507.4	3503.20
3507.5	3504.12(a)(1)
	3509.16
	3509.46
3507.6	3509.12
	3509.45
	3509.47
3507.7–1	3509.45
	3509.47
3507.7–2	3509.17
	3509.47
3507.8	3509.20
3507.9	3509.16
	3509.25
3507.9(b)	3509.50
3508.0–1	3515.10
	3515.15
	3515.20
	3515.21
3508.0–7	3515.12
3508.1	3515
3508.1(a)	3515.18
3508.2(a)	3515.18
3508.2(e)	3515.23
3508.2(f)	3515.25
3508.3(a)	3515.26
3508.3(b)	3515.27
3509.1–1	3505.70
3509.1–2	3514.11
	3514.12
	3514.15
	3514.20
	3514.21
3509.2	3505.75
3509.3–1	3505.80
3509.3–2	3514.25
3509.4–1	3505.85
	3514.31
	3514.32
3509.4–2	3514.30
	3514.31
	3514.32
3509.4–3	3514.50
3510.0–3	Deleted
3510.1	Deleted
3510.2–1	Deleted
3510.2–2	Deleted
3510.3	3503.37
3511.1	3501.20
3511.2–1(a)	3504.15
	3504.16
3511.2–1(b)	3504.17
3511.2–1(c)	3504.15
3511.2–2	3504.20
	3504.21
3511.3	3511.15
3511.4(a)	3511.25
3511.4(b)	3511.26
3511.4(c)	3511.30
3511.5	3511.10
3511.6	3504.50
3511.7	3503.28
3511.8	Deleted
3512.1	3508.11
3512.2	3505.10
3512.3–1	3505.12
3512.3–1(c)	3504.12(a)(1)
	3505.20
3512.3–2	3505.13
3512.3–2(c)	3505.15
3512.3–3	3505.40
	3505.45
3512.3–4	3505.50
	3505.51
3512.4	3505.25
3512.5	3505.25
	3505.30
3512.6	3505.31
3512.7	3504.50
	3505.40
3512.8	3505.55
3512.8–1	3505.50
	3505.60
3512.8–2	Deleted
3512.8–3	3504.15
	3505.55
3512.8–4	3503.28
3512.9–1	3505.61
	3505.62
3512.9–2	3501.20
3512.9–2(a)	3505.64
3512.9–2(b)	3505.65
3512.9–3	3501.20
	3505.66
3513.1–1	3507.15
3513.1–1(c)	3507.16
3513.1–2	3507.17
3513.2–1	3507.18
3513.2–2	Deleted
3513.3	3507.11
3513.4	3507.19
3513.4(b)	3507.20
3513.4(c)	3507.20
3514.0–3	Deleted
3514.1	3506.10
3514.2	3506.11
3514.3	3506.11
3514.4	3506.12
3514.4–1	3506.13
3514.4–2	3506.12
3514.4–3	3506.14
3514.4–4	3506.15
3514.5	3506.25
3514.6	3506.20
3515.1	3508.11
	3508.12(a)
3515.3–1	3508.12(b)
	3508.14
3515.3–2	3508.15
3515.3–3	3508.16
3515.4	3508.20
3515.5	3508.12(c)
	3508.21
3515.6	3508.22
3516.1	3510.11
3516.2	3510.15
3516.2(a)	3510.11
3516.2(b)	3510.15
3516.3	3510.12
3516.3(a)	3510.20
3516.3(b)	3504.12(a)(1)
3516.4	3503.20
3516.5	3510.20
3516.6	3510.21
3517.1	3516.10
	3516.12
3517.1–1	3504.12(a)(1)
	3516.15
3517.2	Deleted
3517.1–2(a)	3516.20
3517.1–2(b)	3516.30
3517.1–3	3516.16
3520.0–3	Deleted
3520.1	Deleted
3520.2–1	Deleted
3520.2–2	Deleted
3520.3	3503.37
3521.1	3501.20
	3511.10
3521.2–1(a)	3504.15
3521.2–1(a)	3504.16
3521.2–1(b)	3504.17
3521.2–2	3504.20
	3504.21

Old 3500	New 3500
3521.3	3511.15
3521.4	3504.50
3521.5	3503.28
3521.6	3503.28
3522.1	3508.11
3522.2	3505.10
3522.3–1	3505.12
3522.3–1(c)	3504.12(a)(1)
	3505.20
3522.3–2	3505.13
3522.3–2(c)	3505.15
3522.3–3	3505.40
	3505.45
3522.3–4	3505.50
	3505.51
3522.4	3505.25
3522.5	3505.25
	3505.30
3522.6	3505.31
3522.7	3504.50
	3505.40
3522.8	3505.55
3522.8–1	3505.50
	3505.60
3522.8–2	3501.20
3522.8–3	3504.15
	3505.55
3522.8–4	3503.28
3523.1–1	3507.15
3523.1–1(c)	3507.16
3523.1–2	3507.17
3523.2–2	3503.20
3523.2–1	3507.18
3523.3	3507.11
3523.4	3507.19
3523.4(b)	3507.20
3523.4(c)	3507.20
3524.0–3	Deleted
3524.1	3506.10
3524.2	3506.11
3524.3	3506.11
3524.4	3506.12
3524.4–1	3506.13
3524.4–2	3506.12
3524.4–3	3506.14
3524.4–4	3506.15
3524.5	3506.25
3524.6	3506.20
3525.1	3508.11
	3508.12(a)
3525.2	3503.20
3525.3–1	3508.12(b)
	3508.14
3525.3–1(c)	3504.12(a)(1)
3525.3–2	3508.15
3525.3–3	3508.16
3525.4	3508.20
3525.5	3508.12(c)
	3508.21
3525.6	3508.22
3526.1	3510.11
3526.2	3510.15
3526.2(a)	3510.11
3526.2(b)	3510.15
3526.3	3510.12
3526.3(a)	3510.20
3526.3(b)	3504.12(a)(1)
3526.4	3503.20
3526.5	3510.20
3526.6	3510.21
3527.1	3516.10
	3516.12
3527.1–1	3504.12(a)(1)
	3516.15
3527.1–2(a)	3516.20
3527.1–2(b)	3516.30
3527.1–3	3516.16
3527.2	Deleted
3528	3511.25
	3511.27
3528.1	3504.12(a)(1)
3528.2	3504.50
3528.3	3511.25(b)
3528.4	3511.12
3530.0–3	Deleted
3530.1	Deleted
3530.2–1	Deleted
3530.2–2	Deleted
3530.3	3503.37
3531.1	3501.20
	3511.10
3531.2–1(a)	3504.15
	3504.16
3531.2–1(b)	3504.17
3531.2–2	3504.20
	3504.21
3531.3	3511.15
3531.4(a)	3511.25
3531.4(b)	3511.26
3531.4(c)	3511.30
3531.5	3504.50
3531.6	3503.28
3532.1	3508.11
3532.2	3505.10
3532.3–1	3505.12
3532.3–1(c)	3504.12(a)(1)
	3505.20
3532.3–2	3505.13
3532.3–2(c)	3505.15
3532.3–3	3505.40
	3505.45
3532.3–4	3505.50
	3505.51
3532.4	3505.25
3532.5	3505.30
3532.6	3505.31
3532.7	3504.50
	3505.40
3532.8	3505.55
3532.8–1	3505.60
3532.8–2	3501.20
3532.8–3	3504.15
	3505.55
3532.8–4	3503.28
	3505.50
3532.9–1	3505.61
	3505.62
3532.9–2(a)	3505.64
3532.9–2(b)	3505.65
3532.9–3	3501.20
	3505.66
3533.1–1	3507.15
3533.1–1(c)	3507.16
3533.1–2	3507.17
3533.2–1	3507.18
3533.2–2	3503.20
3533.3	3507.11
3533.4	3507.19
3533.4(b)	3507.20
3533.4(c)	3507.20
3534.0–3	Deleted
3534.1	3506.10
3534.2	3506.11
3534.3	3506.11
3534.4	3506.12
3534.4–1	3506.13
3534.4–2	3506.12
3534.4–3	3506.14
3534.4–4	3506.15
3534.5	3506.25
3534.6	3506.20
3535.1	3508.11
	3508.12(a)
3535.2	3503.20
3535.3–1	3508.12(b)
	3508.14
3535.3–2	3508.15
3535.3–3	3508.16
3535.4	3508.20
3535.5	3508.12(c)
	3508.21
3536.1	3510.11
3536.2	3510.15
3536.4	3503.20
3536.5	3510.20
3536.6	3508.22
3536.2(a)	3510.11
3536.2(b)	3510.15
3536.3	3510.12
3536.3(a)	3510.20
3536.3(b)	3504.12(a)(1)
3536.6	3510.21
3540.0–3	Deleted
3540.1	Deleted
3540.2–1	Deleted
3540.2–2	Deleted
3540.3	3503.37
3541.1	3501.20
3541.2–1(a)	3504.15
	3504.16
3541.2–1(b)	3504.17
3541.2–2	3504.20
	3504.21
3541.3	3511.15
3541.4	3504.50
3541.5	3503.28
3541.6	3503.28
3542.1	3503.12
3542.2	3505.10
3542.3–1	3505.12
3542.3–1(c)	3504.12(a)(1)
	3505.20
3542.3–2	3505.13
3542.3–2(c)	3505.15
3542.3–3	3505.40
	3505.45
3542.3–4	3505.50
	3505.51
3542.4	3505.25
3542.5	3505.25
	3505.30
3542.6	3505.31
3542.7	3504.50
	3505.40
3542.8	3505.55
3542.8–1	3505.50
	3505.60
3542.8–2	3501.20
3542.8–3	3504.15
	3505.55
3542.8–4	3503.28
3543.1–1	3507.15
3543.1–1(c)	3507.16
3543.1–2	3507.17
3543.2–1	3507.18
3543.2–2	3503.20
3543.3	3507.11
3543.4	3507.19
3543.4(b)	3507.20
3543.4(c)	3507.20
3544.0–3	Deleted
3544.1	3506.10

Old 3500	New 3500
3544.2	3506.11
3544.3	3506.11
3544.4	3506.12
3544.4–1	3506.13
3544.4–2	3506.12
3544.4–3	3506.14
3544.4–4	3506.15
3544.5	3506.25
3544.6	3506.20
3545.1	3508.11
	3508.12(a)
3545.2	3503.20
3545.3–1	3508.12(b)
	3508.14
3545.3–2	3508.15
3545.3–3	3508.16
3545.4	3508.20
3545.5	3508.12(c)
	3508.21
3545.6	3508.22
3546.1	3510.11
3546.2	3510.15
3546.2(a)	3510.11
3546.2(b)	3510.15
3546.3	3510.12
3546.3(a)	3510.20
3546.3(b)	3504.12(a)(1)
3546.4	3503.20
3546.5	3510.20
3546.6	3510.21
3547	3511.25
	3511.27
3547.1	3504.12(a)(1)
3547.2	3504.50
3547.3	3511.25(b)
3547.4	3511.12
3550.0–3	Deleted
3550.1	Deleted
3550.2–1	Deleted
3550.2–2	Deleted
3550.3	3503.37
3551.1	3501.20
3551.2–1(a)	3504.15
	3504.16
3551.2–1(b)	3504.17
3551.2–2	3504.20
	3504.21
3551.3	3511.15
3551.4(a)	3511.25
3551.4(b)	3511.26
3551.4(c)	3511.30
3551.5	3504.50
3551.6	3503.28
3551.7	Deleted
3552.1	3508.11
3552.2	3505.10
3552.3–1	3505.12
3552.3–1(c)	3504.12(a)(1)
	3505.20
3552.3–2	3505.13
3552.3–2(c)	3505.15
3552.3–3	3505.40
	3505.45
3552.3–4	3505.50
	3505.51
3552.4	3505.25
3552.5	3505.25
	3505.30
3552.6	3505.31
3552.7	3504.50
	3505.40
3552.8	3505.55
3552.8–1	3505.50
	3505.60
3552.8–3	3504.15
	3505.55
3552.8–2	3501.20
3552.8–4	3503.28
3552.9–1	3505.61
	3505.62
3552.9–2(a)	3505.64
3552.9–2(b)	3505.65
3552.9–3	3501.20
	3505.66
3553.1–1	3507.15
3553.1–1(c)	3507.16
3553.1–2	3507.17
3553.2–2	3503.20
3553.2–1	3507.18
3553.3	3507.11
3553.4	3507.19
3553.4(b)	3507.20
3553.4(c)	3507.20
3554.0–3	Deleted
3554.1	3506.10
3554.2	3506.11
3554.3	3506.11
3554.4	3506.12
3554.4–1	3506.13
3554.4–3	3506.14
3554.4–2	3506.12
3554.4–4	3506.15
3554.5	3506.25
3554.6	3506.20
3555.1	3508.11
	3508.12(a)
3555.2	3503.20
3555.3–1	3508.12(b)
	3508.14
3555.3–2	3508.15
3555.3–3	3508.16
3555.4	3508.20
3555.5	3508.12(c)
	3508.21
3555.6	3508.22
3556.1	3510.11
3556.2	3510.15
3556.2(a)	3510.11
3556.2(b)	3510.15
3556.3	3510.12
3556.3(a)	3510.2
3556.3(b)	3504.12(a)(1)
3556.4	3503.20
3556.5	3510.20
3556.6	3510.21
3560.0–3	Deleted
3560.1	Deleted
3560.2–1	Deleted
3560.2–2	Deleted
3560.3–1	3503.13
3560.3–2	3503.13
3560.3–3	3503.13
3560.3–4	3503.13
3560.4	3503.37
3560.5	3505.10
3560.6	3501.16
3560.7	3505.12
3561.1	3501.20
3561.2–1(a)	3504.15
	3504.16
3561.2–1(b)	3504.17
3561.2–2	3504.20
	3504.21
3561.3	3511.15
3561.4	3504.50
3561.5	3503.28
3561.6	Deleted
3562.1	3503.13
3562.2	3505.10
3562.3–1	3505.12
3562.3–1(c)	3504.12(a)(1)
	3505.20
3562.3–2	3505.13
3562.3–2(c)	3505.15
3562.3–3	3505.40
	3505.45
3562.3–4	3505.50
	3505.51
3562.4	3505.25
3562.5	3505.25
	3505.30
3562.6	3505.31
3562.7	3504.50
	3505.40
3562.8	3505.55
3562.8–1	3505.50
	3505.60
3562.8–2	3501.20
3562.8–3	3504.15
	3505.55
3562.8–4	3503.28
3562.9–1	3505.61
	3505.62
3562.9–2(a)	3505.64
3562.9–2(b)	3505.65
3562.9–3	3501.20
	3505.66
3563.1–1	3507.15
3563.1–1(b)	3507.16
3563.1–2	3507.17
3563.2–1	3507.18
3563.3	3507.11
3563.4	3507.19
3563.4(b)	3507.20
3563.4(c)	3507.20
3564.1	3508.11
	3508.12(a)
3564.2	3503.20
3564.3–1	3508.12(b)
	3508.14
3564.3–2	3508.15
3564.3–3	3508.16
3564.4	3508.20
3564.5	3508.12(c)
	3508.21
3564.6	3508.22
3565.1	3510.11
3565.2	3510.15
3565.2(a)	3510.11
3565.2(b)	3510.15
3565.3	3510.12
3565.3(a)	3510.20
3565.3(b)	3504.12(a)(1)
3565.4	3503.20
3565.5	3510.20
3565.6	3510.21
3566	3511.25
	3511.27
3566.1	3511.25(b)
3566.2	3504.50
3566.3	3511.25(b)
3566.4	3511.12
3567.1	3517.10
3567.2	3517.11
3567.3	3517.15
3567.4	3517.16
3570.0–3	Deleted
3570.1	Deleted
3570.2	3503.14
3570.3	Deleted
3570.4	3503.37
3571.1	3501.20

Old 3500	New 3500
3571.2–1(a)	3504.15
	3504.16
3571.2–1(b)	3504.17
3571.2–2	3504.20
	3504.21
3571.3	3511.15
3571.4	3504.50
3571.5	3503.28
3571.6	Deleted
3574.1	3508.11
	3508.12(a)
3574.2	3503.20
3574.3–1	3508.12(b)
	3508.14
3574.3–2	3508.15
3574.3–3	3508.16
3574.4	3508.20
3574.5	3508.12(c)
	3508.21
3574.6	3508.22
3575.1	3510.11
3575.2	3510.15
3575.2(a)	3510.11
3575.2(b)	3510.15
3575.3	3510.12
3575.3(a)	3510.20
3575.3(b)	3504.12(a)(1)
3575.4	3503.20
3575.5	3510.20
3575.6	3510.21
3576	3511.25
	3511.27
3576.1	3504.12(a)(1)
3576.2	3504.50
3576.3	3511.25(b)
3576.4	3511.12
New	3501.1
New	3501.10
New	3502.42
New	3503.10
New	3503.42
New	3503.43
New	3503.44
New	3503.45
New	3503.46
New	3509.18
New	3509.30
New	3509.48
New	3509.51
New	3511.11
New	3511.28
New	3515.22
New	3516.11
New	3503.15
	also in 3581
New	3503.16
	also in 3586

Subpart 3501—General Provisions

This subpart deals with introductory matters, general considerations, definitions, and appeals. We expanded the authorities section. Section 3501.1 discusses the scope of the regulations, which apply to minerals leased by the BLM.

Section 3501.5 is the definitions section. This section lists those terms which are specific to leasing of solid minerals. We made several changes to this section.

We dropped the definition of the term ''Act'' because it was not needed. We added a definition for the term ''acquired lands.'' We modified the definition of ''hardrock minerals'' to make the meaning more clear. We kept the definition used in the proposed rule for ''valuable deposit,'' which is discussed more in the Responses to Comments section below.

Section 3501.10 describes the different types of authorizations BLM can issue under these regulations. Here, we define what each authorization is, and list them in the order they occur during development, to give the reader a short road map through the entire mineral development process. The section begins with prospecting permits, which allow exploration for minerals on public lands where no known deposit exists. Next are exploration licenses, which also allow exploration of lands where there are known deposits. After that comes preference right leases, which you could receive if you discover certain mineral deposits during your prospecting permit. Following that are competitive leases, which BLM issues for known deposits. Next are fringe acreage leases, which lease known deposits under special circumstances. This is followed by lease modifications which add land to existing leases, and use permits that provide land to support certain permits and leases.

Section 3501.16 lists some of the general conditions and terms of your permit or lease. There are two particularly important aspects of this section. First, it tells you that a permit or lease gives you an exclusive interest in the minerals covered by your permit or lease, but not the lands. We can issue additional leases, permits and rights-of-way for lands where minerals are leased. Second, this section discusses how we regulate development of multiple leases on the same parcel.

The remaining sections in this part point out that authorizations are subject to other laws and regulations, such as NEPA, BLM land use plans, and BLM and Departmental appeal regulations.

Subpart 3502—Qualification Requirements

Subpart 3502 sets out who may hold a permit or lease. There are several limitations on who may hold an authorization. For example, as required by statute, we require the lessee or permittee to be an adult citizen of the United States who is in compliance with the MLA on all other leases. Also, to prevent conflicts of interest, there are restrictions on government officials. There are also acreage limitations in subpart 3503.

Sections 3502.25–30 discuss how you show your qualifications to hold a lease. These sections discuss where to file information, and what to submit depending on whether you are an individual, an association or partnership, a guardian or trustee of a trust, or a corporation.

The remaining sections address some peripheral concerns related to lease qualifications. For example, if an applicant dies before we processes the application, we may issue the lease to the applicant's heirs, or to the executor of the applicant's estate if the estate has not been settled. BLM may also recognize an heir as the record title holder of a permit or lease if the permit or lease holder dies. In all cases, however, the person assuming ownership of the lease must be qualified to hold a lease. If they are not, we will allow no more than two years for them to become qualified or divest their interest.

Subpart 3503—Areas Available for Leasing

This subpart concerns which areas are available for leasing. There are several types of land that are unavailable for leasing, such as lands acquired for development of fissionable materials, wilderness areas, and lands within incorporated cities. Sections 3503.10 and 3503.11 list lands which are not available for any mineral leasing activity. The next four sections set out which areas are generally available for leasing sulphur, hardrock minerals, asphalt, gold and silver.

Generally, lands within a designated wilderness or wilderness study area are unavailable for leasing. The Wilderness Act, 16 U.S.C. 1131 *et seq.*, prohibits commercial enterprise within designated wilderness areas, except for prior existing rights (16 U.S.C. 1133(c)). Wilderness study areas are managed under the interim management standards which prohibit all activities which would impair their suitability for wilderness designation; this typically precludes mineral leasing activity. BLM manages all other areas being considered for possible wilderness study in accordance with the applicable land use plan.

Since BLM drafted the proposed rule, President Clinton has designated the Grand Staircase-Escalante National Monument, and under the Monument's terms the BLM lands contained in it are no longer available for leasing. We added the new Monument to the list of unavailable lands in § 3503.11. We also added another sentence in § 3503.11(k) to remind the reader that any other

lands which are withdrawn from mineral leasing are also unavailable.

Sections 3503.20 through 3503.28 set out the rules for leasing minerals that underlie lands managed by another Federal agency, private owner, or non-Federal political subdivision or charitable organization. When a separate surface owner is involved, we will consult with them, and, if required, obtain their consent before issuing a mineral lease. In many cases, we may insert special stipulations into the lease to satisfy the surface owner's or surface managing agency's concerns. Where BLM is required by law to obtain another agency's consent, we will accept the stipulations they require. In other situations, we will consider the surface owner's or surface management agency's recommendations and accept those which we believe are appropriate.

The next several sections (3503.30–.33) concern land descriptions. You must describe the lands you wish to lease in your application, but there are several different ways to describe land. If the land has been surveyed as part of the Public Lands Survey System, you must describe it by legal subdivision (section, township and range). If it has not been surveyed but is located in a Public Lands Survey System state and is part of a protraction diagram or amended protraction diagram, you must describe the land by legal subdivision. If the land is unsurveyed and not shown on a protraction diagram or amended protraction diagram, you must describe the lands by metes and bounds tied to a survey corner. If the lands are acquired lands, you may use the description shown on the deed that conveyed title to the United States. Finally, § 3503.33 reminds the reader that BLM will only issue leases for lands that have been officially surveyed to BLM standards. If you seek a permit or lease on unsurveyed lands, we will require you to pay for a survey. We will pay for the survey if we initiate the competitive leasing process.

The next subgroup consists of three limitations on the acreage and dimensions of the lands you seek to lease. First, the minimum size for a lease is generally a quarter-quarter section, or a lot. The leased lands must also be in reasonably compact form, not scattered and difficult to manage. The chart at § 3503.37 shows the maximum lease acreage for each commodity. This includes limits on the size of the individual lease, and limits on the total number of acres you have leased from BLM in a single state (or nationwide, in the case of phosphate).

The only change in this chart from the proposed rule is the provision that the state acreage limit for potassium leases is now 96,000 acres. We made this change in response to comments received on the proposed rule. See responses to comments below.

Calculating your total acreage holdings is simple when you own your lease outright, but if you own a lease through stock ownership or other instruments, BLM will calculate your acreage holdings as a proportion of your ownership interest. For example, if you own a 50% interest in a lease of 800 acres, we will charge 400 acres toward your total personal acreage holdings. Corporate lease holdings will only count against your personal acreage holdings if you own at least ten percent of the corporation holding the leases. In these instances, we will count the same acreage against both the corporation's holdings and your personal holdings, in proportion with your ownership interest. We believe this is necessary to prevent people from using the corporate form to avoid the acreage limitations.

Finally, sections 3503.40 through 3503.46 instruct you where to file your application and other necessary documents, and inform you that the information you submit could be released to the public under the Freedom of Information Act (5 U.S.C. 552 *et seq.*) (FOIA). Since the proposed rule was published, BLM has issued a rule to make all of our FOIA information uniform. The FOIA rule, published in the **Federal Register** on October 1, 1998 (63 FR 52946), amended these regulations by adding detailed information about how BLM decides to release or withhold information under the FOIA. In order to keep this rule consistent with other BLM regulations, we added §§ 3503.42 through 3503.46 to conform to the FOIA regulations.

We will generally release information under FOIA to the extent that the law allows. If you believe the information you submit to us should be kept confidential, you should indicate this by clearly marking the information as confidential. However, BLM must make the final decision, because the FOIA requires us to determine under the law whether information is exempt from release before we can withhold it.

Subpart 3504—Fees, Rental, Royalty and Bonds

This subpart outlines your obligations to BLM under your lease. We made several minor changes from the proposed rule in order to clarify these requirements.

The first three sections distinguish between payments to BLM and those made to the Minerals Management Service (MMS), and set out filing fees. BLM only receives filing fees, first year rentals and bonus bids; you should make all subsequent rental, royalty and other payments to MMS.

The next three sections discuss rental rates and due dates. One situation that caused some confusion is the rental due date after the first year of the lease. BLM will maintain the previous system, where in the case of sodium, potassium and asphalt, rentals are due before January 1 of each year, while for other minerals rental is due before the anniversary of the lease's effective date. We had proposed a simpler system which would use anniversary dates for all minerals, but several commenters pointed out that this contradicts statutory law. Therefore, we will use the January 1 due date for sodium, potassium and asphalt, and the lease anniversary date for other minerals.

The following sections discuss royalties. Each lease will contain its own royalty provisions, but the regulations set out the minimum royalty at § 3504.21. The regulations also permit you to create overriding royalties. However, if your overriding royalties become too large, to the point where they could pressure you to forego development opportunities under your lease, BLM may order you to suspend or reduce the overriding royalty. Furthermore, if at any time you seek a royalty reduction, we may require you to reduce your overriding royalty payments first. We will not allow overriding royalties to exceed 50% of the amount of the reduced royalty.

The rest of this subpart focuses on bonding requirements. BLM requires a bond in all cases, and determines the amount of the bond on a case-by-case basis. The bond amount is based on our estimate of the cost to comply with all terms and conditions of the lease. This includes the cost to stabilize and reclaim the areas to be disturbed under your lease or permit. We will accept personal bonds in any one of several forms, or surety bonds from qualified surety companies. You may also cover several leases with a single bond, or file statewide or nationwide bonds to cover several obligations at once.

Your bond must always provide full coverage for any activities you pursue. If you default on any of your permit or lease obligations, BLM may take payment from your bond and, if necessary, require you to restore your bond to the amount needed to provide full coverage. If you fail to restore your bond, we may seek to cancel your permit or lease. We will only terminate your bond's period of liability when it has been replaced by another bond or you have fulfilled all your permit or

lease terms and conditions. Finally, terminating the period of liability does not end the bond obligations; we will release your bond when all terms and conditions are met, the site is reclaimed, all payments are made, and a reasonable period of time has passed to assure us that you have effectively reclaimed the land.

Subpart 3505—Prospecting Permits

Prospecting permits are available when you are contemplating commercial mineral development under the mineral leasing program in areas where there is no known mineral deposit. Obtaining a prospecting permit is the first step to development under a preference right lease. If you use a prospecting permit to explore an area where no known mineral deposit exists and you discover a valuable deposit of the mineral covered by your permit, you may be entitled to a preference right lease to develop that mineral deposit.

You do not need a prospecting permit to collect mineral specimens for your hobby, recreational, educational or other similar non-commercial purposes. You can find BLM's regulations for non-commercial mineral specimen collecting at 43 CFR part 8360.

Prospecting permits are required when you are exploring an area for commercial development. Because prospecting permits may entitle you to a preference right lease, they are not available in areas where BLM has identified a known mineral deposit. These areas are leased competitively and can only be explored prior to leasing under an exploration license. Prospecting permits are not available for asphalt.

Sections 3505.12 through 3505.51 discuss how to apply for a prospecting permit. Because a prospecting permit may entitle you to a preference right lease, we will not issue prospecting permits to anyone who would not be qualified to hold a lease. Therefore, all the qualification requirements of subpart 3502, including the acreage limitations, apply to prospecting permits.

You may amend or withdraw your permit application after you file it but before we issue you a permit. BLM considers permit applications on a first-come, first-served basis, meaning that the first application we receive has priority. If you amend your application, you do not need to send an additional filing fee, but if your amendment adds lands to be covered by the permit, your priority to those additional lands will be as of the date of the amendment, not the date of the original application. Your application must include the first year's rental, and a detailed exploration plan.

We will notify you if your permit application has been accepted or rejected. If we reject your permit application, we will state our reasons for doing so in detail, and describe how you may appeal. If we rejected your application because of something which can be corrected, we will give you 30 days to correct the error and refile your application. You do not have to refile the application fee and first-year rental payment with your corrected application. Filing fees are non-refundable, but if we reject any portion of your application we will return your rental payment covering the rejected areas.

Prospecting permits are limited to their express terms. Therefore, you can only use your prospecting permit for the time, area and minerals identified in your permit. All prospecting permits are valid for two years, though BLM can extend potassium and gilsonite permits for an additional two years and phosphate and hardrock mineral prospecting permits for up to four years. BLM cannot extend permits for sodium and sulphur. We generally will only extend your permit if you have been diligently exploring the area and need more time to discover a valuable deposit, though exceptions may be made if unusual circumstances delayed your exploration efforts.

You can relinquish your permit in whole or in part if BLM approves your relinquishment, you have complied with all the permit requirements, and if your rental payments are up to date. We may cancel your permit if you fail to make timely rental payments, or if your exploration activities violate any law, regulation, or condition of your permit. If your permit is relinquished or canceled, in whole or in part, you will not be entitled to a preference right lease on those lands.

Subpart 3506—Exploration Licenses

Exploration licenses, covered by subpart 3506, allow you to gather information about a mineral resource prior to seeking a lease. BLM grants these licenses to explore areas with known mineral deposits. BLM leases known mineral deposits through a competitive bidding process; therefore, your exploration license will not give you any preference or right to a lease. You may want an exploration license if you are considering entering a bid for an area and you need more information about the resource in order to prepare your bid.

The first several sections of subpart 3506 describe how to obtain an exploration license. To apply, you need to submit an exploration plan and a request (in no specific form) for an exploration license. Your exploration plan must include the same information contained in 43 CFR 3505.45 as exploration plans in support of prospecting permits.

BLM makes decisions to issue exploration licenses under the general regulations for leases, permits and easements at 43 CFR part 2920. Once we approve your exploration plan, we will prepare a notice of exploration which you must publish for three weeks in a local newspaper in the area where the lands covered by the license are located. The notice, which will include your plan, will invite other interested parties to participate with you in the exploration. They must share costs with you on a pro-rata basis.

Your exploration license is not intended to give you exclusive access to information which is critical to preparing your bid, or any other preference. For competitive leasing, all bidders should have access to the same information about the resource, so that competition will be completely fair. We may require that you allow other interested parties to join you in the exploration activities under your license, provided they pay their pro-rata share of the costs. Sections 3506.12 through 3506.14 discuss the notice of exploration contents and process.

Several things can happen if one or more parties respond to the notice of exploration and notify BLM that they wish to be included. If all parties agree with the exploration plan as approved, the parties may simply devise a way to share the costs and BLM will issue the license. If the interested parties disagree on the exploration plan, the parties need to agree on any changes to be made, and BLM will have to assess the environmental impacts posed by any changes to the plan before we can issue the license.

Once BLM issues your exploration license, you may make changes to your exploration plan, and you may remove lands from your exploration license at any time, subject to BLM's approval. However, you may not add lands to your exploration license. We must provide for public involvement and environmental assessment before we can make lands available for exploration under a license. Therefore, if you wish to add lands to your license, you need to submit a new application.

While conducting your exploration, you must share with us any data you gather. BLM will consider this information confidential, as explained in § 3506.25, until the lands are leased

or unless we determine under the FOIA that the information is not exempt from disclosure. We require that you share this information with us because all information is valuable to us in making sound management decisions. We will not share this information with other potential bidders or the public unless we are required to do so by law. While we feel the fairest system of competitive bidding requires us to give parties equal access to information, we do not think it is fair to require one party to share the data at no cost to other parties after having acquired this data at considerable expense. BLM feels that this system, where parties can join in on the exploration but where we will not freely divulge the exploration's results, is the fairest to all participants.

Subpart 3507—Preference Right Lease Applications

If you discover a valuable deposit of a leasable mineral while exploring under a prospecting permit, you may be entitled to a preference right lease. This subpart discusses how you may apply for and obtain a preference right lease for all leasable minerals except asphalt, which is only leased competitively or under a fringe acreage lease. See subpart 3508 for competitive leases, and subpart 3510 for fringe acreage leases.

The requirements for obtaining a preference right lease, set out in § 3507.11, are fairly simple: if you have been exploring an area under a prospecting permit and you believe you have discovered a valuable deposit of the mineral covered by your permit, you need to submit a complete preference right lease application in a timely manner, along with your first year's rent. We will review your application in order to verify that all of the terms and conditions of your permit have been met. We also need to verify that you have discovered a valuable deposit during the term of your permit.

BLM must also determine that the lands are chiefly valuable for development of the specified mineral before we can issue a preference right lease for sodium, potassium or sulphur. We may reject your application for a preference right lease if your prospecting permit was granted under the authority of Reorganization Plan No. 3 and we find, after careful analysis, that mining is not the preferred use of the lands in the application.

You may submit your preference right lease application any time during the life of the prospecting permit or within 60 days after the permit expires. If you apply for a lease more than 60 days after your permit expires, BLM will reject your preference right lease application.

These regulations describe the application contents at 43 CFR 3507.17. While there is no set application form, you must submit: information showing that you are qualified to hold a lease (under subpart 3502); maps of your proposed mining operations and facilities; a written description of your proposed operations, including the method of mining and the relationship between your operation and any other(s) on adjacent lands; information which shows that you have discovered a valuable deposit; and a legal description of the lands to be leased, if different from the lands in your prospecting permit. You need not lease all the lands covered by your prospecting permit, but all the land you wish to lease must have been part of the permit.

To prove you have found a valuable deposit, you must provide BLM information about any core or test holes, samples and cuttings you collected at the site, as set out in 43 CFR 3593.1. BLM will determine if there is a reasonable prospect of success in developing a profitable mine from this information, though we may request additional information to complete our findings.

BLM will grant you a lease unless:

- You have not shown a valuable deposit exists;
- Your application is late, incomplete, or otherwise deficient;
- You are seeking a lease for sodium, potassium or sulphur and BLM determines that the lands at issue are not chiefly valuable for that mineral; or
- We issued the prospecting permit under the authority of Reorganization Plan No. 3 and we determine that mining is not the preferred use of the land.

You must also have complied with all of the terms and conditions of the prospecting permit. If you disagree with BLM's decision, you may appeal the decision to the Interior Office of Hearings and Appeals.

Subpart 3508—Competitive Lease Applications

Subpart 3508 describes the competitive leasing process, which we use if you wish to lease mineral resources in areas where valuable mineral deposits exist. We cannot issue a preference right lease for known valuable deposits; the only way you can obtain a lease on these lands is under this subpart, through a lease modification or through a fringe acreage lease under subpart 3510 of these regulations.

If you are interested in leasing a certain area, you should contact us to see if the lands are known to contain a valuable deposit. Generally, this includes lands where further prospecting is unnecessary for us to determine the existence or workability of a valuable deposit. We can rely on geologic inference in making these determinations. BLM must receive the fair market value for all minerals we lease competitively.

BLM must reject a prospecting permit application if it is in an area where there is a known valuable deposit, but in these areas you may request a competitive lease. We may also initiate the competitive leasing process. If we determine that the lands are suitable for leasing, we may publish a notice of lease sale in the local newspaper and in the local BLM public room. This notice will contain all the information necessary for participating in the bidding, such as the sale time and location, the minimum bid, bidding method and deadlines, and description of the resource. Usually the bidding method will be sealed bids, although on appropriate occasions we may use an oral bidding process, or a combination of sealed and oral bids. BLM will also make available the statement of the lease sale terms and conditions.

If you are a qualified bidder and you offer the highest acceptable bonus bid, meeting or exceeding fair market value, BLM may accept your bid. As described in section 3508.20, we will open and announce all bids at the lease sale, but we will not accept or reject bids at that time. Instead, we will review the bids. We may reject all bids, or accept the highest qualified bid by sending that person a lease form and statement of terms and conditions. If we accept your bid, you must sign the lease form, pay the first year's rent, publication costs and the balance of your bonus bid (if not already paid in full with your bid), and furnish the required lease bond. We will then award you the lease.

If there is a tie between bidders for the highest bonus bid, we will determine a fair process for breaking the tie. Also, you may revise your bid at any time while the bidding is still open.

BLM can reject any high bid which does not meet all the qualifications and requirements of these regulations. If we offer you a lease but you decide not to accept it, we will keep one-fifth of your bonus bid and refund any additional money submitted. BLM has complete discretion to issue a competitive lease so we can reject your bid for any other reason, such as a change in economic conditions. If we reject your bid, we will refund any money you submitted with your bid.

Subpart 3509—Fractional and Future Interest Leases

This subpart concerns two types of Federal property interests that include less than complete ownership: Future and fractional interests. While these kinds of property are relatively uncommon, there are many instances where the public owns only a share of a mineral estate. When the United States owns an estate in conjunction with other owners, that is a fractional interest. A future interest occurs when the Federal Government owns the right to an estate after a certain date, but owns no present interest in the estate. The Federal Government acquired most of these limited estates during the Dust Bowl Era in order to help landowners recoup some of their losses from failing farms and to establish watershed protection measures.

BLM leases both future and fractional interests noncompetitively to the party who owns or controls the present interest or partial interest. We added a provision that allows limited competition for these leases in cases where more than one person holds ownership or possession. These leases are not available to the public at large. For future interests, we may lease the future interest in a mineral tract to the person who owns or controls the present interest and is currently developing that interest. As a result, when that person's interest ends and Federal ownership begins, the mineral operations can continue under a future interest lease issued by BLM. Similarly, we may lease a fractional interest in a mineral estate to the owner or owners of the other fraction(s), or the party who has acquired the other owner's development rights. This allows a single operator to develop the minerals.

Future interest leasing is covered in §§ 3509.10 through 3509.30. Since future interest leases are only available to holders of the present mineral interest, it is important that you show you are eligible for a future interest lease. You may only lease a future mineral interest from BLM if you own a present interest in the minerals, which means you must own either the record title or the operating rights. Furthermore, you must own all or substantially all of the present mineral interest. If you as a Federal lessee would control 50 percent or less of the present interest, we may reject your application. To apply for a lease, you must submit evidence of this ownership interest, plus information showing that you are qualified to hold a BLM mineral lease (under subpart 3502), a land description, information about any other owners, and a $25 application fee.

BLM will notify the other owners, if any, of your application. We will give these other owners 90 days to file additional applications. If we receive additional applications from other qualified owners, we will hold a limited competitive sale. We will use the general procedures in subpart 3508 to conduct the sale, but only qualified interest holders who applied for the lease may bid at the sale.

If there are no other interest holders or we receive no other applications during the 90 day notice period, we will notify you as to whether we will grant the lease. We will reject your application if you do not qualify to hold a lease. Also, you must apply for a lease more than one year before the United States' ownership interest will vest or we will reject your application.

Sections 3509.40 through 3509.50 cover fractional interest leases. BLM issues fractional interest leases where the Federal Government holds less than 100% of the mineral interest of the parcel. These leases allow the other mineral interest owners to develop the mineral estate.

BLM will only grant fractional interest permits or leases when we believe development of the minerals is in the public interest, and with the consent of the surface managing agency.

To be eligible for a lease, you must have a present interest in the same minerals, and you must also meet the qualification standards listed in subpart 3502. Your application must include a description of the land and the same information we require when you apply for a present interest Federal lease. You also need to include evidence of your present ownership interest; the names of any other owners of the mineral interests; and if you own the operating rights to the mineral by a contract with the owner, you also need to submit three copies of the contract.

We will notify the other owners, if any, of your application. We will give these other owners 90 days to file additional applications. If we receive additional applications from other qualified owners, we will hold a limited competitive sale. We will use the general procedures in subpart 3508 to conduct the sale, but only qualified interest holders who applied for the lease may bid at the sale.

BLM will reject your fractional interest application if you are not qualified to hold a lease, if you do not have a present interest in the same minerals, or if you would have a total interest of less than 50% once the fractional interest prospecting permit or lease is issued, unless we determine it would be in the public interest to issue the permit or lease.

Subpart 3510—Noncompetitive Leasing: Fringe Acreage Leases and Lease Modifications

This subpart deals with how BLM leases mineral deposits which are too small to be developed independently but could be developed as part of a larger operation taking place on adjacent lands. We may grant you a separate fringe acreage lease if you are developing non-Federal minerals on adjacent lands. If you are operating on adjacent lands under a Federal lease, we may modify your existing lease to add acreage to your lease. In both cases you would acquire the additional mineral lease noncompetitively. Please note that we have renumbered this subpart since the proposed rule, when it was located at subpart 3514. As a result, subparts 3510, 3511, 3512 and 3513 in the proposed rule are now found at subparts 3511, 3512, 3513 and 3514, respectively.

BLM issues fringe acreage leases for mineral deposits which are too small to be leased independently. This means that, in BLM's opinion, the deposit lacks sufficient reserves to warrant independent development, and that the minerals are not located in an area of competitive interest to other mining operations in the area. However, BLM will competitively lease these kinds of deposits when they have competitive interest. For example, BLM will lease a resource competitively if the mineral deposit is between two different mineral operations, and both parties express an interest in the fringe acreage. However, neither law nor policy requires us to lease the resource.

The rules for applying for a fringe acreage lease and a lease modification are similar. To apply, you must submit the serial number of your adjacent Federal lease, or proof that you own or control the adjacent mineral deposit; information which shows that the mineral deposit you are applying for extends from your adjacent lease or private operation; a complete land description; an advance rental payment and a nonrefundable $25 application fee.

BLM will not grant a lease through the non-competitive leasing process if a competitive interest exists, or if the mineral deposit is large enough to warrant independent development. We will also deny your application for the additional acreage if it would cause you to exceed the acreage limitations in 43 CFR 3503.37, if you are not qualified to hold a Federal lease under subpart 3502, or if developing the lease would be

economically inefficient or fail to properly conserve the natural resources.

Because a fringe acreage lease is a new lease separate from your ownership or control of the adjacent lands, BLM will set the terms and conditions of your fringe acreage lease. If we modify an existing Federal lease on adjacent lands, the terms for the new acreage will be the same as those in your existing lease. Before we issue either type of authorization, you must pay the bonus amount which we will set by appraisal. The minimum bonus amount is $1 per acre.

Subpart 3511—Lease Terms and Conditions

While BLM sets most of the terms and conditions separately for each lease, there are a number of terms and conditions which apply to all leases. Those terms and conditions are the subject of subpart 3511.

The first two sections, 3511.10 and 3511.11, discuss when you may mine associated, related or commingled commodities under your lease. There are several situations where you may mine associated and related products. If you have a sodium lease, you may mine related compounds including potassium; while if you have a potassium lease, you may mine related products including associated sodium compounds. If you have a phosphate lease, you can use deposits of silica, limestone, and other rock on your lease during processing or refining your phosphate, phosphate rock and associated minerals. In all cases you must pay a royalty for these additional minerals.

Producers of calcium chloride from Federal lands may also apply for a noncompetitive lease to produce commingled sodium chloride. This applies if you are producing paying quantities of calcium chloride from an existing mine, and if you are authorized under the regulations in part 3800 to produce the calcium chloride as a locatable mineral. This is a new provision of the regulations. You must pay a royalty for the commingled sodium chloride.

Most BLM leases are in effect for an initial 20-year term, subject to readjustment or renewal. Each commodity has different provisions for renewal or readjustment, which are explained in the chart at § 3511.15. If your lease can be readjusted, we must notify you before the initial lease term expires of any new terms or conditions we are proposing. If we fail to notify you, your lease will continue for another 20 years under the same terms. By contrast, if your lease requires that you renew it, you must contact BLM at least 90 days before the initial term expires and express your interest in renewal. If you do not notify us by this time, your lease will expire at the end of the initial term, and your lands may become available for re-leasing.

Once you receive proposed new terms under a readjusted lease, you can object to the terms if you disagree with them, provided you file your objection within 60 days of receiving the proposal. BLM will respond to your objection with our decision on the lease terms, which you may appeal if you are still dissatisfied. See the hearings and appeals regulations at part 4 of this title.

While you are appealing any new terms or conditions, including increased rentals or royalties under a renewal or readjustment, you must continue paying rentals and royalties at the original rate. However, those increased charges will begin accruing as of the renewal or readjustment date. If the increase is sustained on appeal, you must pay any accrued charges plus interest.

To renew your lease, you need to submit three copies of your application, along with a $25 application fee and an advance rental payment of $1 per acre, at least 90 days before your initial term expires. There is no particular form for your renewal application.

Whether your lease is renewed, readjusted or otherwise extended, we base your priority as a lessee on the original date of your initial lease.

Subpart 3512—Assignments and Subleases

Once you receive a permit or lease, you may assign it to any qualified person, in whole or in part, subject to BLM approval. Subpart 3512 describes how we process assignments and subleases.

Sections 3512.11 through 3512.17 describe the assignment and sublease process. To assign a lease or permit, you must send us three copies of your assignment instrument, which must describe the assignee, the interest you hold and the interest you are assigning, and any overriding royalties you are retaining. BLM must also receive from the assignee a statement of their qualifications under subpart 3502, and a $25 processing fee. We will notify you whether we approve your assignment. If you are assigning only a portion of your permit or lease, we will create a new permit or lease containing that portion, if approved.

You may sublease your lease or transfer the operating rights in your permit by a similar process. Simply send us a copy of the sublease or transfer agreement within 90 days of the agreement's date of execution, and have the sublessee or transferee send a signed request for approval and a $25 processing fee. We will inform you of our decision as soon as possible. Our approval will depend on the recipient's qualifications and ability to meet all applicable regulatory provisions.

The remaining sections in subpart 3512 concern your obligations under an assigned or transferred BLM authorization, and special circumstances. The most important provision, in section 3512.18, points out that your account must either be in good standing or your sublessee or assignee must have accepted any liabilities before we will approve your sublease or assignment. Furthermore, your assignee or sublessee must be fully bonded, which they can accomplish by either furnishing a new bond under subpart 3504, or by arranging to assume your existing bond. Until we approve the assignment, you will be responsible for all obligations, and if you are subleasing your lease, both you and your sublessee will be responsible for all obligations once we approve the sublease. By contrast, if you are assigning your lease or permit, your assignee will become responsible for all obligations after we approve the assignment, while you remain responsible for all obligations accrued before we approved it.

Finally, if you are assigning an overriding royalty to a third party, you must notify BLM. While we do not have to approve the transfer, you must still file this assignment with BLM within 90 days of the transfer, along with the assignee's statement of qualifications and a $25 processing fee.

Subpart 3513—Waiver, Suspension or Reduction of Rental and Minimum Royalties

This subpart explains how to deal with three types of changes to your ongoing operations: rental and royalty reductions, suspension of operations and production (for conservation reasons), and suspension of operations (for economic reasons).

Sections 3513.11 through 3513.15 concern rental and royalty rate reductions, which BLM may allow temporarily if it is in the interest of conservation, will encourage the greatest recovery of the mineral, and is necessary either to promote development or to allow you to operate successfully under the existing lease terms. You may apply to have us reduce your rental, minimum royalty, or production royalty rate by submitting the information listed in § 3513.15.

We will consider whether you are paying excessive overriding royalties to

non-Federal parties when we review your application. Before we will reduce your royalty you must try to reduce any overriding royalties. BLM will not approve a royalty rate reduction if your overriding royalty exceeds 50 percent of the proposed reduced Federal royalty. For example, if you are seeking to reduce your production royalty to four percent, you must reduce any overriding royalties to a total of no more than two percent. BLM has the authority to order a reduction of overriding royalties to no more than one percent of the gross value of production. You can find this authority at 43 CFR 3504.26.

Next, §§ 3513.20 through 3513.26 concern suspensions of operations and production, while §§ 3513.30 through 3513.34 concern suspensions of operations. Both situations involve BLM allowing or ordering you to temporarily cease operations; but you would suspend operations and production in order to protect or conserve natural resources, whereas you would only suspend operations for financial reasons. To alleviate confusion, these regulations will differentiate between these two situations in the table of contents by referring to ''Suspension of Operations and Production (Conservation Concerns)'' and ''Suspension of Operations (Economic Concerns).''

You may cease your operations under a suspension of operations and production (conservation concerns) when it is necessary in the interest of conserving the natural resources affected by your operations. This can be established if you show BLM in your application for a suspension that you need to halt operations to benefit the resource. We can also reach this conclusion independently and order you to cease operations. If you initiate the suspension by applying to BLM for it, there is no particular application form; you just need to send us enough information to explain why the suspension will be in the best interest of the natural resource.

BLM will set the effective date of your suspension of operations and production. Once we approve your suspension, you will be relieved of any production obligations, and we will reduce your minimum annual production requirements to reflect the portion of each year in which the suspension is effective. You may also cease paying rentals and royalties on the first day of the month following the effective date of the suspension. If the effective date is the first of the month, you may stop making payments on that day. If you pay any rent or royalty while the suspension is in effect, MMS will credit these payments toward future rental and royalty obligations.

Meanwhile, you are still responsible for all other obligations under your lease, and once the suspension ends, the payment and production obligations resume. Your obligation to make rental and royalty payments resumes on the first day of the month in which you resume production or when the suspension expires, whichever comes first. Finally, BLM will extend your lease by the amount of time in which the suspension was in effect.

You may also cease your operations under a suspension of operations (economic concerns) if you show us that your lease cannot be operated except at a loss, because of market conditions. BLM may approve your suspension of operations if you send us an application containing enough information to show that you cannot operate under current market conditions except at a loss. Once again, there is no particular application form.

Unlike a *suspension of operations and production (conservation concerns),* a suspension of operations (economic concerns) does not extend your lease term or suspend your annual rental payment. When we approve a suspension of operations, we temporarily waive the minimum production requirements of your lease. We also waive your obligation to pay minimum royalty in lieu of production. If your suspension is for less than a full year, annual payments may be prorated to the length of the suspension. You still must pay your annual rental.

Like a *suspension of operations and production (conservation concerns),* your production obligations cease on the first day of the month after the date which BLM sets as the effective date, unless the suspension is effective on the first of the month, in which case your obligations cease immediately. Also, the suspension ends if you resume production, or if the suspension expires. In either case your obligations resume as of the first day of the month in which the suspension ends. At that time your minimum annual production obligations resume.

Subpart 3514—Lease Relinquishments and Cancellations

Subpart 3514 deals with the various ways in which your lease may end. Sections 3514.11 through 3514.21 concern relinquishments, where you may voluntarily give up your lease interest. Sections 3514.25 through 3514.40 concern lease cancellations and expiration.

You may relinquish your lease or any portion of it at any time. The only requirements are that you have met the terms and conditions of your lease, including reclamation obligations, and that relinquishment will not be detrimental to the public interest. Simply notify us in writing that you wish to relinquish your lease, with your signature and the date. Also, if you are only relinquishing part of your lease, you must clearly describe the lands you are giving up. If your application meets the above conditions, we will notify you of our acceptance, as of the date you filed the application.

When you have relinquished your lease, you remain liable for paying all rentals and royalties which accrued prior to relinquishment. You must also provide for preserving mines, productive works and permanent improvements on the land.

Section 3514.25 briefly describes lease expiration: your sodium, sulfur, asphalt or hardrock lease expires at the end of the lease term, unless you have properly filed for a renewal, in which case your lease continues until BLM issues a decision on your renewal request. If BLM rejects your renewal, your lease expires when the renewal is rejected. Potassium, phosphate and gilsonite leases continue for as long as you comply with the lease terms and conditions. See the chart at 43 CFR 3511.15.

Finally, §§ 3514.30 through 3514.40 describe the circumstances and effects of BLM canceling your lease. BLM may cancel your lease through two types of actions: A court proceeding, if you fail to comply with the applicable law or regulations, or if you default on the terms of your lease; or administratively, if BLM issued your lease in violation of the law or any regulation.

BLM may ask a court to cancel your lease if you violate the law or regulations. We may also pursue cancellation in court if you fail to perform any duty under the lease, and you continue to default on that obligation for thirty days after BLM notifies you of your default. BLM will generally give you thirty days after our notice to you to remedy the violation or show why we should not move for cancellation, before we take any further action.

BLM may also administratively cancel your lease if we issued it in violation of any law or regulation—for example, if the lease would put you over the acreage limitations. In such a case, we may amend the lease and reissue it. However, if the defect in your lease is something that we cannot cure—for example, if you are ineligible to hold a lease—the cancellation will be final.

We may waive cancellation or forfeiture if the circumstances call for doing so. When we waive cancellation, that waiver will have no impact on any future cancellation actions which may be necessary.

Finally, if you are a bona fide purchaser of any lease interest, we will not cancel your lease simply because we decided to cancel your predecessor's lease. A bona fide purchaser is someone who bought the interest without any knowledge or reason to know of the lease's legal defects. We will dismiss you from any legal proceedings to cancel the lease if you are not responsible for the defect.

Subpart 3515—Mineral Lease Exchanges

Subpart 3515 discusses mineral lease exchanges. BLM may exchange mineral lease rights with you when we conclude that it would benefit the public interest to do so.

You can exchange your lease or a portion of your lease interests, as well as your preference right to a lease, for a lease of equal value. When you exchange a lease interest in one mineral, you can receive in return an interest in any leasable mineral. This includes hardrock minerals covered by this part. If your exchange proposal involves any interest in a coal lease, you must refer to the coal leasing regulations at 43 CFR subpart 3435.

Either you or BLM may initiate an exchange. You may do so by contacting us. If we initiate an exchange, we will notify you that we are prepared to consider an exchange for some or all of your existing lease, or your preference right to lease. Our notice to you will also say why we believe the exchange is in the public interest, describe the lands we might exchange, and ask you whether you are willing to negotiate and for which lands.

Exchanges must be in the public interest, which for the purposes of this subpart means two criteria must be met. First, we must determine that the benefits of operations under your existing lease or preference right would not outweigh the adverse effects those operations would have on other public values, such as scenic beauty, wildlife habitat, recreation, or agricultural production potential. The lands which BLM would receive must be free of hazardous waste, as defined under the hazardous waste laws. There may be other elements of the public interest which BLM will account for in considering an exchange as well. Also, BLM will comply with the requirements of NEPA when processing an exchange.

BLM may exchange any lands subject to the limitations of FLPMA and other applicable statutes. You may also exchange a preference right to a lease. To do so, you must first establish your preference right through the procedures described in subpart 3507. Once you have demonstrated to our satisfaction your right to a lease, we can negotiate with you for an exchange lease.

The parcels involved in an exchange must be equal in value. If the lands being exchanged are not equal in value, the exchange can be made equal with cash. However, any payment cannot exceed 25 percent of the total value of the land or interest in land you are receiving from BLM. Under certain circumstances the parties may agree to waive the equalizing payment. We can only agree to this waiver if it will expedite the exchange and if the public interest will benefit more from the waiver than the payment. The waiver amount can be no more than three percent of your new lease's total value or $15,000, whichever is less.

Either you or the BLM may initiate an exchange. In order for us to proceed with an exchange, you must be willing to provide us any additional geologic and economic data we need to determine the value of your lease or preference right. Once we have reached an agreement on the lands to be exchanged, BLM will publish notice of the exchange in a newspaper of general circulation serving the counties where all lands involved are located, and arrange for a public hearing. We will solicit public comments on the proposed exchange, and after considering this input we will make our final decision to approve or reject the exchange.

If we approve the exchange, we will offer you a lease containing the lease terms discussed in the appropriate regulations and any needed special stipulations. Once we approve an exchange we will include a statement in your new lease that you relinquish all interests in the land which you are giving up in exchange.

Subpart 3516—Use Permits

This next subpart concerns special permits to use the surface of lands which are not included in your lease. If you have a phosphate or sodium lease or permit, you may apply for a permit to use the surface of nearby lands for purposes related to your mineral development.

BLM may grant use permits on unappropriated, unentered lands which we administer. Under a phosphate use permit, you could conduct activities on the surface necessary to extract, treat or remove phosphate deposits from your leased lands. Under a sodium use permit, you may occupy camp sites, develop refining works, and otherwise use the surface to accommodate your sodium lease operations.

To apply, send your application, a $25 processing fee, and the first year's rental, which is $1 per acre or fraction of an acre. Your application should describe the lands you seek and the specific reason why you feel you need to use them. You should also submit any additional information which demonstrates that the lands you seek are available and suitable for your needs. Your application must include a statement that you agree to pay the annual charge identified in the permit, which should be $1 per acre or $20, whichever is greater.

If BLM grants your use permit, you will be able to use the lands for the specific purposes identified in it. Your use permit will contain an expiration date, but if your associated lease or permit expires or terminates for any reason during the life of the use permit, we will terminate the use permit at that time. Use permits cannot outlive the operations they are intended to support. Finally, if you fail to pay the rental within 30 days of BLM notifying you that the rental is due, we will terminate your use permit.

Subpart 3517—Hardrock Mineral Development Contracts; Processing and Milling Arrangements

The final subpart of these regulations concerns a subject specific to hardrock mineral leases: development contracts and processing and milling arrangements. These are agreements between one or more lessees and other persons to collaborate on large-scale operations to develop, produce, or transport ores. Permits and leases committed to these contracts and arrangements do not count towards your maximum acreage holdings.

BLM must approve any such agreement you enter into if your permits and leases are not to be counted toward your maximum acreage holdings. You may apply for BLM's approval by submitting copies of all agreements between you and other parties to the development contract or processing and milling arrangement; a statement which identifies the nature and reason of your request, and which shows all interests held in the area by the designated contractor; and a proposed plan of operations. BLM will approve your agreement only if it will conserve natural resources and is in the public interest.

III. Responses to Comments

BLM received a total of 29 comments on the proposed rule. The commenters included nine corporations, three industry associations, eleven BLM offices, three other government agencies, and three individuals. These comments addressed a wide variety of subjects, and ranged from commenting on general issues to offering specific language changes. We have considered every comment and will address them here, beginning with general comments followed by responses to comments on a section-by-section basis.

A. Generally Applicable Comments

The most hotly-debated issue raised by the proposed rule concerns the definition of a ''valuable deposit.'' Sixteen of these comments addressed the term ''profitable mine'' as an aspect of the definition of a ''valuable deposit.'' Many of these commenters say that by making this change we have substantially raised the standard of evidence required to earn an entitlement to a preference right lease. Others suggest that this definition exceeds our authority under the law, and suggest that a permittee need only show that they have established the ''existence and workability of the deposit'' during the term of a prospecting permit in order to be entitled to a preference right lease. We have carefully considered these comments, but we have chosen to leave the definition as we originally proposed it.

The proposed language does not materially change the definition or our existing policy. For example, BLM Instruction Memorandum WO 93–101, dated December 31, 1992, clearly states that BLM's policy is that ''valuable mine'' means ''profitable mine'' in this definition. Our legal authority for this definition is found in the Mineral Leasing Act and the Mineral Leasing Act for Acquired Lands.

This definition does not require that a prospecting permittee demonstrate that a profit can be made from the property. The language is conditioned by the phrase ''reasonable prospect of success.'' This means that the permittee only has to show how one can reasonably infer from the data collected during the period of the prospecting permit that further expenditure of his or her means is justified by the expectation he or she can develop a profitable mine.

We have considered if we can make a distinction between a valuable mine and a profitable one. Is there a level of information that would show a hypothetical mine to be valuable, but at the same time be insufficient to show that it is reasonable to believe that this same hypothetical mine would be profitable? We do not think there is. Information that is less than that necessary to show a person can reasonably expect to develop a profitable mine may show that a valuable prospect exists, but is insufficient to show that a valuable mine can be developed. If a property is only valuable as a prospect, then the permittee has not yet earned an entitlement to a preference right lease.

Nine commenters expressed their opinions about the new style in which this rule is written. As mentioned above, this rule has been reorganized to consolidate overlapping provisions into a single set of generally applicable rules. We are also writing in ''plain language,'' which involves transforming the rule text into a series of questions and answers. Commenters had mixed reactions to our new format, but since we are required to use plain language and to streamline all BLM regulations, we are not making substantial changes in response.

More specifically, some commenters said streamlining is a bad idea because it took the old system, where each commodity had its own set of regulations, and merged them all into a single, more confusing set of regulations. We disagree. There are very few differences between how each commodity is leased, and once people get used to using the new, consolidated rules, they should find them just as easy to use as the prior rules. One commenter felt that streamlined regulations worked in favor of large corporate customers and against small businesses. Again, we disagree. BLM designed these rules to be easy for everyone to understand, including people entirely outside the mining industry. This should actually benefit small businesses, who sometimes may not have the same expertise as large corporations. Your local BLM office is also available to help you understand any regulation that affects you.

Two commenters felt the proposed table of contents was long and hard to understand. We agree, so we have added groupings to the table of contents which should make the table of contents much easier to read. Now, if you want to know how to prove that you are qualified to hold a lease, rather than searching through all fifteen section headers under ''Subpart 3502—Qualification Requirements,'' you can find the grouping called ''How to Show Lease Qualifications'' and find the section you need more quickly. These groupings should also make it easier to understand how we structured the regulations.

Some people also were unhappy with the question-and-answer format, where each section header is a question which is answered by the section text. This is a key aspect of plain English, which BLM is committed to using. Once you get used to it we believe you will find it very helpful.

Several commenters did not understand the numbering system used in the proposed rule. Two commenters said that the numbering system in the proposed rule did not conform to the numbering system used in BLM's case tracking computer database. We made several changes in the final rule in response to these comments. We added subheadings under the major headings to clarify the organization of the rule. Also, we changed the tables in the rule so that we always list the commodities in the same order. The final rule lists the commodities in the same order as that used in the previous version of this rule. Also, we intentionally skipped numbers in the final rule. We did this to leave room for any future amendments and additions to this rule that might someday be required.

One key index in our computer databases is the case type field. The case type index allows a user to search the data base for particular kinds of cases, for example phosphate leases, and ignore other cases. The first four digits of the case type field have cited the regulations that authorize the action. For example, the first four digits of the case type for competitive phosphate leases is 3515, the same as the citation for competitive phosphate leasing in the previous rule.

This rule making does not require any change to our computer databases. If BLM needs to change this database, we will not need to change this rule to do so. We have placed the commodities in the order in which they were found in the previous version of this rule so that the first three digits of the case type field will refer to the rule. We did this as a matter of convenience and with the hope that it will make the rule easier to use.

There were several general comments concerning substantive issues. One commenter suggested that we should ask potential lessees to certify themselves as qualified, rather than asking them to submit proof of their qualifications so that we can certify them as eligible. We did not accept this idea. While self-certifying could save applicants some time, we feel this is too important an issue for BLM to relinquish our responsibility. Leases issued to people who are not qualified are void by law, and if we granted a lease to an unqualified person and were

forced to shut down their operations later, it would be far more costly and complicated than determining qualifications at the outset. These problems could also occur where someone accidentally misinterprets the qualifications. BLM prefers to resolve these critical issues before we issue a lease, and we think it is in the public interest to do so.

One commenter pointed out that we had eliminated all information on fractional interest leases. We have since reinstated information on fractional interests in this final rule, beginning at 43 CFR 3509.40.

Two commenters requested that BLM make several changes to the proposed bonding requirements, such as allowing self-bonding, not duplicating state bonding requirements, and not requiring high premiums until a user has planned a surface disturbance. We have not made any changes to accommodate self-bonding. First, we will not accept self bonds because they provide no additional security to the government. A self bond is a personal or corporate guarantee of performance. This is not significantly different from the lease document. Once you sign the lease, you have guaranteed your performance of its terms and conditions. The purpose of the bond is to secure performance of these terms and conditions should you be unable to honor your guarantee.

We have added language to § 3504.50 that allows BLM offices to enter agreements with state governments on bonding. In a state where we have entered such an agreement, your state bond may not fully satisfy BLM's bonding requirement. We may still require additional bonding in such states because our bonds cover compliance with all terms and conditions of the lease. State governments generally only bond your reclamation obligations. BLM bonds for reclamation as well as for the payment of rental and royalties. If you are working in a state where the BLM and the state government have developed an agreement on bonds, the information you file with us must prove that your state bond completely covers your responsibilities to BLM, for the entire life of the BLM bond you would otherwise need. If you cannot prove this, or if your state bond is inadequate, we will require you to file an additional bond.

The final rule does have provisions for phased bonding in § 3504.60. This subpart allows us to adjust your bond as circumstances warrant. It may take some time after we issue your lease before you have gotten all the permits needed to open a mine. You need to have a full reclamation bond in place before you open the mine, but you may not need to have this full bond in place while you are still seeking permits. Subpart 3504.60 allows individual BLM offices to phase in your bond if appropriate.

Finally, a few comments raised questions and offered suggestions for language we could use to describe areas which are known to contain a deposit of a leasable mineral. Exploration licenses, competitive leases, and fringe acreage leases are available in these areas. One comment requested that we use the term Known Leasing Area to describe areas where these authorizations are available. We chose not to change the language in the final rule.

The term Known Leasing Area (KLA) comes from the BLM's practice of classifying lands for various purposes. The former Conservation Division of the U.S. Geological Survey was responsible for designating KLAs. The Secretary of the Interior transferred this responsibility to BLM in the early part of the 1980's. The boundaries of KLAs are fixed through a formal decision process. Because of other workload priorities, we have not reviewed many of these KLA designations recently. Some of these designations may be out of date. Therefore, we chose to avoid the use of the term Known Leasing Area in the final rule.

Under the final rule, we intend for BLM to review each application to see if it is for lands known to contain a valuable deposit of a leasable mineral. This will be more effective than relying solely on old classification maps that may not be based on all currently available geologic data.

B. Specific Comments

Authority Citation

Several comments suggested that we should retain the authorities section from the previous version of the regulations. The existing regulations now contain a complete list of all the statutory authorities which support this part. Also, each commodity section lists statutory authorities. In response to these comments, we expanded the authorities section at the beginning of the rule. We deleted the authorities section from each commodity section because of the way we consolidated the rule. However, we included any commodity-specific authority in the general section listing our statutory authority.

Section 3501.5

Three commenters suggested expanding the definitions section at section 3501.5 to resemble the existing set of definitions. One commenter opposed consolidating definitions sections in general, reasoning that consolidated sections will be harder to work with and will make it more difficult to track changes to regulations because when BLM revises a definition we can do so by simply referring to the definitions section, not the affected regulations. We did not accept these comments, except to add the term ''acquired lands'' to the definitions section. We do not use several of the terms we deleted from the definitions section in the final rule. We deleted other terms from the definitions section because we believe these terms will be readily understood when read in the context of the rule. Therefore, we chose to leave these terms out of the definitions section.

Three commenters felt the proposed definition of ''hardrock minerals'' was deficient. We re-wrote this definition to give a simple, brief explanation of what hardrock minerals generally are and what they are not, without listing all the specific minerals which could fall into this category.

Based on a comment by a BLM office, we deleted the proposed definition of ''leasing,'' which we decided was unnecessary. These regulations explain leasing in great detail, and defining the term does nothing more to help the reader. We also deleted the proposed definition of ''Act'' because we do not use this term in the rule.

Section 3501.10

Two commenters disputed the proposed language about who determines land to be chiefly valuable for a mineral, and when this determination is required. We amended 43 CFR 3501.10(a) to point out that BLM will determine if land is chiefly valuable for developing a certain mineral, and that BLM must do so only when someone holding a prospecting permit for sodium, potassium or sulphur discovers a valuable deposit and wants a preference right lease to mine the deposit. The permit holder does not make ''chiefly valuable'' determinations.

Section 3501.16

One commenter suggested including a provision which says that we will determine your priority based on the date of your initial permit or lease. We have accepted this idea, so that now your priority will be determined by your original lease date, even if you have since renewed it.

Section 3501.17

We received four comments on paragraph (b), which says that BLM or the surface managing agency must comply with NEPA before issuing any permit or lease. Two commenters requested definitions of NEPA and ''surface managing agency'' but we felt this was unnecessary. NEPA refers to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* The surface managing agency will be the Federal agency responsible for managing the surface estate overlying a leasable mineral area.

Section 3502.13

One BLM office pointed out that we no longer maintain a list of countries which deny U.S. citizens and corporations the opportunity to hold mineral leases or permits. The procedures implementing the Mineral Leasing Act's alien ownership provisions were changed by notice in the **Federal Register** (47 FR 27622, June 25, 1982). This comment is correct, so we deleted the reference to this list from this section.

Section 3502.25

We received one question about filing evidence to show that you are qualified to hold a lease or permit. This comment asked if you have to file evidence with every application. The final rule requires that you do. The information you submit to one BLM office may not be shared with another because it stays with your application. Also, your qualifications may change over time. Therefore, we ask that you submit a copy of your proof of qualifications with each application you file.

Section 3502.30

In response to a question we received, we changed the rule to state that the alien provisions apply to hardrock minerals on acquired National Forest lands.

Section 3503.10

This section lists the areas which the Secretary of the Interior is prohibited by law from leasing because of their wilderness values. This includes designated wilderness, Wilderness Study Areas (WSAs), inholdings in wilderness, and lands recommended for wilderness designation by the surface managing agency. One commenter asked whether this also included lands in Utah that may be reinventoried for wilderness values. BLM is not prohibited by law from leasing these lands provided they are otherwise available.

Section 3503.11

One comment pointed out that the Grand Staircase-Escalante National Monument was closed to mineral leasing by Presidential Proclamation on September 18, 1996, subject to valid existing rights. We added a reference to the Grand Staircase-Escalante National Monument to § 3503.11. This section of the final rule lists those areas where we will not issue a permit or lease. There are no existing prospecting permits or preference right lease applications for the commodities controlled by this rule in the Grand Staircase-Escalante National Monument, so we will not have to consider preference right leasing for these commodities in this area.

One comment pointed out that we have no legal authority to issue permits or leases in Ross Lake and Lake Chelan National Recreation Areas. We removed the reference to these areas in the final rule. The proposed rule copied the list of lands available for leasing from the previous rule. We published the previous rule in 1986. Congress passed the law that removed the authority to issue mineral permits or leases in Ross Lake and Lake Chelan National Recreation Areas in 1988. We have corrected the final rule.

Section 3503.20

We received a comment asking for clarification of the difference between a ''consenting'' agency and a ''consulting'' one. Depending on the status of the surface land in question, BLM may need to consult with the surface managing agency, in which case we will seek their opinion but may not be bound by it; or we may need to obtain the surface management agency's consent before we may approve your lease or permit application. If that agency withholds its consent, we cannot approve your application.

Section 3503.25

One comment suggested that we re-word this section to apply these regulations to all Federal mineral estate underlying private land. We agree and changed this section. BLM will use this rule to administer leasable minerals on all Federally-owned mineral estate beneath privately owned surface lands. In cases where the Federal Government has patented the surface while reserving both the mineral estate and the right to reenter the lands to develop the mineral estate, we can use these regulations directly. Deeds used to transfer land to the Federal Government may contain special covenants. To the extent practicable, these rules will be used to manage acquired Federal minerals beneath privately-owned surface, but special covenants may require exceptions to some processes or standards described here. In certain cases where a deed covenant requires us, we will make exceptions to these rules. Our regulations cannot displace the terms of a deed that transferred the mineral estate to the Federal Government.

Section 3503.28

Four commenters expressed concern over this section, which says that BLM will specify any stipulations to your lease that the surface managing agency or private surface owner requires. We revised this section to clarify what stipulations we will add to your lease. We will add stipulations which BLM believes are necessary to protect the lands and resources. We will also add those stipulations which a surface managing agency requires as part of its consenting role (see § 3503.20). BLM may also consider additional stipulations requested by a consulting agency or private surface owner, though we will only add those stipulations with which we agree.

Section 3503.31

For the section concerning how you should describe unsurveyed lands in Public Land Survey states, one commenter asked why we do not allow you to use GPS mapping to comply with this requirement. You may use GPS mapping as a tool to fulfill this requirement, as long as your survey meets or exceeds BLM's standards for accuracy of public land surveys and land description.

Section 3503.37

Two commenters requested that BLM consider raising the acreage limitations in section 3503.37. We raised the acreage limit for potassium to 96,000 acres, but we have not increased any other limits because the other limits are set by statute.

Section 3503.38

One commenter asked whether BLM, when calculating your acreage holdings to see if you are within the acreage limits, will count your corporate holdings against you and also against a corporate applicant. The answer is yes. When we are calculating your personal acreage holdings, we will include acreage which is held by corporations in which you own an interest, in proportion with your ownership share, provided you own at least 10 percent of the corporation. We will also charge that same acreage against the corporation when it applies for a lease or permit. As

discussed above, BLM believes counting the same acreage in each case is the fairest way to calculate holdings.

Section 3503.41

Whether BLM will release confidential information you submit to us drew two comments on this section, as well as several comments on other sections which require you to submit data to BLM. On this section, commenters asked us to make the rules more clear about when and how they may ask BLM to protect sensitive information from release. We expanded the rule by adding §§ 3503.42 through 3503.46 to provide clarification on these access questions. These sections are based on a new rule on this subject published on October 1, 1998 (61 FR 52946).

It is the BLM's policy to make records available to the public to the greatest extent possible consistent with the intent of the Freedom of Information Act (FOIA) (5 U.S.C. 552). We will preserve the confidentiality of documents when sound grounds exist for invoking one of the nine FOIA exemptions and we will protect sensitive information when appropriate under the law. We apply FOIA exemptions to information on a case-by-case basis, and do not categorically exempt information. We must process FOIA requests for mineral resources information under the FOIA rules of the Department at 43 CFR part 2 subpart B.

Exemption 4 of FOIA protects trade secrets; and commercial or financial information obtained from a person that is privileged or confidential. Exemption 9 of FOIA protects geological and geophysical information and data, including maps, concerning wells. Executive Order 12600 and Departmental rules at 43 CFR 2.15(d) generally require notification of, and consultation with, a submitter when we contemplate releasing arguably confidential commercial or financial information. If the information is obviously exempt from disclosure, the request may be denied without consulting with the submitter.

It helps us complete the FOIA review of information if you clearly mark the information you consider to be exempt from release under FOIA before you submit it. BLM will consider the marked information and make it's access determinations as provided in the standard public availability of information provisions of the mineral rules at 43CFR 3100.4, and 43 CFR 2.15(d). BLM also refers to applicable court cases identified in the Department of Justice FOIA Guide when making determinations. If we intend to release a requested record over the objection of a submitter, we must notify both the requester and the submitter in writing of our decision before we release it.

According to newly published rules at 43 CFR 3100.4, BLM must contact the Indian mineral owner and the submitter if we receive a FOIA request for information related to Indian land and the requested information may be covered by Exemption 4. The Department describes the process we use to contact the Indian mineral owner and the submitter in the rules at 2 CFR 2.15(d).

We may release some information in case files to the public without a FOIA request if it is not covered by a FOIA exemption. You may obtain more information about how FOIA relates to specific information by contacting the BLM FOIA Coordinator or Mineral Specialist in the office where the information is kept.

Section 3504.11

The Minerals Management Service (MMS) commented that this section was not completely accurate: MMS accepts postal money orders, negotiable instruments and electronic fund transfers, in U.S. currency, but they do not accept cash. We revised this section to refer the reader to the MMS rules. We also added language to allow us to authorize other payment methods, such as electronic fund transfers, should we develop additional capabilities in the future.

Section 3504.15

MMS also pointed out that rentals for prospecting permits are 50 cents per acre or fraction of an acre. BLM has added this additional phrase to make this section more accurate.

Section 3504.16

We received four comments on this section, reflecting different ideas about when rentals should be due after the first year of the lease. We proposed using the anniversary date in all cases, but as two commenters pointed out, the law requires BLM to use a January 1 deadline for sodium, potassium and asphalt, and the anniversary date for all other leasable minerals. We revised this section to conform with the laws which require payment before January 1 for sodium, potassium and asphalt, on or before the anniversary date for phosphate and before the anniversary date for other minerals.

We also changed the language of this section and in § 3504.25 to clarify how lease rentals are credited against royalties. Please see the discussion in our response to comments for § 3504.25.

Section 3504.21

We received several comments on this section, which we converted into a table to make it easier to read. First, one person thought the section was unclear about what is a related product. We have not amended this section to further define related products because they are discussed in greater detail at 43 CFR 3511.10. Another commenter asked us to explain in this section that when the United States owns less than the entire mineral right, BLM will charge you a pro-rated royalty. We do not believe this language is necessary. You will be required to pay the full royalty amount on all of the Federal production. We recognize that in a situation where the Federal Government owns less than the full mineral estate, we are entitled to royalty for only that portion of the production that is credited to the Federal ownership. We discuss fractional interest leases more fully in subpart 3509.

Section 3504.25

One comment recommended that we amend this section to require you to pay minimum royalties in lieu of production annually before January 1 for sodium, asphalt and potassium, while paying them before the anniversary date for other minerals. We agree and changed the language.

A comment also suggested we add a sentence pointing out that hardrock leases, development agreements, and operating agreements that are subject to escalating rentals, are exempt from minimum production and royalty requirements. We included this suggestion in the final rule.

We also changed the language of this section to clarify a possible ambiguity in the proposed rule about crediting lease rental against royalties. We use both the term ''production royalty'' and the term ''minimum royalty in lieu of production'' in this rule. Lease rental can be credited against either form of royalty in any given lease year. For example, in the case of a 1,000 acre, non-producing lease in its sixth year, a lessee would owe $1,000 in rental. The lessee would also owe $3,000 in minimum royalty in lieu of production. However, the lessee would receive a credit for the $1,000 for the rental that was paid, so the lessee would submit only an additional $2,000. Therefore, since the lessee received a credit for the rental, the lessee would have paid a total of $3,000 to hold the lease in this year. If the lessee were then to produce minerals after making the payment of minimum royalty in lieu of production, he or she could receive credit for the

minimum royalty in lieu of production for that year only. So, if the lessee produced minerals that accrued a royalty obligation of $10,000, the lessee would have a credit for the $3,000 already paid in minimum royalties in lieu of production for that lease year and would owe only an additional $7,000. This credit can not be carried forward into later lease years.

Section 3504.71

This section discusses when BLM will release your bond and free you of any further liability at that site. We said in the proposed rule that you must first take effective measures to ensure that your activities would not have an adverse effect on surface or subsurface resources. One commenter proposed that we change this language to require you to assure instead that the effects of your activities have been minimized, but we cannot accept this suggestion. We think minimizing impacts is too weak a standard. BLM has a duty to see that your activities will cause no adverse effects on the land once your bond has been released.

Section 3505.30

When you amend your application to include additional lands, we proposed that we use the date of the amended application to determine your priority. One commenter felt we should use the date of the original application for the lands in that application, and only apply the later date to added lands. However, we feel this would be unfair, and cannot accept this suggestion. We review applications as a whole, and need to apply a single date to that application. If you amend your application to include additional land, we will use the date you filed your amendment to establish the priority of your application. If you wish to preserve your earlier date, you can file a separate application for the new lands. This prevents someone from reordering their priority on land by attaching the land to an earlier application.

Section 3505.45

Two commenters thought our proposed section on what you must include in your exploration plan was unnecessary and too detailed. We considered reducing this section, but decided that we should not make it any shorter or less detailed. BLM needs all of this information at the time you are submitting your prospecting permit application, not when the permit is already issued. We must make a careful environmental analysis when deciding whether or not to issue a prospecting permit because you may earn a preference right to a lease through prospecting for Mineral Leasing Act lands. Also, we need to consider if the exploration you propose would disclose a mineral deposit if one exists. Therefore, in order for us to make a fully informed decision at the proper time, we need this information with your prospecting permit application.

We decided to keep this section intact in subpart 3505 because these requirements are not duplicated elsewhere in these regulations. We also require you to submit exploration plans when you apply for an exploration license. This final rule sets out the requirements in this section only, and subpart 3506, concerning exploration licenses, refers back to here.

Section 3505.501 (Suggested New Section)

One commenter suggested adding an additional section between §§ 3505.50 and 3505.51 which would require us to process prospecting permit applications in 180 days, including review by the surface managing agency. We have decided not to include this language. Each BLM office will strive to process applications in a timely manner. However, because of BLM's complex array of management duties and limited resources, there is always the possibility that some event could occur which would make it impossible to meet strict deadlines. We need to retain our flexibility to deal with such situations, while still providing quality customer service.

Section 3505.62

In our proposed rule, we defined reasonable diligence under a prospecting permit as a function of how many core holes you drilled, among other actions. This prompted one commenter to point out that other holes, such as percussion or circulating holes, would also show that you have diligently explored an area. Therefore, we removed the word ''core'' from this section. We will consider any holes you drill, as well as other actions you take, to determine if you have been reasonably diligent in your exploration.

Section 3506.10

One commenter questioned the need for exploration licenses. This individual also questioned the BLM's role in exploration licenses. We believe we need exploration licenses, but we made some changes to clarify the final rule in this area.

We can only issue prospecting permits in areas where we know of no valuable deposit of leasable minerals. We must issue competitive leases on lands where we know that there is a deposit of leasable minerals. In some of these areas you may not be interested in bidding on a lease because you do not have enough geologic and environmental data. An exploration license provides a way for you to collect these data.

It is important for the BLM to be involved in the exploration process. Before we issue a competitive lease we need to make some geologic and economic decisions. We need to estimate the environmental impacts of mining a lease tract before we can issue a lease. Also, we need to set the fair market value of the tract. We must make these decisions based on all available, relevant data.

BLM will hold data submitted under an exploration license as proprietary as allowed by FOIA or until we lease the deposit. We need the authority to share exploration data after we lease the deposit because the party who gets the lease and the party who conducted the exploration may be different. We want the lessee to use all of the available data as it develops the lease.

Section 3506.15

One commenter said that BLM should not establish core hole spacing because permittees and licensees have more experience in doing this. We have not changed this section because of this comment. We may accept your suggestions about establishing core hole spacing, but we will remain ultimately responsible. We need the authority to set hole spacing so that exploration addresses our priorities for data collection. For example, we may have important questions about ground water on a lease tract. A licensee may be interested in overburden characteristics. The location of a drill hole could be very important to the ground water issue, but not particularly sensitive for the overburden issue. We may exercise our authority to set hole spacing in this kind of situation. We may also need to change the location of a hole to protect other resources such as cultural resources. However, we did drop the word ''core'' from discussions of hole spacing.

Section 3507.25 (Relocated to 3507.19)

This section has been renumbered as § 3507.19. In response to several comments, BLM is modifying the final rule regarding the agency's discretion whether to issue a preference right lease. The modification reflects both underlying statutory differences between minerals administered under the Mineral Leasing Act (MLA) and minerals on certain acquired lands

administered under a different statutory scheme, as well as BLM's historical practice.

Under the MLA, if the holder of a prospecting permit makes a discovery of a valuable mineral, that person generally is ''entitled'' to a preference right lease for those minerals. For example, for phosphate, the statute provides that:

> (I)f prior to the expiration of the permit the permittee shows to the Secretary that valuable deposits of phosphate have been discovered within the area covered by his permit, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit.

30 U.S.C. 211(b). See also 30 U.S.C. 262 (sodium), 272 (sulphur), and 282 (potash) which have similar provisions. These MLA sections for minerals other than phosphate include the requirement that the lands must be ''chiefly valuable'' for production of the particular mineral. The Secretary's discretion whether to issue the preference right lease therefore effectively is limited to whether the prescribed statutory standard is met.

For acquired lands, the Mineral Leasing Act for Acquired Lands (MLAAL) applies the MLA preference right leasing standards for the same minerals including phosphate, sodium, potassium and sulphur. However, for certain acquired lands the Secretary also has authority to lease other minerals not subject to the MLAAL. For example, the United States acquired certain lands for the Forest Service under the Weeks Act of 1911, 16 U.S.C. 520, and the Bankhead-Jones Act, 7 U.S.C.1010. Originally, the authority to lease minerals underlying those lands was vested in the Secretary of Agriculture. However, under Reorganization Plan No. 3 of 1946, 5 U.S.C. App. 1, the leasing authority for certain of these minerals was transferred to the Secretary of the Interior. Under this authority, the Secretary may issue prospecting permits and leases for certain hardrock minerals such as lead, gold, silver, etc. Any decision to lease must be consistent with the purposes of the statute under which the lands were acquired or are being administered, and the Secretary of the Interior must obtain the surface managing agency's consent before issuing a lease. See Reorganization Plan No. 3 of 1946 Section 402 (5 U.S.C. Appendix). The Secretary's decision to lease, or the surface managing agency's consent, may be based on the inclusion of protective stipulations. However, the Secretary has complete discretion whether to issue a prospecting permit which necessarily precedes a preference right lease application.

Unlike the MLA (and by incorporation the MLAAL), the leasing provisions under Reorganization Plan No. 3 of 1946 do not include a provision ''entitling'' the holder of a prospecting permit to a lease upon making a valuable discovery. Despite this statutory difference, BLM adopted one regulation in 1986 applicable to minerals leased under all these authorities. 43 CFR 3500.0–3. Thus, under this rule, minerals leasable under Reorganization Plan No. 3 were treated under the same preference right leasing system as minerals leasable under the MLA. However, despite this same regulatory umbrella, BLM historically has treated minerals leased under Reorganization Plan No. 3 differently by including stipulations in the prospecting permits stating that:

> (N)o mineral development of any type is authorized hereby, and consent to the issuance of this prospecting permit as required by law and regulation (43 CFR 3500.9–1(b)) is given subject to the express stipulation that no mineral lease may be issued for the land under permit without the prior approval of the USDA Forest Service [in its capacity as surface management agency] and the proper rendition of an environmental analysis in accordance with the National Environmental Policy Act (NEPA) of 1969, the findings of which shall determine whether or not and under what terms and conditions the lease may be issued.

Thus, BLM made clear that issuance of the prospecting permit would not necessarily entitle the permit holder to a lease. Through this stipulation the Secretary retained discretion whether to issue the lease and also specified that lease issuance was contingent on Forest Service approval and further NEPA analysis of full scale mining. This stipulation was not included in MLA (and MLAAL) mineral prospecting permits.

We received comments from the Forest Service and the National Park Service recommending that this final rule should reflect the difference between the minerals BLM administers under the MLA scheme and Reorganization Plan No. 3, consistent with BLM historical practice. We agree with this comment. Therefore, in subpart 3507 of the final rule, we have clarified the prior language to distinguish between the MLA (and MLAAL) minerals and Reorganization Plan No. 3 minerals. For the former, finding a valuable deposit under the prospecting permit more or less entitles the permit holder to a preference right lease, subject to the ''chiefly valuable'' determination. For minerals leasable under Reorganization Plan No. 3, if the permit holder makes a valuable discovery, the BLM will both make its own independent determination whether to issue a lease and seek surface managing agency consent before issuing a non-competitive lease to the permit holder. BLM's determination will include consideration of such factors as the environmental impacts of full scale mining. As noted above, this rule change simply has the effect of making the regulatory language correspond to BLM's historical practice of treating leasable minerals under Reorganization Plan No. 3 differently, which was accomplished through the stipulation in the prospecting permit.

Section 3508.15

One commenter suggested that we give a detailed description of the various bidding methods that we might use in our competitive lease sales. This individual also suggested that the language in the proposed rule seemed to imply that a sealed bidding process is the only bidding method allowed. We have not changed the final rule in this area.

The rule as proposed does not require a specific bidding method. Section 3508.15(b) requires that we publish the bidding method we will use in the notice of lease sale. This can include the method used to break ties in bidding. We think it important to leave flexibility in this area of the regulations. BLM wants to ensure fair bidding and that we obtain fair-market value for the lease tract. The methods needed to achieve this can vary from place to place and time to time. Since the rule requires that we publish the bidding method in advance of the sale, all interested parties will receive notice of the method we intend to use.

Section 3509.11

One comment suggested that we add language to the rule saying that we may reject a lease application because of tangible and intangible environmental considerations. If we were to adopt this suggestion, we would have to more precisely define our use of the phrase ''in the public interest.'' We have chosen not to adopt this suggestion and have not changed the final rule. We intend for the phrase ''in the public interest'' to imply a consideration of the potential environmental costs of mineral development. It is our duty to balance the potential benefits of mineral development against the potential environmental consequences of that development when we decide that the approval of an application is in the public interest. In § 3515.15(c), we list

the items we consider when making determinations of the public interest. We do not repeat this list every time we use the phrase ''in the public interest'' because we want to limit the redundancy in this rule.

Section 3509.12

One commenter pointed out that it is inaccurate to refer in this section to the ''person who has a present interest in minerals * * *'' because there can be more than one owner. We made this change.

Section 3509.18 (New Section)

One commenter pointed out that we provided no means to resolve situations where more than one qualified party applied for a future interest lease. Based on this comment, we added a section that requires us, when we receive a future interest lease application, to notify all present interest owners and give them a chance to apply for a future interest lease. We would then hold a competitive lease sale among the qualified applicants. We believe this change is needed so that our process is fair to all present interest holders.

Section 3509.40 to 3509.51 (New Sections)

One commenter pointed out that we had omitted regulations on fractional interest leasing. This was an oversight in the proposed rule. We added these sections to address fractional interest leasing. The fractional interest leasing section is similar to the language on future interest leasing.

Section 3510.20 (Relocated to 3511.10)

One commenter suggested that we add language to this section to address hardrock mineral leases. We did not change the text in the final rule, although we did move this section to § 3511.10 as part of our reorganization of subparts 3510 through 3514. This section of the regulations describes BLM's special authorities to issue leases to mine more than one commodity under a mineral lease. The intent of this section is to bring attention to certain commodities we lease only because of their association with a leasable mineral. For example, you would normally develop limestone under our mineral materials program or under the authority of the general mining law. However, if you develop limestone on your lease to support phosphate processing, your lease includes the limestone and you pay a royalty on its production. This is a special provision of the Mineral Leasing Act. We do not need to make a similar distinction for hardrock minerals, because on lands where we lease hardrock minerals, we lease all minerals except common clay and common varieties of sand, stone, gravel, pumice, pumicite and cinders. We do not need special authority to lease both lead and zinc from the same parcel.

Section 3510.21 (Relocated to 3511.11)

This section discusses the conditions for producing sodium chloride commingled with your calcium chloride deposit. One person suggested that royalties should be limited to two or three percent of the gross value of the sodium, and that BLM should not apply royalties retroactively. We have not proposed collecting royalties retroactively, nor will we in this rule. However, we will not accept the suggestion to place a limit on the royalty rate. That rate must be determined based on the circumstances particular to the site, just as we determine royalties for all other leases. This is because BLM has an obligation to collect fair market value for the use of public resources.

Section 3511.11 (Suggested New Section)

One person suggested that we add a section at the beginning of subpart 3511 stating that leases will contain provisions to change the name on a lease by having the new lessee send notice. We cannot do this, for several reasons. First, we must hear from the original lessee so that we can be sure a proper assignment agreement exists. Second, BLM must approve the new lessee before the transfer can take place, including verifying that bonding is adequate and that the new lessee is qualified to hold the lease. Finally, we must verify that the original lessee has paid all royalties before we can approve any assignment or sublease.

Subpart 3512 (Relocated to Subpart 3513)

One commenter suggested that we change the term ''minimum royalties'' in the name of this subpart and all other places to ''advance royalties''. This term refers to minimum royalties in lieu of production. The term ''advanced royalties'' is used in our coal regulations for a lease obligation with a different statutory source. We did not make this change because we do not wish to confuse this phrase with the phrase used in our coal rules.

Section 3512.15 (Relocated to 3513.15)

One reader asked whether you can apply to have your rental, royalty, or minimum production obligations reduced in anticipation of a problem, or whether you must wait until you experience a problem that prevents you from meeting your obligations. If you are facing financial difficulties, BLM may reduce your obligations if it is also in the interest of conservation and will promote greater recovery of the resource. You may file your application with us at any time; however, the relief described in this section (which has been relocated and renamed) does not depend solely on your financial situation. Therefore, we will not change this section to reflect whether you have experienced a problem yet or not, because we do not base our decision solely on this criterion. Rather, BLM may waive or reduce your obligations if doing so is in the interest of conservation, will encourage the greatest ultimate recovery of the resource, and is necessary either to promote mineral development or will allow the lease to be successfully operated.

Sections 3512.20 and 3512.30 (Relocated to 3513.20 and 3513.30)

We received several comments on these sections. Some comments questioned BLM's authority to initiate Suspensions of Operations and Production. Other comments requested small changes to the rule text. We changed the language in the final rule so the difference between Suspension of Operations and Production and Suspension of Operations is more clear. We made other small changes in the final rule and moved these subparts to 3513.20 and 3513.30.

The two kinds of suspensions have different purposes and effects. To bring attention to the differences between the suspensions we added the label Conservation Concerns to the subheading Suspensions of Operations and Production. We added the label Economic Concerns to the subheading Suspension of Operations.

Suspensions of Operations and Production (Conservation Concerns) derive from 30 U.S.C. 209. This section of the Mineral Leasing Act gives the Secretary the authority to either direct or assent to Suspensions of Operation and Production (Conservation Concerns). Conservation concerns apply to a broad variety of resources including conservation of the leased mineral and other resources. A Suspension of Operations and Production (Conservation Concerns) suspends the obligations of the lessee to produce the mineral, to pay royalty in lieu of production, and to pay rental. The suspension also extends the term of the lease by the amount of time the suspension is in effect.

The lessee must initiate a Suspension of Operations (Economic Concerns). The Mineral Leasing Act mentions Suspensions of Operations affecting phosphate leases at 30 U.S.C. 212, and such suspensions affecting potash leases at 30 U.S.C. 283. Our authority for suspensions of operations for other commodities derives from the Secretary's general authority to issue regulations found at 30 U.S.C. 189. The Secretary may permit a Suspension of Operations (Economic Concerns) if the lessee shows that the lease can only be operated at a loss because of market conditions. A Suspension of Operations (Economic Concerns) suspends the obligations of the lessee to produce the mineral, and to pay royalty in lieu of production. The lessee must still pay the annual rental and the suspension does not extend the term of the lease.

Section 3512.26 (Relocated to 3513.26)

One comment on this section said that during Suspensions of Operations and Production (Conservation Concerns), MMS may allow credit towards future payments if you paid rental or royalties while the suspension was in force. We made the change suggested by this comment.

Section 3513.11 (Relocated to 3514.11)

One comment suggested we change this text to say BLM ''accepts'' relinquishments, rather than ''approving'' them. Another comment on this section suggested we add language that says you will be free from continuing obligations after BLM has accepted your relinquishment. We did not make these changes. We believe we must approve relinquishments so that we can prevent high-grading of mineral deposits and other damage to resources. Also, when BLM approves your relinquishment, you are not free from the obligations you accrued during the term of your lease. You may still be responsible for outstanding payment obligations, reclamation and other continuing duties.

Subpart 3514 (Relocated to Subpart 3510)

One comment suggested that we change the regulations on fringe acreage leases to require that fringe acreage lessees get a prospecting permit first, and that BLM or the surface owner should grant prospecting permits whenever the lessee notifies us of its intent to prospect. We have not made any changes based on this comment. We issue fringe acreage leases for known deposits. Prospecting permits are not needed for these leases. You can get a noncompetitive fringe acreage lease if your application meets all of our requirements. We must also determine that the lands are available for leasing and the conditions for fringe acreage leasing have been met.

Subpart 3515

The proposed rule changed the provision that confined lease exchanges to those involving leases of ''comparable'' value to ''equal'' value. One commenter objected to this change, while another supported it. The statute requires BLM to use the ''equal'' value standard. The objecting commenter felt that this would be too inflexible and delay exchanges while we got bogged down determining the exact dollar amounts involved. However, we do not agree. We have enough flexibility in this area because these regulations allow us to make or accept equalization payments and we can even waive equalization payments when the difference in the values of the leases is less than three percent or $15,000.

Section 3516.10

One comment pointed out that use permits are not available on lands administered by the National Park Service. We have changed this section to state that use permits are only available on unentered, unappropriated, BLM-administered land.

Section 3517.10

One commenter suggested BLM might add provisions to the section on development contracts and processing and milling arrangements, covering topics like contract duration, renewals, readjustments and financial obligations. However, we have not made any changes to this effect. BLM handles these details on a case-by-case basis, so regulations would be inappropriate.

IV. Procedural Matters

National Environmental Policy Act

BLM has prepared an environmental assessment (EA) and has found that the final rule would not constitute a major federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). This rule, as discussed above, is limited to changes that will help mineral leasing programs operate more efficiently, and to non-substantive changes to how the rule is written and organized. BLM has placed the EA and the Finding of No Significant Impact (FAIENCE) on file in the BLM Administrative Record at the address specified previously. BLM invites the public to review these documents by contacting us at the addresses listed above (see **ADDRESS**).

We also determined that the rule will have no impact, or will only marginally benefit, the following critical elements of the human environment as defined in the BLM National Environmental Policy Handbook (H–1790–1, appendix 5): Air quality, areas of critical environmental concern, cultural resources, Native American religion concerns, threatened or endangered species, hazardous or solid waste, water quality, prime and unique farmlands, wetlands, riparian zones, wild and scenic rivers, environmental justice and wilderness.

Paperwork Reduction Act

We have determined that this rule complies with requirements under the Paperwork Reduction Act (44 U.S.C. 3501), since we are not significantly altering current policy. This rule contains no information collections that require approval by OMB.

Regulatory Flexibility Act

BLM certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The revised regulations will not significantly change the mineral leasing program operations. Therefore, a final Regulatory Flexibility Analysis and Small Entity Compliance Guide is not required.

In accordance with Small Business Administration regulations at 13 CFR 121.201, a ''small entity'' in this section is an individual, limited partnership, or small company with fewer than 500 employees or less than $5 million in revenue and considered to be at ''arm's length'' from the control of any parent companies.

Small Business Regulatory Enforcement Fairness Act

We have determined that this rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). As explained above, we are not making significant alterations to current policy. 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; and

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

We have determined that this rule is not a significant regulatory action under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) Because it does not result in the expenditure by the State, local and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. As explained above, we are not making significant alterations to current policy, and therefore, do not need to complete a Small Government Agency Plan. This rule:

a. Will not ''significantly or uniquely'' affect small governments; and

b. Will not produce a Federal mandate of $100 million or greater in any year.

Executive Order 12630

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of ''policies that have takings implications.'' Since the primary function of the final rule is to abolish unnecessary regulations, there will be no private property rights impaired as a result. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 12866

BLM has determined that this rule is not a significant regulatory under Regulatory Planning and Review (Executive Order 12866); however, the Office of Management and Budget (OMB) makes the final decision. Since the new regulations will not make significant policy changes, this rule;

a. Will not have an annual effect on the economy of $100 million or more or adversely affect the economy in a material way, a sector of the economy, productivity, competition, hobs, the environment, public health or safety, or State, local or Tribal governments or communities;

b. Will not create inconsistencies with other agencies;

c. Will not materially affect entitlements, grants, loan programs, or rights and obligations of their recipients; and

d. Will not raise novel legal or policy issues.

Executive Order 12988

We have determined that this rule does not unduly burden the judicial system and therefore, meet the requirements under the Civil Justice Reform (Executive Order 12988, sections 3(a) and 3(b)(2)). As explained above, no significant changes are being made to current policy.

Executive Order 12612

We have determined that this rule does not have significant federalism effects. As explained above, we are not significantly changing BLM policy, and therefore, a Federalism Assessment is not required. This rule does not change the role or responsibilities between Federal, State, and local governmental entities; does not relate to the structure and role of States or have direct, substantive, or significant effects on States; and does not intend to address the relationship between the United States and any other non-Federal governmental entity.

Government-to-Government Relationship With Tribes

We have considered the impact of this rule on the interests of Tribal governments under the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and the Department of Interior Manual (512 DM 2). Since this rule does not propose significant changes to BLM policy, we have determined that the government-to-government relationships should remain unaffected.

List of Subjects

43 CFR Part 3500

Bonds, Government contracts, Mineral royalties, Public lands-mineral resources, Reporting and record keeping requirements.

43 CFR Part 3510

Public lands-mineral resources, Reporting and record keeping requirements.

43 CFR Part 3520

Government contracts, Public lands-mineral resources.

43 CFR Part 3530

Government contracts, Mineral royalties

43 CFR Part 3540

Land Management Bureau, Public lands-mineral resources

43 CFR Part 3550

Public lands-mineral resources.

43 CFR Part 3560

Government contracts, Mineral royalties, Public lands-mineral resources, Surety bonds.

43 CFR Part 3570

Environmental protection, Government contracts, Indians-lands, Mines, Public lands-mineral resources, Reporting and record keeping requirements.

Dated: September 23, 1999.

Sylvia V. Baca,

Assistant Secretary—Land and Minerals Management.

Accordingly, BLM amends 43 CFR Chapter II as follows:

1. Remove parts 3500, 3510, 3520, 3530, 3540, 3550, 3560, 3570 and the heading ''Group 3500—Management of Solid Minerals Other Than Coal.''

2. Revise part 3500 to read as follows:

PART 3500—LEASING OF SOLID MINERALS OTHER THAN COAL AND OIL SHALE

Subpart 3501—Leasing of Solid Minerals Other Than Coal and Oil Shale-General

Sec.

Subpart 3502—Qualification Requirements

Lease Qualifications

How To Show Lease Qualifications

Authority: 5 U.S.C. 552; 30 U.S.C. 189 and 192c, 43 U.S.C. 1733 and 1740; and sec. 402, Reorganization Plan No. 3 of 1946 (5 U.S.C. appendix).

Subpart 3501—Leasing of Solid Minerals Other Than Coal and Oil Shale—General

§ 3501.1 What is the authority for this part?

The statutory authority for the regulations in this group is as follows:

(a) *Leasable minerals*—(1) *Public domain.* The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*).

(2) *Acquired lands.* The Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359) and the Act of June 28, 1944 (58 Stat. 483–485) for those lands reserved from allotment by section 58 of the supplemental agreement of 1902 (32 Stat. 654) with the Choctaw-Chickasaw Nation of Indians. Congress ratified the purchase contract in the Act of June 24, 1948 (62 Stat. 596) and appropriated funds for the purchase in the Act of May 24, 1949 (63 Stat. 76).

(b) *Hardrock minerals.*

(1) Section 402 of Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix) transferred the functions of the Secretary of Agriculture for the leasing or other disposal of minerals to the Secretary of the Interior for lands acquired under the following statutes:

(i) The Act of March 4, 1917 (16 U.S.C. 520);

(ii) Title II of the National Industrial Recovery Act of June 16, 1933 (40 U.S.C. 401, 403(a) and 408);

(iii) The 1935 Emergency Relief Appropriation Act of April 8, 1935 (48 Stat. 115, 118);

(iv) Section 55 of Title I of the Act of August 24, 1935 (49 Stat. 750, 781);

(v) The Act of July 22, 1937 (50 Stat. 522, 525, 530), as amended July 28, 1942 (7 U.S.C. 1011(c) and 1018); and

(vi) Section 3 of the Act of June 28, 1952 (66 Stat. 285).

(2) Section 3 of the Act of September 1, 1949 (30 U.S.C. 192c) authorized the issuance of mineral leases or permits for the exploration, development and utilization of minerals, other than those covered by the Mineral Leasing Act for Acquired Lands, in certain lands added to the Shasta National Forest by the Act of March 19, 1948 (62 Stat. 83).

(3) The Act of June 30, 1950 (16 U.S.C. 508(b)) authorizes leasing of the hardrock minerals on National Forest lands in Minnesota.

(c) *Special acts.* (1) Gold, silver or quicksilver in confirmed private land grants are covered by the Act of June 8, 1926 (30 U.S.C. 291–293).

(2) Reserved minerals in lands patented to the State of California for parks or other purposes are covered by the Act of March 3, 1933 (47 Stat. 1487), as amended by the Act of June 5, 1936 (49 Stat. 1482) and the Act of June 29, 1936 (49 Stat. 2026).

(3) National Park Service Areas. Congress authorized mineral leasing, including the leasing of nonleaseable minerals in the manner prescribed by section 10 of the Act of August 4, 1939 (43 U.S.C. 387), in the following national recreation areas:

(i) Lake Mead National Recreation Area—The Act of October 8, 1964 (16 U.S.C. 460n-*et seq.*);

(ii) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area—The Act of November 8, 1965 (16 U.S.C. 460q-*et seq.*);

(iii) Glen Canyon National Recreation Area—The Act of October 27, 1972 (16 U.S.C. 460dd *et seq.*).

(4) Shasta-Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area. Section 6 of the Act of November 8, 1965 (16 U.S.C. 460q-*et seq.*) authorizes mineral leasing, including the leasing of nonleasable minerals in the manner prescribed by section 3 of the Act of September 1, 1949 (30 U.S.C. 192c), on lands within the Shasta-Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.

(5) White Mountains National Recreation Area. Sections 403, 404, and 1312 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm–2 through 460mm–4) authorize the Secretary of the Interior to permit the removal of the nonleasable minerals from lands or interests in lands within the recreation area in the manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and the removal of leasable minerals from lands or interest in lands within the recreation area in accordance with the mineral leasing laws.

(d) *Land management.* The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) authorizes the management and use of the public lands.

(e) *Fees.* The Independent Offices Appropriation Act (31 U.S.C. 9701) authorizes agencies to charge fees to recover the costs of providing services or things of value.

§ 3501.2 What is the scope of this part?

(a) This part applies to minerals other than oil, gas, coal and oil shale, leased under the mineral leasing acts, and to hardrock minerals leasable under Reorganization Plan No. 3 of 1946, on any unclaimed, undeveloped area of available public domain or acquired lands where leasing of these specific minerals is allowed by law. Special areas identified in part 3580 of this title

and asphalt on certain lands in Oklahoma also are leased under this part. Check part 3580 to identify any special provisions that apply to those special areas.

(b) This part does not apply to Indian lands or minerals except where expressly noted.

§ 3501.5 What terms do I need to know to understand this part?

You need to know the following terms, which are used frequently in this part:

Acquired lands means lands or interests in lands, including mineral estates, which the United States obtained through purchase, gift, or condemnation. It includes all lands BLM administers for hardrock mineral leasing other than public domain lands.

Chiefly valuable, for the purposes of this part, means the land is more valuable for the development of sodium, sulphur or potassium than for any non-mineral use of the land.

Hardrock minerals include base metals, precious metals, industrial minerals, and precious or semi-precious gemstones. Hardrock minerals do not include coal, oil shale, phosphate, sodium, potassium, or gilsonite deposits. Also, hardrock minerals do not include commodities the government sells such as common varieties of sand, gravel, stone, pumice or cinder. The term hardrock minerals as used here includes mineral deposits that are found in sedimentary and other rocks.

Leasable minerals, for purposes of this part, means the chlorides, sulfates, carbonates, borates, silicates or nitrates of potassium or sodium and related products; sulphur on public lands in the States of Louisiana and New Mexico and on all acquired lands; phosphate, including associated and related minerals; asphalt in certain lands in Oklahoma; and gilsonite (including all vein-type solid hydrocarbons).

MMS means the Minerals Management Service.

Permit means prospecting permit, unless otherwise specified.

Valuable deposit, for the purposes of this part, means an occurrence of minerals of such character that a person of ordinary prudence would be justified in the further expenditure of his or her labor and means, with a reasonable prospect of success in developing a profitable mine.

§ 3501.10 What types of mineral use authorizations can I get under these rules?

BLM issues the mineral use authorizations listed below to qualified individuals. Some authorizations are not available for certain commodities. See the subparts referenced in each subsection for more information.

(a) ''Prospecting permits'' let you explore for leasable mineral deposits on lands where BLM has determined that prospecting is needed to determine the existence of a valuable deposit. See subpart 3505 of this part.

(b) ''Exploration licenses'' let you explore in areas with known deposits of a leasable mineral to obtain data. With an exploration license, you do not get any preference or other right to a lease. See subpart 3506 of this part.

(c) ''Preference right leases'' are issued to holders of prospecting permits who, during the term of the permit, demonstrate the discovery of a valuable deposit of the leasable mineral for which BLM issued the permit. There are other requirements. The requirements for mine plans are in subpart 3592 of part 3590 of this chapter. See subpart 3507 of this part.

(d) ''Competitive leases'' are issued by competitive bidding for known deposits of a leasable mineral. See subpart 3508 of this part.

(e) ''Fringe acreage leases'' are issued noncompetitively for known deposits of leasable minerals on Federal lands adjacent to existing deposits, when the Federal deposits can be mined only as part of an adjacent operation. See subpart 3510 of this part.

(f) ''Lease modifications'' add acreage containing known deposits of a leasable mineral to an adjacent Federal lease of the same mineral, provided the deposits can be mined only as part of the larger mining operation. See subpart 3510 of this part.

(g) ''Use permits'' are available to holders of phosphate and sodium leases so that they may use the surface of unappropriated and unentered public lands for the proper extraction, treatment, or removal of the phosphate or sodium deposits. See subpart 3516 of this part.

§ 3501.16 Does my permit or lease grant me an exclusive right to develop the lands covered by the permit or lease?

No. Your permit or lease gives you an exclusive right to the mineral, but not to the lands. BLM may allow other uses or disposal of the lands, including leasing of other minerals, if those uses or disposals will not unreasonably interfere with your operation. If BLM issues other permits or leases covering the lands contained within your permit or lease, they will contain suitable stipulations for simultaneous operation based on consideration of safety, environmental protection, conservation, ultimate recovery of the resource, and other factors. You must also make all reasonable efforts to avoid interference with other authorized uses. In cases where the date of the lease is used to determine priority for development and a lease is renewed, BLM will use the effective date of the original lease to determine priority for development.

§ 3501.17 Are there any general planning or environmental considerations that affect issuance of my permit or lease?

(a) BLM will not issue you a permit or lease unless it conforms with the decisions, terms and conditions of an applicable comprehensive land use plan.

(b) BLM or the surface management agency will comply with any applicable environmental requirements before issuing you a permit or lease. This may result in conditions on your permit or lease.

(c) BLM will issue permits and leases consistent with any unsuitability designation under part 1600 of this title.

§ 3501.20 If BLM approves my application for a use authorization under this part, when does it become effective?

Your lease, permit, or other use authorization is effective the first day of the month after BLM signs it, unless you request in writing and BLM agrees to make it effective the first day of the month in which it is approved. This applies to all leases, licenses, permits, transfers and assignments in this part, unless a specific regulation provides otherwise.

§ 3501.30 May I appeal BLM's decisions under this part?

Any party adversely affected by a BLM decision under this part may appeal the decision under parts 4 and 1840 of this title.

Subpart 3502—Qualification Requirements

Lease Qualifications

§ 3502.10 Who may hold permits and leases?

You may hold an interest in permits or leases under this part only if you meet the requirements of 30 U.S.C. 184. You must be:

(a) An adult citizen of the United States;

(b) An association (including partnerships and trusts) of such citizens;

(c) A corporation organized under the laws of the United States or of any U.S. State or territory;

(d) A legal guardian of a minor United States citizen;

(e) A trustee of a trust where the beneficiary is a minor but the trustee is qualified to hold a permit or lease; or

(f) any other person authorized to hold a lease under 30 U.S.C. 184.

§ 3502.13 May foreign citizens hold permits or leases?

No. However, foreign citizens may hold stock in United States corporations that hold leases or permits if the laws, customs, or regulations of their country do not deny similar privileges to citizens or corporations of the United States.

§ 3502.15 Are there any additional restrictions on holding leases or interests in leases?

Yes. If you are a member of Congress or an employee of the Department of the Interior, except as provided in part 20 of this title, you may not acquire or hold any Federal lease, or lease interest. (Officer, agent or employee of the Department-see part 20 of this title; Member of Congress-see R.S. 3741; 41 U.S.C. 22; 18 U.S.C. 431–433). Also, BLM may not issue any lease or permit which causes a conflict of interest. See 5 CFR part 2635.

§ 3502.20 Will BLM issue a lease to me if I am not complying with the diligence requirements of the Mineral Leasing Act?

BLM will not issue you a lease or renew your lease, or approve a transfer of any lease or interest in a lease for you unless you are complying with section 2(a)(2)(A) of the Mineral Leasing Act (30 U.S.C. 201(2)(A)) for any of your existing leases that are subject to that provision. For Federal coal leases, BLM will determine compliance under § 3472.1–2(e) of this title. If BLM issues you a lease when you are in violation of section 2(a)2(A), BLM must void your lease under § 3514.30(b).

How To Show Lease Qualifications

§ 3502.25 Where do I file evidence that I am qualified to hold a permit or lease?

You must file evidence with BLM that you meet the qualification requirements in this subpart. You may file this evidence separately from your permit or lease application, but file it in the same office as your application.

§ 3502.26 May I supplement or update my qualifications statement?

After we accept your qualifications, you may send additional information to the same BLM office by referring to the serial number of the record in which your evidence is filed. All changes to your qualifications statement must be in writing. You must make sure that your evidence is current, accurate and complete.

§ 3502.27 If I am an individual, what information must I give BLM in my qualifications statement?

If you are an individual, send us a signed statement showing that:

(a) You are a U.S. citizen; and

(b) Your acreage holdings do not exceed the limits in § 3503.37 of this part. This includes your holdings through a corporation, association, or partnership in which you are the beneficial owner of more than 10% of the stock or other instruments of control.

§ 3502.28 If I am an association or a partnership, what information must I give BLM in my qualifications statement?

Send us:

(a) A signed statement setting forth:

(1) The names, addresses, and citizenship of all members who own or control 10 percent or more of the association or partnership;

(2) The names of the members authorized to act on behalf of the association or partnership; and

(3) That the association or partnership's acreage holdings for the particular mineral concerned do not exceed the acreage limits in § 3503.37 of this part.

(b) A copy of the articles of the association or the partnership agreement.

§ 3502.29 If I am a guardian or trustee for a trust holding on behalf of a beneficiary, what information must I give BLM in my qualifications statement?

Send us:

(a) A signed statement setting forth:

(1) The beneficiary's citizenship;

(2) Your citizenship;

(3) The grantor's citizenship, if the trust is revocable; and

(4) That the acreage holdings of the beneficiary, the guardian or trustee, or the grantor, if the trust is revocable, cumulatively do not exceed the acreage limitations in § 3503.37 of this part; and

(b) A copy of the court order or other document authorizing or creating the trust or guardianship.

§ 3502.30 If I am a corporation, what information must I give BLM in my qualifications statement?

A corporate officer or authorized attorney-in-fact must send BLM a signed statement stating:

(a) The State or territory of incorporation;

(b) The name and citizenship of, and percentage of stock owned, held, or controlled by, any stockholder owning, holding, or controlling more than 10 percent of the stock of the corporation;

(c) The names of the officers authorized to act on behalf of the corporation; and

(d) That the corporation's acreage holdings, and those of any stockholder identified under paragraph (b) of this section, do not exceed the acreage limitations in § 3503.37 of this part.

Special Situations and Additional Concerns

§ 3502.33 If I represent an applicant as an attorney-in-fact, do I have to submit anything to BLM?

Yes. Send us evidence of your authority to act on behalf of the applicant, and a statement of the applicant's qualifications and acreage holdings if you are empowered to make this statement. Otherwise, the applicant must send us this information separately.

§ 3502.34 What must I submit if there are other parties in interest?

If you are not the sole party in interest in an application for a permit or lease, include with your application the names of all other parties who hold or will hold any interest in the application or in the permit or lease when BLM issues it. All interested parties must show they are qualified to hold permit or lease interests.

§ 3502.40 What happens if an applicant or successful bidder for a permit or lease dies before the permit or lease is issued?

(a) If probate of the estate has been completed or is not required, BLM will issue the permit or lease to the heirs or devisees, or their guardian. We will recognize the heirs or devisees or their guardian as the record title holders of the permit or lease. They must send us:

(1) A certified copy of the will or decree of distribution, and if no will or decree exists, a statement signed by the heirs that they are the only heirs and citing the provisions of the law of the deceased's last domicile showing that no probate is required; and

(2) A statement signed by each of the heirs or devisees with reference to citizenship and holdings similar to that required by § 3502.27 of this part. If the heir or devisee is a minor, the guardian or trustee must sign the statement.

(b) If probate is required but has not been completed, BLM will issue the permit or lease to the executor or administrator of the estate. BLM considers the executor or administrator as the record title holder of the permit or lease. He or she must send:

(1) Evidence that the person who, as executor or administrator, submits lease and bond forms has authority to act in that capacity and to sign those forms;

(2) Evidence that the heirs or devisees are the only heirs or devisees of the deceased; and

(3) A statement signed by each heir or devisee concerning citizenship and holdings, as required by § 3502.27 of this part.

§ 3502.41 What happens to a permit or lease if the permittee or lessee dies?

If the permittee or lessee dies, BLM will recognize as the record title holder of the permit or lease:

(a) The executor or administrator of the estate, if probate is required but has not been completed and they have filed the evidence required by § 3502.40(b) of this part; or

(b) The heirs or devisees, if probate has been completed or is not required, if they have filed evidence required by § 3502.40(a) of this part.

§ 3502.42 What happens if the heir is not qualified?

We will allow unqualified heirs to hold ownership in a lease or permit for up to two years. During that period, the heir must either become qualified or divest himself or herself of the interest.

Subpart 3503—Areas Available for Leasing

Available Areas Under BLM Management

§ 3503.10 Are all Federal lands available for leasing under this part?

No. The Secretary of the Interior may not lease lands on any of the following Federal areas:

(a) Land recommended for wilderness allocation by the surface managing agency;

(b) Lands within BLM wilderness study areas;

(c) Lands designated by Congress as wilderness areas; and

(d) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document Number 96–119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an act of Congress.

§ 3503.11 Are there any other areas in which I cannot get a permit or lease for the minerals covered by this part?

Prospecting permits and leases for solid leasable and hardrock minerals are not available under this part for:

(a) Lands within the boundaries of any unit of the National Park System, except as expressly authorized by law;

(b) Lands within Indian Reservations, except the Uintah and Ouray Indian Reservation, Hillcreek Extension, State of Utah;

(c) Lands within incorporated cities, towns and villages;

(d) Lands within the National Petroleum Reserve-Alaska, oil shale reserves and national petroleum reserves;

(e) Lands acquired by the United States for development of helium, fissionable material deposits or other minerals essential to the defense of the country, except leasable minerals;

(f) Lands acquired by foreclosure or otherwise for resale;

(g) Acquired lands reported as surplus under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.*);

(h) Any tidelands or submerged coastal lands within the continental shelf adjacent or littoral to any part of lands within the jurisdiction of the United States;

(i) Lands within the Grand Staircase-Escalante National Monument;

(j) Lands adjacent to or within Searles Lake, California, which are not available for potassium prospecting permits (BLM will lease potassium in this area by competitive bidding); and

(k) Any other lands withdrawn from mineral leasing.

§ 3503.12 For what areas may I receive a sulphur permit or lease?

You may get a sulphur permit or lease for public domain lands in the States of Louisiana and New Mexico or for Federal acquired lands nationwide, subject to the exceptions listed in §§ 3503.10 and 3503.11 of this part.

§ 3503.13 For what areas may I receive a hardrock mineral permit or lease?

Subject to the consent of the surface managing agency, you may obtain hardrock mineral permits and leases only in the following areas:

(a) Lands identified in Reorganization Plan No. 3 of 1946, for which jurisdiction for mineral leasing was transferred to the Secretary of the Interior. These include lands originally acquired under the following acts:

(1) 16 U.S.C. 520 (Weeks Act);

(2) Title II of the National Industrial Recovery Act (40 U.S.C. 401, 403a and 408);

(3) The 1935 Emergency Relief Appropriation Act (48 Stat. 115 and 118);

(4) Section 55 of Title I of the Act of August 24, 1935 (49 Stat. 750 and 781); and

(5) The Act of July 22, 1937 (7 U.S.C. 1011 (c) and 1018 (repealed), Bankhead-Jones Act).

(b) Lands added to the Shasta National Forest by Act of March 19, 1948 (62 Stat. 83);

(c) Public Domain Lands within the National Forests in Minnesota (16 U.S.C. 508 (b));

(d) Lands in New Mexico that are portions of Juan Jose Lobato Grant (North Lobato) and Anton Chica Grant (El Pueblo) as described in section 1 of the Act of June 28, 1952 (66 Stat. 285);

(e) Lands in the Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Areas;

(f) The following National Park Lands:

(1) Lake Mead National Recreation Area;

(2) Glen Canyon National Recreation Area; and

(3) Lands in the Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area;

(g) Lands patented to the State of California for park or other purposes where minerals were reserved to the United States; and

(h) White Mountains National Recreation Area, Alaska.

§ 3503.14 For what areas may I get a permit or lease for asphalt?

You may get leases for asphalt only on certain Federal lands in Oklahoma identified by law. See 32 Stat. 654 (1902) and 58 Stat. 483 (1944). You may not obtain prospecting permits for asphalt.

§ 3503.15 May I lease the gold or silver reserved to the United States on land I hold under a private land claim in New Mexico?

If you hold the remaining record title interest or operating rights interest in confirmed private land grants in New Mexico, you may obtain a lease for gold and silver reserved to the United States. See parts 3580 and 3581 of this chapter for leasing requirements.

§ 3503.16 May I obtain permits or leases for sand and gravel in Nevada under the terms of this part?

You may not get new leases or permits under these regulations; BLM will consider any new applications for sand and gravel under the regulations at part 3600 of this chapter. Also, beginning January 1, 2000, BLM will not renew any existing sand and gravel lease for certain lands the United States received under an exchange with the State of Nevada.

Available Area Managed by Others

3503.20 What if another Federal agency manages the lands I am interested in?

(a) *Public domain lands.* BLM will issue a permit or lease for public domain lands where the surface is administered by another Federal agency only after consulting with the surface management agency. Some laws applicable to public domain lands require us to obtain the consent of the surface management agency before we issue a lease or permit.

(b) *Acquired lands.* For all lands not subject to paragraph (a) of this section where the surface is managed by another Federal agency, we must have written consent from the surface management agency before we issue permits or leases. The surface management agency may request further information about surface disturbance and reclamation before granting its consent.

(c) *Appeal.* If a surface management agency refuses to consent or imposes conditions on your permit or lease, you may appeal its decision under that agency's appeal provisions. If you notify BLM within 30 days after receiving BLM's decision denying or conditioning your permit or lease that you have appealed the surface management agency's decision, we will suspend the time for filing an appeal under 43 CFR parts 4 and 1840 until the surface management agency's decision is final and not subject to further administrative or judicial review.

§ 3503.21 What happens if the surface of the land I am interested in belongs to a non-Federal political subdivision or charitable organization?

(a) BLM will notify the entity who owns the surface of the lands included within your permit or lease application if that entity is:

(1) Any State or political subdivision, agency or instrumentality thereof;

(2) A college or any other educational corporation or association; or

(3) A charitable or religious corporation or association.

(b) The entity who owns the surface of the lands in your application will have up to 90 days to suggest any lease stipulations to protect existing surface improvements or uses, or to object to the permit or lease. BLM will then decide whether to issue the permit or lease and which, if any, stipulations identified by the surface owner to include, based on how the interests of the United States would best be served.

§ 3503.25 When may BLM issue permits and leases for Federal minerals underlying private surface?

(a) The regulations in this part apply where the United States disposed of certain lands and those disposals reserved to the United States the right to prospect for, mine, and remove the minerals under applicable leasing laws and regulations.

(b) If the Federal Government acquires minerals through a deed, BLM will follow any special covenants in the deed relating to leasing or permitting.

§ 3503.28 Does BLM incorporate any special requirements to protect the lands and resources?

BLM will specify permit or lease stipulations to adequately use and protect the lands and their resources. This may include stipulations which are required by the surface managing agency, or which are recommended by the surface managing agency or non-federal surface owner and accepted by BLM. (See also part 3580 of this chapter.)

Land Descriptions

§ 3503.30 How should I describe surveyed lands or lands shown on protraction or amended protraction diagrams in states which are part of the Public Land Survey System?

Describe the lands by legal subdivision, section, township, and range.

§ 3503.31 How should I describe lands in states which are part of the Public Land Survey System but have not been surveyed and are not shown on a protraction or amended protraction diagram?

Describe such lands by metes and bounds in accordance with BLM standard survey practices for the public lands. Connect your description by courses and distances between successive angle points to an official corner of the public land survey system or, for accreted lands, to an angle point that connects to a point on an official corner of the public land survey system to which the accretions belong.

§ 3503.32 How should I describe acquired lands?

You may describe acquired lands by metes and bounds, or you may also use the description shown on the deed or other document that conveyed title to the United States. If you are applying for less than the entire tract acquired by the United States, describe the land using courses and distances tied to a point on the boundary of the requested tract. Where the acquiring agency assigned a tract number to the identical tract you wish to permit or lease, you may describe those lands by the tract number and include a map which clearly shows the lands with respect to the administrative unit or the project of which they are a part. In States outside of the public land survey system, you should describe the lands by tract number, and include a map.

§ 3503.33 Will BLM issue me a lease for unsurveyed lands?

No. All leased areas must be officially surveyed to BLM standards. If you are applying for a permit or lease on unsurveyed or protracted lands, you must pay for the survey. If BLM intends to issue a lease by competitive bidding, we will pay for surveying the lands.

Acreage Amounts

§ 3503.36 Are there any size or shape limitations on the lands I can apply for?

Generally, a quarter-quarter section, a lot or a protraction block is the smallest subdivision for which you may apply. The lands must be in reasonably compact form.

§ 3503.37 Is there a limit to the acreage of lands I can hold under permits and leases?

Yes. The limits are summarized in the following table:

Commodity	Maximum acreage for a permit or lease	Maximum acreage of permits and leases in any one State	Maximum acreage in permits and leases nationwide
(a) Phosphate	2,560 acres	None	20,480 acres.
(b) Sodium	2,560 acres	5,120 acres (may be increased to 15,360 acres to facilitate an economic mine).	None.
(c) Potassium	2,560 acres	96,000 acres (larger if necessary for extraction of potassium from concentrated brines in connection with an existing mining operation).	None.
(d) Sulphur	640 acres	1,920 acres in 3 leases or permits	None.
(e) Gilsonite	5,120 acres	7,680 acres	None.
(f) Hardrock Minerals	2,560 acres	20,480 acres in permits and leases, 10,240 acres in leases, but can be increased to 20,480 if needed for orderly mine development.	None.
(g) Asphalt	640 acres	2,560 acres	Only available in Oklahoma.

§ 3503.38 How does BLM compute my acreage holdings?

(a) The maximum acreage in any one state refers to the acres you hold under a permit or lease on either public domain lands or acquired lands. Acquired lands and public domain lands are counted separately, so you may hold up to the maximum acreage of each at the same time. For example, one person could hold 20,000 acres under phosphate leases for public domain lands and 20,000 acres under phosphate leases for acquired lands at the same time.

(b) If your permit or lease is for fractional interest lands, BLM will charge your acreage holdings for a share which is proportionate to the United States' ownership interest. For example, if the United States holds a 25% interest in 200 acres, you will be charged with 50 acres (200 x .25).

(c) BLM will not charge any acreage in a future interest lease against your acreage limitations until the date the permit or lease takes effect.

(d) If you own stock in a corporation or a beneficial interest in an association which holds a lease or permit, your acreage will include your proportionate part of the corporation's or association's share of the total lease or permit acreage. This only applies if you own more than 10 percent of the corporate stock or beneficial interest of the association.

Filing Applications

§ 3503.40 Where do I file my permit or lease application and other necessary documents?

File your application in the State Office which manages the lands for which you are applying, unless we have designated a different State Office. For purposes of this part, a document is filed when it is received in the proper office.

§ 3503.41 Will BLM disclose information I submit under these regulations?

All Federal and Indian data and information submitted to the BLM are subject to part 2 of this title. Part 2 includes the regulations of the Department of the Interior covering public disclosure of data and information contained in Department of the Interior records. BLM may make certain mineral information not protected from disclosure under part 2 of this title may be made available for inspection without a Freedom of Information Act (FOIA) request.

§ 3503.42 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?

When you submit data and information that you believe to be exempt from disclosure by part 2 of this title, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by § 2.13(c) of this title.

§ 3503.43 How long will information I give BLM remain confidential or proprietary?

The FOIA does not provide an express period of time for which information may be exempt from disclosure to the public. We will review each situation individually and in accordance with guidance provided by part 2 of this title.

§ 3503.44 How will BLM treat Indian information submitted under the Indian Mineral Development Act?

Under the Indian Mineral Development Act of 1982 (IMDA) (25 U.S.C. 2101 *et seq.*), the Department of the Interior will hold as privileged proprietary information of the affected Indian or Indian tribe—

(a) All findings forming the basis of the Secretary's intent to approve or disapprove any Minerals Agreement under IMDA; and

(b) All projections, studies, data, or other information concerning a Minerals Agreement under IMDA, regardless of the date received, related to—

(1) The terms, conditions, or financial return to the Indian parties;

(2) The extent, nature, value, or disposition of the Indian mineral resources; or

(3) The production, products, or proceeds thereof.

§ 3503.45 How will BLM administer information concerning other Indian minerals?

For information concerning Indian minerals not covered by § 3503.44 of this part, BLM will withhold such records as may be withheld under an exemption to the Freedom of Information Act (FOIA) (5 U.S.C. 552) when it receives a request for information related to tribal or Indian minerals held in trust or subject to restrictions on alienation.

§ 3503.46 When will BLM consult with Indian mineral owners when information concerning their minerals is the subject of a FOIA request?

BLM will notify the Indian mineral owner(s) identified in the records of the Bureau of Indian Affairs (BIA), and the BIA, and give them a reasonable period of time to state objections to disclosure, using the standards and procedures of § 2.15(d) of this title, before making a decision about the applicability of FOIA exemption 4 to protect:

(a) information obtained from a person outside the United States Government; when

(b) following consultation with a submitter under § 2.15(d) of this title, BLM determines that the submitter does not have an interest in withholding the records that can be protected under FOIA; but

(c) BLM has reason to believe that disclosure of the information may result in commercial or financial injury to the Indian mineral owner(s), but is uncertain that such is the case.

Subpart 3504—Fees, Rental, Royalty and Bonds

General Information

§ 3504.11 What forms of payment will BLM and MMS accept?

Make your payments to BLM in cash, postal money order, negotiable instrument in U.S. currency, or such other method as BLM may authorize. See MMS regulations at 30 CFR part 218 for their payment requirements.

§ 3504.12 What payments do I send to BLM and what payments do I send to MMS?

(a) *Filing fees and rentals.* (1) Include a non-refundable filing fee of $25 with each application you submit to BLM. Preference right lease applications and exploration license applications do not require a fee.

(2) Pay all filing fees, all first-year rentals, and all bonus bids for leases to the BLM State office which manages the lands you are interested in. Make your instruments payable to the Department of the Interior-Bureau of Land Management.

(3) Pay all second-year and subsequent rentals and all other payments for leases to the Minerals Management Service. See 30 CFR part 218 for MMS's payment procedures.

(b) *Royalties.* Pay all royalties on producing leases and all payments under leases in their minimum production period to the MMS.

Rentals

§ 3504.15 How does BLM determine my rent?

We set your rent by multiplying the number of acres in your lease or permit by the rental rates shown below. The rates differ for different commodities and some rates increase over time. You must pay rent each year. We round up any fractional acreage to the next highest acre. If you do not know the exact acreage, compute the total acreage by assuming each of the smallest

subdivisions is 40 acres. The minimum rental is $20 per permit or lease for all commodities. Pay the minimum rental or the per-acre rental, whichever is greater.

(a) Annual rental rates for prospecting permits for all commodities are $.50 per acre or fraction of an acre.

(b) Annual rental rates for leases for each commodity are shown in the table below. The rate shown is for each acre or fraction of an acre in the lease.

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6 to end
(a) Phosphate	$0.25	$0.50	$0.50	$1.00	$1.00	$1.00
(b) Sodium	0.25	0.50	0.50	0.50	0.50	1.00
(c) Potash	0.25	0.50	0.50	0.50	0.50	1.00
(d) Sulphur	0.50	0.50	0.50	0.50	0.50	0.50
(e) Gilsonite	0.50	0.50	0.50	0.50	0.50	0.50
(f) Hardrock	1.00	1.00	1.00	1.00	1.00	1.00
(g) Asphalt	0.25	0.50	0.50	0.50	0.50	1.00

§ 3504.16 When is my rental due after the first year of the lease?

(a) For prospecting permits, pay your rental in advance each year before the anniversary date of the permit.

(b) For sodium, potassium or asphalt leases, pay your rental in advance before January 1 of each year.

(c) For phosphate leases pay your rental in advance on or before the anniversary date of the lease.

(d) For other mineral leases not covered in paragraph (b) or (c) of this section, pay the rental in advance each year before the anniversary of the effective date of the lease.

(e) MMS will credit your lease rental for any year against the first production royalties or minimum royalties (see § 3504.25 of this part) as the royalties accrue under the lease during that year.

§ 3504.17 What happens if I do not pay my rental on time?

(a) If you do not pay your rental on time for a prospecting permit, your permit will automatically terminate.

(b) If you do not pay your rental for a lease on time, BLM will notify you that unless you pay within 30 days from receipt of the notification, BLM will take action to cancel your lease.

Royalties

§ 3504.20 What are the requirements for paying royalties on production?

You must pay royalties on any production from your lease in accordance with the terms specified in the lease. See § 3504.21 of this part for minimum royalty rates. Your royalty rate will be a percentage of the quantity or gross value of the output of the produced commodity. Apply the royalty rate to the value of the production determined under MMS regulations in Title 30. For asphalt, the minimum royalty is calculated on a cents-per-ton basis. You may not pay your royalty in quantity without BLM's prior approval.

§ 3504.21 What are the minimum royalty rates?

Commodity	Minimum royalty rate
(a) Phosphate	5% of gross value of the output of phosphates or phosphate rock and associated or related minerals.
(b) Sodium	2% of the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market.
(c) Potassium	2% of the quantity or gross value of the output of potassium compounds and related products at the point of shipment to market.
(d) Sulphur	5% of the quantity or gross value of the output of sulphur at the point of shipment to market.
(e) Gilsonite	No minimum royalty rate.
(f) Hardrock Minerals	No minimum royalty rate.
(g) Asphalt	25 cents per ton (2,000 pounds) of marketable production.

§ 3504.22 How will I know what the royalty rate is on my lease production?

BLM determines the rate for each lease before we offer it. If BLM offered the lease competitively, the rates are in the notice of lease sale. If you applied for a noncompetitive lease, BLM will send you a royalty rate schedule for your concurrence and signature before we issue you the lease. BLM attaches royalty rates to, and makes them a part of, all leases.

§ 3504.25 Do I have to produce a certain amount per year?

(a) If your mineral lease was issued, renewed or readjusted any time after April 22, 1986, you must either produce a minimum amount or pay a minimum royalty in lieu of production each lease year. This requirement begins in the sixth lease year or the first full year of a renewed or readjusted lease, whichever comes first. The minimum royalty payment is $3 per acre or fraction of an acre. For phosphate, sulphur, gilsonite and hardrock leases, pay the minimum royalty in advance before the lease anniversary date. For sodium, potassium and asphalt leases the minimum royalty is due in advance before January 1 of each year.

(b) MMS will credit any lease rental payment (see § 3504.16(d) of this part) against the minimum royalty payment amount due under paragraph (a) of this section. MMS then will credit your minimum royalty as specified under paragraph (a) to your production royalties for that year only. For example, if you pay $1,000 in rental and you owe $3,000 in minimum royalties, you will pay a total of $3,000 for both. If during the lease year you accrue $10,000 in production royalties, MMS will credit $3,000 against that amount.

(c) Hardrock mineral leases or development or operating agreements subject to escalating rentals are exempt from minimum production and minimum royalty requirements.

§ 3504.26 May I create overriding royalties on my Federal lease?

Yes, but:

(a) BLM may order you to suspend or reduce your overriding royalties to as low as one percent if we determine your overriding royalty could:

(1) Cause you to abandon your lease prematurely; or

(2) Prevent mining of marginally economic or low-grade deposits.

(b) Where more than one overriding royalty interest is involved, BLM will apply any suspension or reduction to these interests in the manner agreed upon by the interest holders. If there is no agreement, we will order suspensions and reductions starting with the most recent interest and continuing in reverse order of the dates the overriding interests were created.

(c) If you apply for a royalty rate reduction under subpart 3513, of this part, we may request that you reduce your overriding royalties.

Bonding

§ 3504.50 Do I have to file a bond to receive a permit or lease?

Yes, unless paragraph (b) of this section applies.

(a) BLM will set permit and lease bond amounts for each lease or permit. We will consider the cost of complying with all permit and lease terms, including royalty and reclamation requirements, when setting bond amounts. The minimum bond amount for prospecting permits is $1000. The minimum bond amount for leases is $5000.

(b) BLM may enter into agreements with states to provide for your state reclamation bond to satisfy our reclamation bonding requirements. We may need additional information from you to determine whether your state bond will cover all of our reclamation requirements. If you have filed a current bond with a state where we have an agreement, and we determine that your state bond will satisfy all BLM reclamation bonding requirements, you will only need to file evidence of that state bond with BLM. We will require an additional bond from you if we determine your state bond does not cover all of our bonding requirements.

§ 3504.51 How do I file my bond?

File one copy of your bond in the BLM State office where you applied for a permit or lease. You must use an approved BLM form. You must sign the form if you are the principal of a personal bond. For surety bonds, both you and an acceptable surety must sign the form.

§ 3504.55 What types of bonds are acceptable?

You may file either a personal bond or a surety bond.

(a) Personal bonds may be in the form of:

(1) Cashier's check;

(2) Certified check; or

(3) Negotiable U.S. Treasury bonds equal in value to your bond amount. If you submit Treasury bonds, you must give the Secretary full authority to sell the securities if you default on your permit or lease obligations.

(b) Surety bonds must be issued by qualified surety companies approved by the Department of the Treasury. You can get a list of qualified sureties at any BLM State Office.

§ 3504.56 If I have more than one permit or lease, may I combine bond coverage?

Yes. Instead of filing separate bonds for each permit or lease, you may file a bond to cover all permits and leases for a specific mineral in any one state, or nationwide. We will establish the amount of the bond; however, the minimums are:

(a) $25,000 for statewide bonds. File these bonds in the BLM State Office for the state where your leases are located.

(b) $75,000 for nationwide bonds. File these bonds in any BLM State Office.

§ 3504.60 Under what circumstances might BLM elect to change the amount of my bond?

We may increase or decrease your bond amount when we determine that a change in coverage is appropriate, but we will not decrease your bond amount below the minimum.

§ 3504.65 What happens to my bond if I do not meet my permit or lease obligations?

BLM will demand payment from your bond to cover any obligations on which you default. Your bond will be reduced accordingly. If the surety makes a payment, we will reduce the face amount of the surety bond and the surety's liability by the amount of the payment.

§ 3504.66 Must I restore my bond to the full amount if payment has been made from my bond?

Yes. After any default, BLM will notify you of the amount you must pay to restore your bond. We will give you no more than six months to post a new bond or increase the existing bond to its pre-default level. You may elect to file separate or substitute bonds for each permit or lease. If you do not replace your bond, BLM may take action to cancel the leases or permits covered by the bond.

§ 3504.70 When will BLM terminate the period of liability of my bond?

BLM may terminate the period of liability for any bond only when you have filed an acceptable replacement bond or when you have met all your permit or lease terms and conditions.

§ 3504.71 When will BLM release my bond?

(a) BLM will release your bond when we have determined, after the passage of a reasonable period of time, that you have done the following:

(1) Paid all royalties, rentals, penalties, and assessments;

(2) Satisfied all permit or lease obligations;

(3) Reclaimed the site; and

(4) Taken effective measures to ensure that the mineral prospecting or development activities will not adversely affect surface or subsurface resources.

(b) If you assign your lease or permit, BLM will release your bond after we determine that you met the requirements of paragraphs (a)(1) and (a)(2) of this section. Also, your assignee must provide an acceptable bond or other surety.

Subpart 3505—Prospecting Permits

§ 3505.10 What is a prospecting permit?

(a) A prospecting permit gives you the exclusive right to prospect on and explore lands available for leasing under this part to determine if a valuable deposit exists of:

(1) Phosphate;

(2) Sodium;

(3) Potassium;

(4) Sulphur;

(5) Gilsonite; or

(6) A hardrock mineral.

(b) Prospecting permits are not available for asphalt.

(c) You may remove only material needed to demonstrate the existence of a valuable mineral deposit.

§ 3505.11 Do I need a prospecting permit to collect mineral specimens for non-commercial purposes?

No. You may collect mineral specimens for hobby, recreation, scientific, research or similar purposes without a prospecting permit. However, the surface management agency may require a use permit. BLM's regulations for collecting mineral specimens are at part 8365 of this title.

Applying for Prospecting Permits

§ 3505.12 How do I obtain a prospecting permit?

Deliver three copies of the BLM application form to the BLM office with jurisdiction over the lands you are interested in. Include the filing fee and first year's rental with your application. See subpart 3504 of this part.

§ 3505.13 What must my application include?

Your application must be legible and dated. It must contain your or your

agent's original signature. It must also include:

(a) Your name and address;

(b) A statement of your qualifications and holdings (see subpart 3502 of this part);

(c) A complete and accurate land description (see subpart 3503 of this part);

(d) Three copies of any maps needed to accompany the description; and

(e) The name of all the commodities for which you are applying.

§ 3505.15 Is there an acreage limit for my application?

The acreage in your application must not exceed the maximum allowed for the permit. See § 3503.37 of this part for the acreage limits applicable for the different minerals. BLM will not issue a permit if it causes you to exceed the limits shown in the table in that section.

§ 3505.25 How does BLM prioritize applications for prospecting permits?

BLM will prioritize applications based on the time of filing. If more than one application is filed at the same time for the same commodity on the same lands, we will hold a public drawing in accordance with subpart 1821 of this title to determine priority.

§ 3505.30 May I amend or change my application after I file it?

Yes. However, if your amendment adds lands, we will assign priority to those added lands from the date you filed the amended application. You must send the rental for the added lands with your amended application. You do not need to submit additional filing fees.

§ 3505.31 May I withdraw my application after I file it?

Yes. Just send us a written request. If you withdraw your application in whole or in part before BLM signs the permit, we will refund the corresponding proportionate share of your rental payment. BLM will retain the filing fee.

§ 3505.40 After submitting my application, do I need to submit anything else?

Yes. After we initially review your permit application, but before we issue the prospecting permit, we will require you to submit three copies of an exploration plan under § 3505.45 of this part. You must also submit a bond. See 43 CFR part 3504, especially 43 CFR 3504.50, for information on bonds.

§ 3505.45 What is an exploration plan?

An exploration plan shows how you intend to determine the existence and workability of a valuable deposit. Your exploration plan must include as much of the following information as possible:

(a) The names, addresses and telephone numbers of persons responsible for operations under your plan and to whom BLM will deliver notices and orders;

(b) A brief description of the environment your plan may affect. Focus on the affected geologic, water and other physical factors, and the distribution and abundance of vegetation and habitat of fish and wildlife, particularly threatened and endangered species. Include maps with your descriptions, and discuss the present land use in and adjacent to the area;

(c) A narrative description showing:

(1) The method of exploration and types of equipment you will use;

(2) The measures you will take to prevent or control fire, soil erosion, pollution of surface and ground water, pollution of air, damage to fish and wildlife or their habitat, damage to other natural resources, and hazards to public health and safety, including specific actions necessary to meet all applicable laws and regulations;

(3) The method for plugging drill holes; and

(4) The measures you will take to reclaim the land, including:

(i) A reclamation schedule;

(ii) The method of grading, backfilling, soil stabilization, compacting and contouring;

(iii) The method of soil preparation and fertilizer application;

(iv) The type and mixture of shrubs, trees, grasses, forbs or other vegetation you will plant; and

(v) The method of planting, including approximate quantity and spacing;

(d) The estimated timetable for each phase of the work and for final completion of the program;

(e) Suitable topographic maps or aerial photographs showing existing bodies of surface water, topographic, cultural and drainage features, and the proposed location of drill holes, trenches and roads; and

(f) Any other data which BLM may require.

§ 3505.50 How will I know if BLM has approved or rejected my application?

BLM will review your application to determine compliance with land use plans, environmental requirements, unsuitability criteria and whether the lands are within a known leasing area. BLM's decision whether to approve your application is at BLM's complete discretion. If we approve your application, we will issue your permit. If we reject your application, we will mail you a written decision. This notice will:

(a) Detail the reasons why we rejected your application;

(b) Identify any items you will need to correct in your application; and

(c) Tell you how you may appeal an adverse decision.

§ 3505.51 May I file a revised application if BLM rejects my original application?

Yes. If you file a revised application for the same lands within 30 days after you receive our rejection, we will apply the non-refundable filing fee and rental payment from your original application to the new application. To obtain this benefit, you must show the serial number of the original application on your new application. We will establish priority for the permit as of the date the revised application is filed. If you do not file a revised application within 30 days of rejection, we will refund only your rental payment.

Prospecting Permit Terms and Conditions

§ 3505.55 What are my obligations to BLM under an approved prospecting permit?

You must:

(a) Pay your annual rental in a timely fashion. See §§ 3504.15 and 3504.16 of this part;

(b) Comply with all permit terms and stipulations the surface management agency attached to the permit;

(c) Conduct only those exploration activities approved as part of your existing exploration plan; and

(d) Discontinue activities following expiration of the initial term unless and until BLM extends your permit.

§ 3505.60 How long is my prospecting permit in effect?

Your prospecting permit will be effective for an initial term of 2 years.

§ 3505.61 May BLM extend the term of my prospecting permit?

We may extend prospecting permits for phosphate and hardrock minerals for up to an additional 4 years, and for potassium and gilsonite for up to an additional 2 years. We cannot extend sodium and sulphur prospecting permits.

§ 3505.62 Under what conditions will BLM extend my prospecting permit?

You must prove that:

(a) You explored with reasonable diligence and were unable to determine the existence and workability of a valuable deposit covered by the permit. Reasonable diligence means that, in BLM's opinion, you drilled a sufficient number of holes or performed other comparable prospecting to explore the permit area within the time allowed; or

(b) Your failure to perform diligent prospecting activities was due to conditions beyond your control.

§ 3505.64 How do I apply for an extension?

There is no application form. Just send us a written request with the information in § 3505.65 of this part at least 90 days before your permit expires. Include your $25 nonrefundable filing fee and the first year's rental, in accordance with §§ 3504.15 and 3504.16 of this part.

§ 3505.65 What information must I include in my extension request?

Your request must:

(a) Show that you have met the conditions for extension in § 3505.62;

(b) Describe your previous diligent prospecting activities on the permit; and

(c) Show how much additional time you need to complete prospecting work.

§ 3505.66 If approved, when is my extension effective?

Your permit extension will become effective on the date we approve it, or on the expiration date of the original permit, if this date is later.

§ 3505.70 May I relinquish my prospecting permit?

Yes. You may relinquish the entire prospecting permit or any legal subdivision of it. A partial relinquishment must clearly describe the exact acreage you want to relinquish. BLM will not accept a relinquishment if you are not in compliance with the requirements of your permit. Once we accept the request, your relinquishment is effective as of the date you filed it with BLM. We will then note the relinquishment on the land status records. We may then open the lands to any new applications. If you relinquish part or all of your permit, you lose any right to any preference right lease to the lands covered by the relinquishment.

§ 3505.75 What happens if I fail to pay the rental?

Your prospecting permit will automatically terminate if you do not pay the rental before the anniversary date of the permit. We will note your permit termination on the official status records.

§ 3505.80 What happens when my permit expires?

Your permit will expire at the end of its initial or extended term, as applicable, without notice. BLM may open the lands to new applications 60 days after your permit expires. However, if you timely filed for an extension under § 3505.64 of this part, the 60 day period would begin to run on the date BLM denies your extension request. If you timely filed for a preference right lease under § 3507.15 of this part, the 60 day period only would begin to run on the date BLM denies your lease application.

§ 3505.85 May BLM cancel my prospecting permit for reasons other than failure to pay rental?

Yes.

(a) We may cancel your permit if you do not comply with the Mineral Leasing Act, any of the other acts applicable to your specific permit, these regulations, or any of the permit terms or stipulations. We will give you 30 days notice, within which you must correct your default. If your default continues, BLM may cancel your permit.

(b) If we waive one cause for cancellation, we may still cancel your permit for another cause, or for the same cause occurring at another time. Unless you file an appeal, we will note your permit cancellation on the land status records. BLM may use your bond to reclaim the land or correct other deficiencies if we cancel your permit.

Subpart 3506—Exploration Licenses

General Information

§ 3506.10 What is an exploration license?

An exploration license allows you to explore known, unleased mineral deposits to obtain geologic, environmental and other pertinent data concerning such deposits.

Applying for and Obtaining Exploration Licenses

§ 3506.11 What must I do to obtain an exploration license?

(a) To apply, submit an exploration plan as described at § 3505.45 of this part, along with your request for an exploration license. No specific form is required. When BLM approves the exploration plan, we will attach the approved plan to, and make it a part of, the license. You must also publish a BLM-approved notice of exploration, inviting others to participate in exploration under the license on a pro-rata cost-sharing basis.

(b) Except as otherwise provided in this subpart, BLM will process your exploration license application in accordance with the regulations at part 2920 of this chapter.

§ 3506.12 Who prepares and publishes the notice of exploration?

BLM will prepare a notice of exploration using your information and post the notice and your exploration plan in the BLM office for 30 days. You must publish the notice of exploration once a week for three consecutive weeks in at least one newspaper of general circulation in the area in which the lands are located.

§ 3506.13 What information must I provide to BLM to include in the notice of exploration?

You must include:

(a) Your name and address;

(b) A description of the lands;

(c) The address of the BLM office where your exploration plan will be available for inspection; and

(d) An invitation to the public to participate in the exploration under the license.

§ 3506.14 May others participate in the exploration program?

(a) If any person wants to participate in the exploration program, you and BLM must receive written notice form that person within 30 days after the later of the final newspaper publication or the end of the BLM 30-day posting period.

(b) A person who wants to participate in the exploration program must state in their notice:

(1) They are willing to share in the cost of the exploration on a pro-rata basis; and

(2) Any modifications to the exploration program that BLM should consider.

§ 3506.15 What will BLM do in response to my exploration license application?

(a) BLM will determine whether to issue the exploration license. If we decide to issue the license, we will name the participants and the acreage covered. We also will establish hole spacing requirements and include any stipulations needed to protect the environment.

(b) If there are inconsistencies between proposed exploration plans, the approved license will resolve them.

Terms; Modifications

§ 3506.20 After my license is issued, may I modify my license or exploration plan?

BLM may approve modifications of your exploration plan upon your request. We may also permit you to remove lands from your exploration license at any time. However, once we issue your exploration license, you may not add lands to the area of your exploration license.

§ 3506.25 Once I have a license, what are my responsibilities?

You must share with BLM all data you obtain during exploration. We will consider the data confidential and will not make the data public until either:

(a) The areas involved are leased; or

(b) BLM determines that it must release the data in response to a FOIA request.

Subpart 3507—Preference Right Lease Applications

§ 3507.11 What must I do to obtain a preference right lease?

To obtain a preference right lease, you must have a prospecting permit for the area you want to lease and meet the following conditions and any other conditions established in this subpart:

(a) *All leasable minerals except asphalt.* You must demonstrate that you have discovered a valuable deposit within the period covered by your prospecting permit. However, paragraphs (b) and (d) of this section provide some limitations.

(b) *Sodium, potassium, and sulphur.* In addition to the requirements of paragraph (a) of this section, BLM must determine that the lands are chiefly valuable for the subject minerals.

(c) *Asphalt.* You may not obtain a preference right lease for asphalt. However, you may obtain a competitive lease or a fringe acreage lease under subpart 3508 or 3510 of this part.

(d) *Permits issued under the authority of Reorganization Plan No. 3 of 1946.* Prospecting permits for minerals BLM administers under the authority of Reorganization Plan No. 3 of 1946 do not entitle you to a preference right lease. We may grant you a noncompetitive lease if you discover a valuable deposit during the permit term.

§ 3507.15 How do I apply for a preference right lease?

No specific form is required. Submit three copies of your application within 60 days after the date your prospecting permit expires or the date BLM denies your request for a permit extension filed under § 3505.64 of this part, whichever is later.

§ 3507.16 Is there a fee or payment required with my application?

Yes. You must submit a $25 nonrefundable filing fee and the first year's rent with your application. Determine the first year's rent from the provisions in § 3504.15 of this part.

§ 3507.17 What information must my preference right lease application include?

Your application must contain:

(a) A statement of your qualifications and holdings as specified in subpart 3503 of this chapter;

(b) Three maps showing:

(1) Utility systems;

(2) The location of any proposed development or mining operations and incidental facilities;

(3) The approximate locations and the extent of the areas you will use for pits, overburden and tailings; and

(4) The location of water sources or other resources which you may use in the proposed operations or incidental facilities;

(c) A narrative statement addressing:

(1) The anticipated scope, method and schedule of development operations, including the type of equipment you will use;

(2) The method of mining anticipated, including the best available estimate of the mining sequence and production rate; and

(3) The relationship, if any, between the planned mining operations and existing or planned mining operations and facilities on adjacent Federal or non-Federal lands;

(d) Financial information which will enable us to determine if you have found a valuable deposit. Include at least an estimate of projected mining and processing costs, saleable products and markets, and projected selling prices;

(e) A complete and accurate description of the lands as found in your prospecting permit, if your application is for less than the lands covered by your prospecting permit; and

(f) Other data, as we may require.

§ 3507.18 What do I need to submit to show that I have found a valuable deposit?

To show you have found a valuable deposit, send us the information listed in § 3593.1 of this part. You must have collected the data during the term of the prospecting permit, but you may refer to prior geologic work. BLM may request supplemental data from you to determine the following:

(a) The extent and character of the deposit;

(b) The anticipated mining and processing methods and costs;

(c) Anticipated location, kind and extent of necessary surface disturbance;

(d) The measures you will take to reclaim that disturbance;

(e) An estimate of the profitability of mineral development; and

(f) Whether there is a reasonable prospect of success in developing a profitable mine.

§ 3507.19 Under what circumstances will BLM reject my application?

(a) BLM will reject your application for a preference right lease if:

(1) You did not discover a valuable deposit of mineral(s) covered by the prospecting permit;

(2) You did not submit requested information in a timely manner;

(3) You did not otherwise comply with the requirements of this subpart; or

(4) In the case of sodium, potassium and sulphur, if BLM determines that the lands are not chiefly valuable for the mineral commodity specified in the permit.

(b) If you applied for a lease for minerals BLM administers under the authority of Reorganization Plan No. 3 of 1946, BLM may also reject your application if we determine that mining is not the preferred use of the lands in the application. In making this determination, we will consider:

(1) The land use plan;

(2) Unsuitability criteria under subpart 1610 of this title;

(3) Any environmental impacts; and

(4) The purposes of the statute under which the lands were acquired.

(c) We will also reject your application if the surface managing agency does not consent to the lease.

§ 3507.20 May I appeal BLM's rejection of my preference right lease?

Yes. You have a right to appeal under the procedures in parts 4 and 1840 of this title.

Subpart 3508—Competitive Lease Applications

§ 3508.11 What lands are available for competitive leasing?

BLM may issue a competitive lease on unleased lands where we know that a valuable mineral deposit exists. In such areas, before issuing a lease we may issue you an exploration license, but not a prospecting permit. However, BLM may offer competitive leases for lands where no prospecting or exploratory work is needed to determine the existence or workability of a valuable mineral deposit. In addition, we may offer competitive leases for asphalt on any lands available for asphalt leasing, whether or not we know that a valuable mineral deposit exists.

§ 3508.12 How do I get a competitive lease?

(a) Notify BLM of areas in which you are interested. We may also designate certain lands for competitive leasing.

(b) After determining that the lands are available for leasing, we will publish a notice of lease sale containing all significant information (see § 3508.14 of this part).

(c) We will award a competitive lease through sale to the qualified bidder who offers the highest acceptable bonus bid. In the event of a tie, BLM will determine a fair method for choosing the successful bid.

§ 3508.14 How will BLM publish the notice of lease sale?

(a) Once we determine which lands are available for leasing, we will publish

a notice of lease sale at least once a week for three consecutive weeks in a newspaper of general circulation in the area where the lands are situated. We will also post the notice of lease sale for 30 days in the public room of the BLM office which administers the lands.

(b) The notice will include:

(1) The time and place of sale;

(2) The bidding method, including opening and closing dates for bidding;

(3) A description of the tract BLM is offering;

(4) A description of the mineral deposit BLM is offering;

(5) The minimum bid we will consider; and

(6) Information on where you can get a copy of the proposed lease and a detailed statement of the lease sale terms and conditions.

§ 3508.15 What information will the detailed statement of the lease sale terms and conditions include?

(a) The proposed lease terms and conditions, including the rental, royalty rates, bond amount, and any special stipulations for the particular tract;

(b) An explanation of how you may submit your bid;

(c) Notification that you must accompany your bid with your qualifications statement (see subpart 3502 of this part) and a deposit of one-fifth of your bid amount;

(d) Notification that if you are the successful bidder, you must pay your proportionate share of the total publication cost for the sale notice before we will issue the lease. Your share is based on the number of tracts you bid on successfully, divided by the total number of tracts offered for sale;

(e) A warning concerning 18 U.S.C. 1860 which provides criminal penalties for manipulating the bidding process;

(f) A statement that the Secretary reserves the right to reject any and all bids, and to offer the lease to the next qualified bidder, if the successful bidder does not get the lease for any reason; and

(g) Any other information we deem appropriate.

§ 3508.20 How will BLM conduct the sale and handle bids?

We will open and announce all bids at the time and date specified in the notice of lease sale, but we will not accept or reject bids at that time. We must receive your bid by the deadline in the sale notice or we will not consider it. You may withdraw or modify your bid before the time specified in the notice of sale.

§ 3508.21 What happens if I am the successful bidder?

If you are the highest qualified bidder and we determine your bid meets or exceeds fair market value, we will send you copies of the lease on the form attached to the detailed statement. Within the time we specify you must:

(1) Sign and return the lease form;

(2) Pay the balance of the bonus bid;

(3) Pay the first year's rental;

(4) Pay the publication costs; and

(5) Furnish the required lease bond.

(b) See § 3504.12 of this part for payment procedures.

§ 3508.22 What happens if BLM rejects my bid?

(a) If your bid is the high bid and we reject it because you did not sign the lease form and pay the balance of the bonus bid, or otherwise comply with this subpart, you forfeit to the United States your deposit of one-fifth of the bonus bid amount.

(b) If we must reject your high bid for reasons beyond your control, we will return your bid deposit.

(c) If we reject your bid because it is not the high bid, we will return your bid deposit.

Subpart 3509—Fractional and Future Interest Lease Applications

§ 3509.10 What are future interest leases?

BLM issues noncompetitive future interest leases to persons who hold present mineral interests that will revert to the Federal Government at some future date. Future interest leases allow the present interest holders to continue using their present mineral right once the Federal Government acquires it.

§ 3509.11 Under what conditions will BLM issue a future interest lease to me?

When it is in the public interest, we will issue you a future interest lease for lands where you either have an existing mining operation or have established that a valuable deposit exists.

§ 3509.12 Who may apply for a future interest lease?

You may apply for a future interest lease only if you have a present interest in the minerals. You must hold more than 50 per cent of either the fee interest, a lease interest or an operating rights interest. You must also meet the qualification requirements set forth in subpart 3502 of this part.

§ 3509.15 Do I have to pay for a future interest lease?

You must pay fair market value for the mineral deposit when title vests in the United States. You also will be required to pay royalty on your production.

§ 3509.16 How do I apply for a future interest lease?

No specific form is required. Include a $25 filing fee with the application. Submit the application to the BLM office with jurisdiction over the lands. You must file at least one year before the mineral interest vests with the United States or BLM will deny your application.

§ 3509.17 What information must I include in my application for a future interest lease?

Your application must include the same information we require when you apply for a present interest Federal lease. See subpart 3508 of this part. In addition, you must include the following:

(a) A land description;

(b) Your certification that you meet the qualifications requirements (see subpart 3502 of this part);

(c) Evidence of your title or the extent of your rights to the present interest in the mineral deposits. Submit either a certified abstract of title or a title certificate, or the instrument establishing your rights; and

(d) The names of the other owners, if any, of the mineral interests. If you own the operating rights to the mineral by means of a contract with the mineral owner, you also need to submit three copies of the mineral contract or lease.

§ 3509.18 What will BLM do after it receives my application for a future interest lease?

(a) After BLM receives your application for a future interest lease, we will notify all other interest owners that they have 90 days to file applications for the same mineral interest.

(b) If any other interest owners timely apply, we will hold a competitive lease sale among the qualified applicants. BLM will establish standards for the competitive sale similar to those under subpart 3508 of this part, and provide notice to all of the qualified applicants.

(c) If no other qualified owners timely apply, BLM may issue a future interest lease to you. BLM will establish the amount of the bonus bid you must pay through appraisal.

§ 3509.20 When does my future interest lease take effect?

Your future interest lease will be effective on the date the minerals vest in the United States, as stated in the lease.

§ 3509.25 For what reasons will BLM reject my application for a future interest lease?

We will reject your application:

(a) If you do not meet the qualifications in § 3509.15 of this part;

(b) If you filed your application less than one year before the minerals vest in the United States; or

(c) We determine that issuing the lease is not in the public interest.

§ 3509.30 May I withdraw my application for a future interest lease?

Yes. You must file the withdrawal with BLM before the lease is signed. BLM will retain the application fee.

§ 3509.40 What are fractional interest prospecting permits and leases?

They are prospecting permits and leases for parcels where the United States holds less than 100 per cent of the mineral interest of the parcel. Fractional interest leases allow development of the shared mineral interests.

§ 3509.41 For what lands may BLM issue fractional interest prospecting permits and leases?

We issue them for lands where the United States owns less than 100 per cent of the mineral interest and where we have determined it is in the public interest to grant the permit or lease. We will only grant fractional interest permits or leases with the consent of the surface managing agency. If we believe a mineral deposit exists but do not know, we may issue a noncompetitive fractional interest lease.

§ 3509.45 Who may apply for a fractional interest prospecting permit or lease?

Only persons who have an interest in the non-Federal share of the same minerals may apply for a fractional interest lease of the minerals. Applicants must also meet the qualification standards in subpart 3502 of this part.

§ 3509.46 How do I apply for a fractional interest prospecting permit or lease?

No specific form is required. Include a $25 filing fee with the application. Submit the application to the BLM office with jurisdiction over the lands.

§ 3509.47 What information must I include in my application for a fractional interest prospecting permit or lease?

Your application must include all the same information we require when you apply for a regular competitive Federal lease. See subpart 3508 of this part. In addition, you must include the following:

(a) A land description;

(b) Your certification that you meet the qualifications requirements (see subpart 3502 of this part);

(c) Evidence of your title or the extent of your rights in the mineral deposits. Submit either a certified abstract of title, a title certificate or the instrument establishing your rights; and

(d) The names of the other owners, if any, of the mineral interests. If you own the operating rights to the mineral by means of a contract with the mineral owner, you also need to submit three copies of the mineral contract or lease.

§ 3509.48 What will BLM do after it receives my application for a fractional interest lease?

(a) After BLM receives your application for a fractional interest lease, we will notify all other interest owners that they have 90 days to file applications for the same mineral interest.

(b) If any other interest owners timely apply, we will hold a competitive lease sale among the qualified applicants. BLM will establish standards for the competitive sale similar to those under subpart 3508 of this part, and provide notice to all of the applicants.

(c) If no other qualified owners timely apply, BLM may issue a fractional interest lease to you. BLM will establish the amount of the bonus bid you must pay through appraisal.

§ 3509.49 What terms and conditions apply to my fractional interest prospecting permit or lease?

BLM will apply the commodity-specific terms and conditions found in this part to fractional interest prospecting permits and leases.

§ 3509.50 Under what conditions would BLM reject my application for a fractional interest prospecting permit or lease?

BLM will reject your fractional interest application if:

(a) You do not meet the qualifications in § 3509.45 of this part;

(b) You would have an interest in the total Federal and non-Federal mineral estate of less than 50% once the fractional interest prospecting permit or lease is issued, unless we determine it would be in the best interests of the government to issue the permit or lease; or

(c) We determine that it is not in the public interest to grant the lease.

§ 3509.51 May I withdraw my application for a fractional interest prospecting permit or lease?

Yes, if you file the withdrawal before the lease is signed. BLM will retain the application fee.

Subpart 3510—Noncompetitive Leasing: Fringe Acreage Leases and Lease Modifications

§ 3510.11 If I already have a Federal lease, or the mineral rights on adjacent private lands, may I lease adjoining Federal lands that contain the same deposits without competitive bidding?

Yes. If the adjoining Federal lands are available for leasing, you may lease them noncompetitively, even if they are known to contain a deposit of the mineral you are interested in leasing. We will either issue a new lease for these lands (fringe acreage) or add the lands to your existing Federal lease (modification).

§ 3510.12 What must I do to obtain a lease modification or fringe acreage lease?

(a) File three copies of your application with the BLM office that administers the lands. No specific application form is required.

(b) Include a non-refundable filing fee of $25, and an advance rental payment in accordance with the rental rate for the mineral commodity you are seeking. If you want to modify an existing lease, BLM will base the rental payment on the rate in effect for the lease being modified.

(c) Your application must:

(1) Show the serial number of the lease if the lands adjoin an existing Federal lease;

(2) Contain a complete and accurate description of the lands desired;

(3) Show that the mineral deposit specified in your application extends from your adjoining lease or from private lands you own or control; and

(4) Include proof that you own or control the mineral deposit in the adjoining lands if they are not under a Federal lease.

§ 3510.15 What will BLM do with my application?

We will issue or modify a lease under this subpart only if we determine that:

(a) The lands are contiguous to your existing Federal lease or to non-Federal lands you own or control;

(b) The new fringe lease does not exceed the maximum size allowed in a lease, as specified in § 3503.37 of this part;

(c) The acreage of the modified lease, including additional lands, is not in excess of the maximum size allowed for a lease, as specified in § 3503.37 of this part;

(d) The mineral deposit is not in an area of competitive interest to holders of other active mining units in the area;

(e) The lands for which you applied lack sufficient reserves of the mineral

resource to warrant independent development;

(f) Leasing the lands will conserve natural resources and will provide for economical and efficient recovery as part of a mining unit; and

(g) You meet the qualification requirements for holding a lease described in subpart 3502 of this title and the new or modified lease will not cause you to exceed the acreage limitations described in § 3503.37 of this part.

§ 3510.20 Do I have to pay a fee to modify my existing lease or obtain a fringe acreage lease?

Yes. Before BLM issues a new fringe acreage lease or modifies your existing lease, you must pay a bonus in an amount we will determine based on an appraisal or other appropriate means. The bonus cannot be less than $1 per acre or fraction of an acre.

§ 3510.21 What terms and conditions apply to fringe acreage leases and lease modifications?

Your fringe acreage lease is a new Federal lease. Therefore, we may impose terms and conditions different from those in your original Federal lease. A modified lease will be subject to the same terms and conditions as in the original Federal lease.

Subpart 3511—Lease Terms and Conditions

§ 3511.10 Do certain leases allow me to mine other commodities as well?

Yes. Sodium leases authorize you to mine potassium compounds as related products, and potassium leases authorize mining associated sodium compounds and related products. A phosphate lease allows you to use deposits of silica, limestone or other rock on the lease for use in the processing or refining of phosphate, phosphate rock, and associated minerals mined from the leased lands. You must pay royalty on these materials as specified in your lease.

§ 3511.11 If I am mining calcium chloride, may I obtain a noncompetitive mineral lease to produce the commingled sodium chloride?

Yes. If you are producing calcium chloride in paying quantities from an existing mine which you control, you may apply to BLM for a noncompetitive lease to produce the commingled sodium chloride. You must already have authorization, under part 3800 of this chapter, for the locatable minerals. You must also meet the other requirements of this part for the commingled leasable minerals.

§ 3511.12 Are there standard terms and conditions which apply to all leases?

Yes. BLM will issue your lease on a standard form which will contain several terms and conditions. We will add your rental rate, royalty obligations and any special stipulations to this lease form.

§ 3511.15 How long will my lease be in effect?

Commodity	Initial Term	Period of Renewal or Readjustment
(a) Phosphate	Indeterminate	Subject to readjustment at the end of each 20 year period.
(b) Sodium	20 years	Can be renewed for 10 years at the end of the initial term and for following 10 year periods.
(c) Potassium	Indeterminate	Subject to readjustment at the end of each 20 year period.
(d) Sulphur	20 years	Can be renewed for 10 years at the end of the initial term and for following 10 year periods.
(e) Gilsonite	20 years and for as long thereafter as gilsonite is produced in paying quantities.	Subject to readjustment at the end of each 20 year period.
(f) Hardrock Minerals	not to exceed 20 years	Can be renewed for 10 years at the end of the initial term and for following 10 year periods.
(g) Asphalt	20 years	Can be renewed for 10 years at the end of the initial term and for following 10 year periods.

§ 3511.25 What is meant by lease readjustment and lease renewal?

(a) If your lease is issued subject to readjustment, BLM will notify you of the readjusted terms before the end of each 20-year period. If we do not timely notify you of readjusted terms, those leases continue for another 20-year period under the same terms and conditions.

(b) If you have a lease that requires renewal, we will issue the lease for an initial term as specified in § 3510.15 of this part. You must apply for a renewal of the lease at least 90 days before the initial term ends in order to extend the lease for an additional term. If you do not renew the lease, it expires and the lands become available for re-leasing. BLM may change some of your lease terms when we renew a lease.

§ 3511.26 What if I object to the terms and conditions BLM proposes for a readjusted lease?

(a) You have 60 days after receiving the proposed readjusted terms to object. If we do not receive your objection within 60 days, the proposed readjusted terms will be in effect. If you file an objection, BLM will issue a decision in response. If you disagree with the decision, you may appeal under parts 4 and 1840 of this title.

(b) The readjusted lease terms and conditions will be effective pending the outcome of any appeal, unless BLM provides otherwise.

§ 3511.27 How do I renew my lease?

File an application at least 90 days before the lease term expires. No specific form is required. Send us three copies of your application together with a non-refundable $25 filing fee and an advance rental payment of $1 per acre or fraction of an acre.

§ 3511.30 If I appeal BLM's proposed new terms, must I continue paying royalties or rentals while my appeal is pending?

Yes. Continue to pay royalties and rentals at the original rate. Your obligation to pay any increased readjusted royalties, minimum royalties and rentals will be suspended while your appeal is considered. However, any increased charges accrue beginning with the effective date of the readjustment or renewal, while final action on your appeal is pending. If the increased charges are sustained on appeal, you must pay the accrued balance, plus interest at the rate MMS specifies for late payment in 30 CFR part 218.

Subpart 3512—Assignments and Subleases

How to Assign Leases

§ 3512.11 Once BLM issues me a permit or lease, may I assign or sublease it?

You may assign or sublease your permit or lease in whole or in part to any person, association, or corporation qualified to hold a permit or lease.

§ 3512.12 Is there a fee for requesting an assignment or sublease?

When you submit your instrument for assignment of record title or operating rights, or for transfer of overriding royalties, you must pay a non-refundable filing fee of $25. BLM will not accept any instrument without the filing fee.

§ 3512.13 How do I assign my permit or lease?

(a) Within 90 days of final execution of the assignment, you must submit three copies of your instrument for assignment of each permit or lease. The instrument must contain:

(1) The assignee's name and current address;

(2) The interest held by you and the interest you plan to assign;

(3) The serial number of the affected permit or lease;

(4) The amount of overriding royalties you retain;

(5) The date and your original signature on each copy, as the assignor; and

(6) The assignee must also send BLM a request for approval of the assignment which must contain:

(i) A statement of the assignee's qualifications and holdings, as required by subpart 3502 of this part;

(ii) Date and original signature of the assignee; and

(iii) A $25 filing fee.

(b) BLM must approve the assignment. We will notify you with a decision indicating approval or disapproval.

(c) If you are assigning a portion of your permit or lease, we will create a new permit or lease for the assigned portion, if approved.

§ 3512.16 How do I sublease my lease?

(a) You must file one copy of the sublease between you and the sublessee within 90 days from the date of final execution of the sublease.

(b) The sublessee must also file a signed and dated request for approval, a statement of qualifications (see subpart 3502 of this part) and a $25 fee.

(c) We will notify you with a decision indicating approval or disapproval.

§ 3512.17 How do I transfer the operating rights in my permit or lease?

(a) You must file one copy of the agreement to transfer operating rights within 90 days from the date of final execution of the agreement.

(b) The transferee must also file a signed and dated request for approval, a statement of qualifications (see subpart 3502 of this part) and a $25 fee.

(c) We will notify you with a decision indicating approval or disapproval.

Special Circumstances and Obligations

§ 3512.18 Will BLM approve my assignment or sublease if I have outstanding liabilities?

Before we will approve your assignment of a permit or lease, your account must be in good standing. We will also approve the assignment if the assignee and his or her surety provides written acceptance of your outstanding liabilities under the permit or lease. In addition, the assignee must either furnish a new bond equivalent to your existing bond or obtain consent of the surety on your bond to substitute the assignee as the principal.

§ 3512.19 Must I notify BLM if I intend to transfer an overriding royalty to another party?

Yes. Although we do not approve these transfers, you must file all overriding royalty interest transfers with the BLM within 90 days from the date of execution. Include the transferees's statement of qualifications required in subpart 3502 of this part and the $25 filing fee.

Effect of Assignments on Your Obligations

§ 3512.25 If I assign my permit or lease, when do my obligations under the permit or lease end?

You and your surety remain responsible for the performance of all obligations under the permit or lease until the date we approve the assignment. You will continue to be responsible for obligations that accrued prior to the date of our approval of the assignment, whether or not they were identified at the time of the transfer.

§ 3512.30 What are the responsibilities of a sublessor and a sublessee?

After BLM's approval of a sublease becomes effective, the sublessor and sublessee are jointly and severably liable for performance of all obligations under the permit or lease.

§ 3512.33 Does an assignment or sublease alter the permit or lease terms?

No, it does not alter permit or lease terms.

Subpart 3513—Waiver, Suspension or Reduction of Rental and Minimum Royalties

§ 3513.11 May BLM relieve me of the lease requirements of rental, minimum royalty, or production royalty while continuing to hold the lease?

Yes. BLM has a process which may allow you temporary relief from these lease requirements.

§ 3513.12 What criteria does BLM consider in approving a waiver, suspension, or reduction in rental or minimum royalty, or a reduction in the royalty rate?

We will consider if approval:

(a) Is in the interest of conservation;

(b) Will encourage the greatest ultimate recovery of the resource; and

(c) Is necessary either to promote development of the mineral resources or because you cannot successfully operate the lease under existing terms.

§ 3513.15 How do I apply for reduction of rental, royalties or minimum production?

You must send us two copies of your application with the following information for all leases involved:

(a) The serial numbers;

(b) The name of the record title holder(s);

(c) The name of the operator and operating rights owners if different from the record title holder(s);

(d) A description of the lands by legal subdivision;

(e) A map showing the serial number and location of each mine or excavation and the extent of the mining operations;

(f) A tabulated statement of the leasable minerals mined for each month covering at least the last twelve months before you filed your application, and the average production mined per day for each month;

(g) If you are applying for relief from the minimum production requirement, complete information as to why you did not attain the minimum production;

(h) A detailed statement of expenses and costs of operating the entire lease, and the income from the sale of any leased products;

(i) All facts showing why you cannot successfully operate the mines under the royalty or rental fixed in the lease and other lease terms;

(j) For reductions in royalty, full information as to whether you pay royalties or payments out of production to anyone other than the United States, the amounts paid and efforts you have made to reduce them;

(k) Documents demonstrating that the total amount of overriding royalties paid for the lease will not exceed one-half the proposed reduced royalties due the United States; and

(l) Any other information BLM needs to determine whether the request satisfies the standards in § 3513.12 of this part.

Suspension of Operations and Production (Conservation Concerns)

§ 3513.20 What is a suspension of operations and production (conservation concerns)?

A suspension of operations and production (conservation concerns) is a BLM action where BLM orders or allows you to suspend operations in the interest of conservation of natural resources.

§ 3513.21 What is the effect of a suspension of operations and production (conservation concerns)?

BLM will extend your lease term by any periods of suspension of operations and production (conservation concerns). We will reduce the minimum annual production requirements of your lease proportionately for that time during a lease year in which a suspension of operations and production is effective. You do not have to pay rental and minimum annual production royalties starting with the first day of the next lease month after the suspension becomes effective. However, if the suspension is effective on the first day of the lease month, you may stop paying rentals and royalties that same day.

§ 3513.22 How do I apply for a suspension of operations and production (conservation concerns)?

Send us two copies of an application that explains why it is in the interest of conservation to suspend your operations and production.

§ 3513.23 May BLM order a suspension of operations and production (conservation concerns)?

Yes, BLM may order a suspension of operations and production.

§ 3513.25 When will my suspension of operations and production (conservation concerns) take effect?

Your suspension takes effect on the date BLM specifies.

§ 3513.26 When and how does my suspension of operations and production (conservation concerns) expire or terminate?

Your suspension ends on the expiration date that BLM specifies in the decision or order approving the suspension, or on the first day of the lease month in which you resume operations or production, whichever occurs first. All lease terms and obligations resume on this date. MMS will allow credit towards future rentals or royalties due, if you paid rent for the period of suspension of operations and production.

Suspension of Operations (Economic Concerns)

§ 3513.30 What is a suspension of operations (economic concerns)?

A suspension of operations (economic concerns) is an action by which BLM may approve your request to suspend operations on your lease when marketing conditions are such that you cannot operate your leases except at a loss. BLM may not order a suspension of operations (economic concerns) unless you request it.

§ 3513.31 What is the effect of a suspension of operations (economic concerns)?

This suspension does not affect the term of the lease or the annual rental payment. BLM will reduce the minimum annual production requirements of your lease in proportion to that part of the lease year for which a suspension of operations is effective.

§ 3513.32 How do I apply for a suspension of operations (economic concerns)?

Send us two copies of your application which shows why your lease cannot be operated except at a loss.

§ 3513.33 When will my suspension of operations (economic concerns) take effect?

Your suspension will be effective on the date BLM specifies. You do not have to pay royalty on minimum annual production beginning on the first day of the next lease month after the suspension becomes effective. If the effective date is the first of the month, you may stop paying royalty on minimum annual production on that day.

§ 3513.34 When and how does my suspension of operations (economic concerns) expire or terminate?

The suspension of operations (economic concerns) ends on the expirations date that BLM specifies in the decision approving the suspension, or on the first day of the lease month in which you resume operations, whichever occurs first. Your obligation for minimum annual production resumes at this time.

Subpart 3514—Lease Relinquishments and Cancellations

Relinquishing Your Lease

§ 3514.11 May I relinquish my lease or any part of my lease?

If you can show, to BLM's satisfaction, that the public interest will not be impaired, you may relinquish your entire lease or any legal subdivision of it. Notify us in writing that you intend to relinquish all or part of your lease. Include your original signature and date. If we approve your relinquishment, you are required to pay all accrued rentals and royalties, and to perform any reclamation of the leased lands that BLM may require. In some cases, BLM may require you to preserve any mines, productive works or permanent improvements on the leased lands in accordance with the terms of your lease.

§ 3514.12 What additional information should I include in a request for partial relinquishment?

Any partial relinquishment must also clearly describe the lands you are relinquishing and give the exact area involved.

§ 3514.15 Where do I file my relinquishment?

File the relinquishment in the BLM office that issued the lease.

§ 3514.20 When is my relinquishment effective?

When BLM approves your relinquishment, it will be effective as of the date you filed it.

§ 3514.21 When will BLM approve my relinquishment?

We will accept your relinquishment when you have met all terms and conditions of the lease, including reclamation obligations.

Cancellations, Forfeitures, and Other Situations

§ 3514.25 When does my lease expire?

(a) Sodium, sulphur, asphalt, and hardrock mineral leases expire at the end of the lease term. If you file a timely application for lease renewal under § 3511.27 of this part, your lease expires on the expiration date or the date BLM rejected your application, whichever is later.

(b) Potassium, phosphate and gilsonite leases continue for so long as you comply with the lease terms and conditions which are subject to periodic readjustment.

(c) For more information, see § 3511.15 of this part.

§ 3514.30 May BLM cancel my lease?

(a) Yes. BLM may institute appropriate proceedings in a court of competent jurisdiction to cancel your lease if:

(1) You do not comply with the provisions of the Mineral Leasing Act, other relevant statutes, or regulations applicable to your lease; or

(2) You default on any of the lease terms, covenants or stipulations and continue to fail or default for 30 days after BLM notifies you in writing of your default.

(b) BLM may cancel your lease administratively if we issued it in violation of any law or regulation. In such a case, we may consider issuing an amended lease, if appropriate.

§ 3514.31 May BLM waive cancellation or forfeiture?

Yes, but our waiver of any particular cause of forfeiture will not prevent us from canceling and forfeiting the lease for any other cause or for the same cause occurring at any other time.

§ 3514.32 Will BLM give me an opportunity to remedy a violation of the lease terms?

(a) If you own or control, directly or indirectly, an interest in a lease in violation of any of the provisions of the Mineral Leasing Act, other relevant statutes, the lease terms or the regulations in this part, we will give you 30 days to remedy the violation or to show cause why we should not ask the Attorney General to institute court proceedings to:

(1) Cancel the lease;

(2) Forfeit your interest; or

(3) Compel disposal of the interest so owned or controlled.

(b) BLM will not give you 30 days if there is no legal remedy to the violation.

§ 3514.40 What if I am a bona fide purchaser and my lease is subject to cancellation?

(a) If you are a *bona fide* purchaser, BLM will not cancel your lease or your interest in a lease based on your predecessor's actions. However, you must be sure that the lease is in compliance with the terms and conditions required by BLM.

(b) BLM will promptly take action to dismiss any party who shows they are a *bona fide* purchaser from any legal proceedings to cancel the lease.

Subpart 3515—Mineral Lease Exchanges

Lease Exchange Requirements

§ 3515.10 May I exchange my lease or lease right for another mineral lease or lease right?

Yes. BLM may determine that operations on your lease or lands for which you have a preference right to a lease are not in the public interest. If you or BLM identify other lands for exchange, you may relinquish your current lease or preference right in exchange for a mineral lease of other lands of equal value.

§ 3515.12 What regulatory provisions apply if I want to exchange a lease or lease right?

(a) Except as provided in paragraph (b) of this section, this subpart and the relevant provisions of part 2200 of this title apply to mineral lease exchanges.

(b) Exchanges involving the issuance of coal leases, coal lease bidding rights or coal lease modifications are subject to the regulations in subpart 3435 of this chapter rather than to the regulations in this part.

§ 3515.15 May BLM initiate an exchange?

Yes. When we do:

(a) We will notify you that we are prepared to consider exchange of a mineral lease if you relinquish your existing leasing rights.

(b) We may exchange all or any part of the lands under your preference right lease application(s) or lease(s).

§ 3515.16 What standards does BLM use to assess the public interest of an exchange?

BLM must find that the exchange is in the public interest under the following criteria:

(a) The benefits of production from your existing lease or preference right to a lease would not outweigh the adverse effects on, or threat of damage or destruction to:

(1) Agricultural production potential;

(2) Scenic values;

(3) Biological values including threatened or endangered species habitat;

(4) Geologic values;

(5) Archeological, historic or other cultural values;

(6) Other public interest values such as recreational use;

(7) Residential or urban areas;

(8) Potential inclusion in the wilderness or wild and scenic rivers systems; or

(9) Other public uses, including public highways, airports, and rights-of-way from lease operations.

(b) The lands proposed for exchange must be free from hazardous waste as defined under the authorities of the Federal Water Pollution Control Act (33 U.S.C. 1251), Resource Conservation and Recovery Act (42 U.S.C. 6901) and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601).

§ 3515.18 Will I be notified when BLM is considering initiating an exchange that will affect my lease?

Yes. The notice you receive will:

(a) State why we believe an exchange would be in the public interest;

(b) Ask whether you are willing to negotiate for an exchange;

(c) Contain a description of the lands for which we would offer exchange terms; and

(d) Ask you to describe the lands on which you would accept a lease in exchange for your present holdings.

Types of Lease Exchanges

§ 3515.20 May I exchange preference rights?

Yes. To have a preference right that can be exchanged, you must have timely submitted a preference right lease application. If you have demonstrated a right to a lease, BLM may, in lieu of issuing the preference right lease, negotiate for the selection of appropriate lands to exchange and establish lease terms for those lands.

§ 3515.21 What types of lands can be exchanged?

The lands to be leased in exchange for your existing rights must be:

(a) Subject to leasing under the authorities of this part; and

(b) Acceptable to both you and BLM as a lease tract containing a deposit of leasable or hardrock minerals of equal value to your existing rights.

§ 3515.22 What if the lands to be exchanged are not of equal value?

If the lands are not equal in value, either party may equalize the value by paying money to the party receiving the property of lesser value. Such payments may not exceed 25 percent of the total value of the land or interest transferred out of Federal ownership. The parties may mutually agree to waive the monetary payment, if the Secretary determines that:

(a) A waiver will expedite the exchange;

(b) The public interest will be better served by the waiver than by the payment; and

(c) The amount to be waived is no more than 3 percent of the value of the lands being transferred out of Federal ownership, or $15,000, whichever is less.

Lease Exchange Procedures

§ 3515.23 May BLM require me to submit additional information?

Yes. You must be willing to provide geologic and economic data we need to determine the fair market value of your preference right or lease to be relinquished.

§ 3515.25 Is BLM required to publish notice or hold a hearing?

Yes. After you and BLM agree on the lands for exchange, we will publish a notice of the proposed exchange in the **Federal Register** and in a newspaper(s)

in the county(s) where the lands involved are located. The notice will include:

(a) The time and place of a public hearing(s);

(b) Our preliminary findings that the exchange is in the public interest; and

(c) A request for public comments on the merits of the proposed exchange.

§ 3515.26 When will BLM make a decision on the exchange?

After the public hearing and consideration of public comments, we will determine whether issuance of the exchange lease is in the public interest. If it is, we will then process the exchange. If not, we will cancel the exchange.

§ 3515.27 Will BLM attach any special provisions to the exchange lease?

Yes, the lease terms will contain a statement that you quitclaim and relinquish any right or interest in your preference right lease application or lease exchanged.

Subpart 3516—Use Permits

§ 3516.10 What are use permits?

Use permits allow you to use the surface of lands not included within your permit or lease to help you develop the mineral deposits. You may only get a use permit during the life of your permit or lease, and only for unentered, unappropriated, BLM-administered land. Use permits are not prospecting permits.

§ 3516.11 What kinds of permits or leases allow use permits?

Use permits are issued only in support of phosphate and sodium permits and leases. For phosphate permits and leases, BLM may issue you a use permit to use up to 80 acres. For sodium leases, use permits are limited to no more than 40 acres.

§ 3516.12 What activities may I conduct under a use permit?

Phosphate use permits authorize you to conduct activities to properly extract, treat, or remove the mineral deposits. Sodium use permits authorize you to occupy camp sites, develop refining works and use the surface for other purposes connected with, and necessary to, the proper development and use of the deposits.

§ 3516.15 How do I apply for a use permit?

You must file three copies of your application in the BLM office administering the lands you are interested in. There is no specific form required. Include a nonrefundable $25 filing fee and the first year's rental. Calculate the rental in accordance with § 3504.15 of this part.

§ 3516.16 What must I include with my application?

You must agree to pay the annual charge identified in the permit, and provide the following information:

(a) Specific reasons why you need the additional lands;

(b) A description of the lands applied for;

(c) Any information demonstrating that the lands are suitable and appropriate for your needs; and

(d) Evidence that the lands are unoccupied and unappropriated.

§ 3516.20 Is there an annual fee or charge for use of the lands?

Yes. You must pay the annual $1 per acre rental, or $20, whichever is greater, on or before the anniversary date of the permit.

§ 3516.30 What happens if I fail to pay the annual rental on my use permit?

Your use permit will terminate automatically if you fail to pay the required rental within 30 days after we serve you with a written notice of the rental requirement.

Subpart 3517—Hardrock Mineral Development Contracts; Processing and Milling Arrangements

§ 3517.10 What are development contracts and processing and milling arrangements?

Development contracts and processing and milling arrangements involving hardrock minerals are agreements between one or more lessees and one or more other persons to justify large scale operations for the discovery, development, production, or transportation of ores.

§ 3517.11 Are permits and leases covered by approved agreements exempt from the acreage limitations?

Hardrock mineral permits and leases committed to development contracts or processing or milling arrangements approved by BLM are exempt from state and nationwide acreage limitations. We will not count them toward your maximum acreage holdings. However, individual hardrock mineral leases committed to a development contract or lease may not exceed 2560 acres in size.

§ 3517.15 How do I apply for approval of one of these agreements?

No specific form is required. Submit three copies of your application to the BLM office with jurisdiction over some or all of the lands in which you are interested. Include the following information:

(a) Copies of the contract or other agreement affecting the Federal hardrock mineral leases or permits, or both;

(b) A statement showing the nature and reason for your request;

(c) A statement showing all the interests held in the area of the agreement by the designated contractor; and

(d) The proposed or agreed upon plan of operation for development of the leased lands.

§ 3517.16 How does BLM process my application?

(a) We will consider whether the agreement will conserve natural resources and is in the public interest.

(b) Once the agreement is signed by all the parties, we may approve it.

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Federal Register

Friday
October 1, 1999

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

High Density Airports; Allocation of Slots; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA–1999–4971, Amendment No. 93–78]

RIN 2120–AG50

High Density Airports; Allocation of Slots

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the regulations governing takeoff and landing slots and slot allocation procedures at certain High Density Traffic Airports. As a result of the ''Open Transborder'' Agreement between the Government of the United States and Government of Canada, this rule codifies the provisions of the bilateral agreement and ensures consistency between FAA regulations governing slots and the bilateral agreement.

DATES: Effective on October 31, 1999.

FOR FURTHER INFORMATION CONTACT: Lorelei D. Peter, Airspace and Air Traffic Law Branch, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3073.

SUPPLEMENTARY INFORMATION:

Availability of Final Rule

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321–3339), the Government Printing Office's (GPO) electronic bulletin board service (telephone: (202) 512–1661), or, if applicable, the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: (800) 322–2722 or (202) 267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9677. Communications must identify the amendment number or docket number of this final rule.

Persons interested in being placed on a mailing list for future FAA rulemaking documents should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes application procedures.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official. Internet users can find additional information on SBREFA in the ''Quick Jump'' section of the FAA's web page at *http://www.faa.gov* and may send electronic inquiries to the following Internet address: *9–AWA–SBREFA@faa.gov*.

Background

The FAA has broad authority under Title 49 of the United States Code (U.S.C.), Subtitle VII, to regulate and control the use of navigable airspace of the United States. Under 49 U.S.C. 40103, the agency is authorized to develop plans for and to formulate policy with respect to the use of navigable airspace and to assign by rule, regulation, or order the use of navigable airspace under such terms, conditions, and limitations as may be deemed necessary in order to ensure the safety of aircraft and the efficient utilization of the navigable airspace. Also, under section 40103, the agency is further authorized and directed to prescribe air traffic rules and regulations governing the efficient utilization of the navigable airspace.

The High Density Traffic Airports Rule, or ''High Density Rule,'' 14 CFR part 93, subpart K, was promulgated in 1968 to reduce delays at five congested airports: JFK International Airport, LaGuardia Airport, O'Hare International Airport, Ronald Reagan National Airport, and Newark International Airport (33 FR 17896; December 3, 1968). The regulation limits the number of instrument flight rule (IFR) operations at each airport, by hour or half hour, during certain hours of the day. It provides for the allocation to carriers of operational authority, in the form of a ''slot'' for each IFR landing or takeoff during a specific 30- or 60-minute period. The restrictions were lifted at Newark in the early 1970's.

On December 16, 1985, the Department of Transportation (Department) promulgated the ''buy/sell'' rule, a comprehensive set of regulations that provide for the allocation and transfer of air carrier and commuter slots (50 FR 52180; December 20, 1985). The two primary features of this rule were, first, that initial allocation would be accomplished by ''grandfathering'' existing slots to the carriers that currently held them, and second, that a relatively unrestricted aftermarket in slots would be permitted. As a result, effective April 1, 1986, slots used for domestic operations could be bought and sold by any party.

The FAA allocates slots designated for international use by U.S. and foreign-flag carriers under procedures different from those that apply to the allocation of slots designated as domestic. Under 14 CFR section 93.217, international slots are allocated at Kennedy and O'Hare twice a year for the summer and winter scheduling seasons.

In promulgating the ''buy/sell'' rule, the Department determined that, as a matter of international aviation policy, the allocation of new slots to international carriers at Kennedy and O'Hare Airports would be made by the FAA based on requests from foreign and U.S. operators conducting international operations (50 FR 52187; December 20, 1985).

O'Hare is unique in that domestic slots are withdrawn to accommodate requests for international operations during each summer and winter season. 14 CFR section 93.217(a)(6) specifically provides that the FAA must allocate a slot for an international operation at O'Hare upon request. If there is not an available slot within 60 minutes of the requested time, a slot would be withdrawn from a domestic carrier to fill that request. At LaGuardia, section 93.217(a)(7) provides that additional slots will be allocated for international operation if required by bilateral agreement. At Kennedy, section 93.217(a)(8) provides that domestic slots will be withdrawn for international operations only if required by international obligations.

At the time of the ''buy/sell'' rule, the Department concluded that since certain slots used for international operations are specially treated within Subpart S, it is important that the Department be aware of which slots are being used for those operations. Therefore, U.S. carriers were required to submit to the FAA in writing, the slots that were used for international operations as of December 16, 1985. These slots were then designated by the FAA as international slots.

International slots may not be bought, sold, leased, or otherwise transferred, except such slots may be traded to

another slot holder on a one-for-one basis at the same airport. Furthermore, if a carrier does not use an international slot for more than a two-week period, the slot must be returned to the FAA. International slots may only be used for international service.

However, FAA regulations permit the use of domestic slots for either international or domestic service. Regardless of the type of service, i.e., domestic or international, the minimum slot usage requirement and withdrawal procedures apply to a slot designated as domestic. FAA regulations governing slots provide for lotteries of domestic slots in certain circumstances. These regulations also permit only U.S. carriers to participate in lotteries for domestic slots. International slots are not allocated by the lottery mechanism.

U.S.-Canada Bilateral Agreement

On February 24, 1995, the Government of the United States and the Government of Canada entered into a bilateral agreement (Agreement) phasing in an ''Open Transborder'' regime between the two countries. Annex II of the Agreement specifically addresses slots and access to O'Hare, LaGuardia and Ronald Reagan National Airports. The Agreement provides that: (1) the Canadian carriers will be able to obtain slots at the High Density Traffic Airports under the same prevailing allocation system as U.S. carriers; (2) the base level of slots established for Canada will consist of 42 slots at LaGuardia, and 36 slots for the summer season at O'Hare and 32 slots for the Winter season at O'Hare; (3) Canadian carriers' slot base at LaGuardia and O'Hare (which currently is comprised of international slots), effectively will ''convert'' to domestic slots; (4) all slots acquired by the Canadian carriers, including the determined slot base, as described in (2) above, at LaGuardia and O'Hare, will be subject to the minimum slot usage requirement set forth in section 93.227 and may be withdrawn for failure to meet that requirement; (5) the provisions of bilateral agreement do not permit the determined slot base at LaGuardia and O'Hare to be withdrawn for the purpose of providing a U.S. or foreign air carrier with slots for international operations or to provide slots for new entrant operators; (6) any slots acquired after the transition date that do not form part of the determined slot base may be withdrawn at any time to fulfill operational needs; (7) neither the Government of Canada nor any Canadian carrier may modify the determined slot base at LaGuardia or O'Hare and then have claim to any other time slot to restore the base; and (8) slots that are acquired above the determined slot base level and then subsequently disposed of shall not modify the base.

Discussion of Comments

The comment period closed on February 11, 1999, with 8 comments filed. Two additional reply comments were subsequently received and considered. Seven comments were submitted by airlines and one comment was submitted by an association. American Airlines and Northwest Airlines generally supported the proposal, with Air Canada and United Airlines supporting the proposal with certain modifications and clarifications. Filing in opposition, the Air Carrier Association of America commented that the rulemaking should be suspended until such time as the Department makes additional slots available to new entrant carriers. Canadian Airlines commented that the proposed rules are insufficient to accomplish the goals of the Agreement and, if adopted, should be accompanied by proposals to increase access at the high density airports. Certain comments, discussed more fully below, raised issues that are beyond the scope of this rulemaking and beyond the scope of the ''Open Transborder'' Agreement between the Government of the United States and the Government of Canada. Additionally, changes to or interpretation of existing statutory language concerning slot exemption authority given to the Secretary of Transportation under 49 U.S.C. 41714 are also beyond the scope of this rulemaking.

The comments are divided into the following categories: (1) conversion of certain international slots to domestic slots; (2) establishment of regulatory base of slots for the Canadian carriers; (3) international slot allocation; (4) domestic slot allocation; and (5) slot withdrawal provision.

Conversion of International Slots of Domestic Slots

Notice No. 99–1 proposed reclassifying to domestic slots 35 international slots at Chicago O'Hare and 17 international slots at LaGuardia Airport held by U.S. carriers. In addition, the Canadian slot base of 36 slots in the summer season, 32 slots in the winter season at Chicago O'Hare, and 42 slots as LaGuardia Airport would also be classified as domestic. As discussed in the proposal, the reclassification only applies to the international slots that were held by U.S. carriers on December 16, 1985, provided that an equivalent number of international slots were held as of February 24, 1998, (the phase-in of the Agreement). The slots comprising the Canadian carrier base effectively were granted domestic slot attributes by the terms of the Agreement. These attributes include the ability of Canadian carriers to ''monetize'' slot holdings, which permits the transfer of slots for any consideration. Since FAA regulations do not permit the sale of international slots, this reclassification of international slots to domestic slots is in accordance with the terms of the Agreement.

The proposal was generally supported by Air Canada, American Airlines, Northwest Airlines, and United Airlines. The Air Carrier Association of America commented that the proposal would enable large carriers to increase their slot holdings while new entrant airlines are ''frozen out of the airports.'' Canadian Airlines commented that reclassifying certain international slots [of U.S. carriers] would disadvantage Canadian carriers because Canadian carrier slots could be used only transborder service between the U.S. and Canada. Canadian Airlines argued that since U.S. carriers could use the slots for transborder service, for domestic U.S. service, or for other international service, the net effect would make the slots more valuable to U.S. carriers, and therefore, more expensive for Canadian carriers to acquire.

FAA Response. After reviewing the comments, the FAA is adopting the rule as proposed. FAA recognizes that designating the slots as domestic is expected to provide additional economic benefits and increased flexibility for use of the slots. These economic benefits were contemplated for Canadian carriers as part of the negotiated Agreement, and the rule, as adopted, provides similar treatment for U.S. carriers with long-term use of these international slots. Approximately 90% of the reclassified slots were used in transborder U.S./Canada service and were operated by the carriers for many years both before and after the Department's slot allocation rules were issued on December 16, 1985. Reclassifying these international slots as domestic does not increase the number of slots that may be operated by the carriers. Furthermore, maintaining an international designation on these slots used by U.S. carriers would not result in additional slot availability for new entrant airlines. If certain international slots held by U.S. carriers were not reclassified as domestic, the FAA would be required to allocated international slots for transborder services to U.S. carriers while treating identical services

by Canadian carriers as domestic under the terms of the Agreement. FAA believes the reclassification for slots for U.S. carriers is not only equitable but, combined with adopted changes in allocation procedures for transborder operations herein, provides equivalent treatment for U.S. and Canadian carriers.

Contrary to comments by the Air Carrier Association of America, the FAA does not find that adoption of the proposal would preclude, or affect in any way, the Department's use of the exemption authority codified at 49 U.S.C. 41714 to increase access to the high density airports.

This final rule also adopts the proposal to reduce the international base allocation for carriers subject to the provisions of 14 CFR section 93.217(a)(10). Canadian Airlines commented that the reclassification would provide the largest U.S. carriers with an opportunity to increase their international allocation since the reclassification of slots would bring them below their international slot allocation limit.

The allocation of international slots to carriers with 100 or more permanent slots at Chicago O'Hare is limited, by regulation, to international slots held as of February 23, 1990. Carriers with 100 or more permanent slots at Chicago O'Hare may add additional international flights as long as they may be accommodated without withdrawal of domestic slots. This rule as adopted provides for a permanent reduction to the February 23, 1999, international slot base for affected carriers that corresponds to the number of slots reclassified as domestic under the adopted provisions of new section 92.218. American Airlines and United Airlines are the only carriers subject to this provision and both currently operate international flights in excess of the number of international slots allocated to them by using slots from their domestic slot base. As stated in the proposal, after the permanent reduction for the number of slots reclassified under section 93.218, American Airlines' international slot base under section 93.217(a)(10) is reduced from 35 to 17 international slots and United Airlines' international slot base is reduced from 17 to 2. Therefore, contrary to Canadian's comment, American and United's international slot allocation will continue to be capped, but at a lower number, which compensates for the conversion of international slots to domestic.

Establishment of Regulatory Base of Slots for Canadian Carriers

The Agreement provides for a base level of slots for Canadian carriers at Chicago O'Hare and LaGuardia Airport that includes an increase over the number of slots operated by Canadian carriers at the time the Agreement was signed. Since summer 1995, the Canadian carriers have operated 10 additional slots at Chicago O'Hare and 14 slots at LaGuardia Airport per the Agreement. The Canadian carriers base at Chicago O'Hare includes the growth of operations by Canadian carriers since the international slot allocation rules were adopted in December 1985. At O'Hare, this growth has resulted in 14 slots in the summer season and 10 slots in the winter. These slots are not allocated permanently to the Canadian carriers but are international slots that are allocated seasonally in time periods for which domestic slots generally have been withdrawn from U.S. carriers. Under the terms of the Agreement, these international slots are included as part of the base level of slots for Canadian carriers. FAA regulations governing slot allocation do not provide for the permanent withdrawal of domestic slots at Chicago O'Hare for the Canadian slot base. Air Canada commented that the slots constituting the base level should be within the slot-controlled hours at the high density traffic airports. Both Air Canada and Canadian Airlines commented that their slot base was significantly less than the major U.S. carriers at the high density airports, which makes it more difficult for them to make competitive schedule changes within their own slot base. Furthermore, Air Canada cited difficulties with trading of slots. Thus, Air Canada commented that slots constituting the base should be ''grandfathered at the times required for competitively viable operations.''

FAA Response: The FAA is adopting, as proposed, an amendment to increase the quota under 14 CFR section 93.123 by adding a footnote that specifically allocates to the Canadian carriers 24 slots at Chicago O'Hare International Airport and 14 slots at LaGuardia Airport.

The FAA will consider historical records of slot holdings to the extent practical and recognizes that Canadian carriers previously have been allocated international slots under the provisions of 14 CFR section 93.217. The allocation of international slots under this section has provided the Canadian carriers the opportunity to request and receive slot timing adjustments for several scheduling seasons since the Agreement was signed in 1995. It is unclear from the comments, therefore, what Air Canada would identify as its requested ''grandfathered'' slot times.

The FAA will consult with the affected individual affected carriers to determine the exact timing of the slots comprising the Canadian slot base. All the slots included in the Canadian slot base will be with the slot controlled hours. FAA records indicate that the summer base of 36 slots at Chicago O'Hare has already been allocated for summer 1999 within the slot controlled hours of 6:45 a.m. through 9:14 p.m. FAA records also indicate that the Canadian carriers are allocated the base level of 42 slots at LaGuardia Airport during the peak slot-controlled hours of 7:00 a.m. through 9:59 p.m. The FAA will use historic records, to the extent practical, when determining the times of the slots comprising the base established under the new section 93.218. The Chief Counsel of the FAA will be the final decisionmaker for these determinations. Canadian carriers may subsequently transfer and trade slots under the current slot regulations that apply to U.S. carriers and domestic slots.

International Slot Allocation

The Notice proposed amending 14 CFR section 93.217 to exclude transborder service solely between a high density traffic airport and Canada. Canadian Airlines commented that non-Canadian foreign carriers will gain an unfair advantage since they would continue to have access to international slots for transborder service while U.S. and Canadian carriers would not be eligible to receive international slots.

FAA Response. The FAA is adopting the rule as proposed. The Agreement clearly states that Canadian carriers are to be subject to the same slot allocation system as U.S. airlines for domestic services. In order to ensure that Canadian and U.S. carriers are allocated slots for transborder services in the same fashion, this rule treats transborder flights between high density traffic airports and Canada as domestic flights for slot allocation purposes. Flights by non-Canadian foreign carriers were not addressed in the slot provisions of the U.S./Canada bilateral aviation agreement and are not affected by this change.

As proposed, the final rule amends the submission deadline for slots allocated under 14 CFR section 93.217 by establishing a seasonal deadline through notice in the **Federal Register**. The current submission deadline is articulated in the regulations as May 15 for the following winter scheduling

season and October 15 for the following summer season. The deadline typically is within a few days of the submission deadline established for the International Air Transport Association Schedule Coordination Conferences. Coordination of the FAA submission deadline with the standard international deadline will reduce administrative workload for the airlines requesting slots since they will no longer need to track two separate submission deadlines. No comments were filed opposing this provision.

Domestic Slot Allocation

The Notice also proposed to include eligible foreign air carriers in slot lotteries under 14 CFR section 93.225(e), were provided for by bilateral agreement. Canadian Airlines commented that the proposed amendment does not guarantee access to lotteries since the U.S./Canadian Bilateral Agreement does not specifically address lotteries. Both Air Canada and Canadian Airlines commented on statutory and other legislative proposals related to access by air carriers to the high density traffic airports that may limit eligibility for non-U.S. carriers. The Air Carrier Association of America indicated the rulemaking should be suspended since the Department has not increased permanent slots for new entrant airlines.

FAA Response: The FAA does not agree with these comments. The Agreement explicitly states that any slot needs of Canadian carriers above the base levels shall be acquired through the prevailing system for slot allocation applicable to U.S. domestic operations. As stated in the Notice, slot lotteries are one of the regulatory methods by which available domestic slots are allocated to U.S. carriers. Consequently, it is necessary to amend the regulations so that Canadian carriers are eligible to participate in any slot lotteries. Thus, in accordance with the terms of the Agreement, the rule as adopted permits eligible Canadian carriers to participate in slot lotteries. Canadian carriers will also be subject to the same provisions governing lottery slots as U.S. carriers, such as use-or-lose and limitations on transfers, as are U.S. carriers.

In addition, the FAA reiterates that the primary purpose of this rulemaking is to amend the FAA slot regulations so that they are not in conflict with the Agreement. Other issues related to slot allocation procedures or slot exemption policies are beyond the scope of this rulemaking.

Slot Withdrawal Provisions

The FAA is adopting the proposal to amend section 93.223 by adding a new paragraph that would prevent the withdrawal of slots comprising the established Canadian slot base, as specified in the Agreement and defined in the new section 93.218, to fulfill requests for international operations or for new entrants.

United Airlines requested that the FAA amend the proposed rules to extend the slot withdrawal protection, provided to the Canadian carriers under the Agreement, to the domestic slot of U.S. carriers now reclassified under the new section 93.218(a). United Airlines also proposed that FAA confirm, by rule, that for the purposes of determining the total number of domestic slots withdrawn for international slot allocation under section 93.217, the FAA exclude slots that were withdrawn as of October 31, 1993, specifically used for transborder services. In addition, United Airlines contends that the FAA is limited to withdrawing domestic slots for international service only to the extent that the requesting carrier provided international service as of October 31, 1993.

FAA Response: The FAA is not adopting United's request to exclude the reclassified slots from the pool of domestic slots that are eligible for withdrawal under the regulations. Adopting this requested modification would provide greater protection to these ''reclassified'' slots held by U.S. carriers that is beyond the limits that apply to all other designated domestic slots. In addition, this modification would have given the slots greater protection than they would have had in 1985 had these slots been used for domestic service and not used for international service and thus designated as international slots. The Agreement is silent on treatment of U.S. carriers while it is specific on the limitations on slot withdrawal for the Canadian slot base. The FAA is reclassifying certain international slots of U.S. carriers as domestic primarily to treat U.S. and Canadian carriers in a similar fashion for slot allocation purposes. The FAA does not believe that identical treatment is required in all cases.

The rule as adopted increases the quota under section 93.123 to accommodate a growth of 14 operations by Canadian carriers since 1985 at Chicago O'Hare, which were largely accommodated by the withdrawal of domestic slots. United Airlines commented that the FAA no longer needs to withdraw domestic slots to fund Canadian carrier operations and furthermore, that any carrier wishing to increase international operations at the airport should apply to the Secretary of Transportation for an exemption to provide the service. United argued that the FAA should, as a matter of policy, administratively reduce the legislative cap on the number of slots that it withdraws for international allocation.

The FAA does not agree with and finds no basis for United Airlines' interpretation of 49 U.S.C. 41714(b). This provision specifically prohibits the withdrawal of slots to exceed the total number of slots withdrawn from an air carrier as of October 31, 1993. The FAA is limited, by statute, to allocating an international slot only if the allocation can be accommodated by available slots combined with the number of slots available through the withdrawal of domestic slots. Neither the statutory language nor the legislative history indicate any Congressional intent to further limit the withdrawal process to apply to carriers conducting service as of October 31, 1993.

Lastly, the FAA and the Department decline to issue any policy determination on further limiting the number of domestic slots withdrawn beyond the legislative cap set forth in 49 U.S.C. § 41714(b) as this issue is outside the scope of this rulemaking. Any action of this nature would be addressed in a separate forum.

The FAA has inserted language in the regulatory text of § 93.225, Lottery of available slots, to further clarify that the lottery procedures apply not only to U.S. carriers but also to foreign air carriers where provided for by bilateral agreement.

Effective Date

This rule is effective October 31, 1999, which coincides with the beginning of the Winter 1999 scheduling season. International slots for the upcoming winter season at O'Hare were allocated and confirmed during the June 1999 IATA meeting held in Miami, Florida. This rule does not affect any carrier's allocation of international slots at O'Hare, nor the slots withdrawn for the Winter 1999 scheduling season.

The Rule

As a result of the U.S.-Canada bilateral agreement, which phased in an ''Open Transborder'' regime between the two countries, the FAA amends Subparts K and S to: (1) codify, in a footnote to the hourly slot totals in subpart K, the 14 slots at LaGuardia and 24 slots at O'Hare that were allocated to

the Canadian carriers in June 1995; (2) exclude from the allocation of international slots at HDR airports transborder service operations solely between the airport and Canada; (3) set forth the provisions that apply to slots used for transborder service between the U.S. and Canada and codify the established base level of slots allocated to Canadian carriers; (4) reclassify certain international slots as domestic slots; (5) reduce the international allocation for air carriers that hold and operate more than 100 permanent slots at O'Hare by the number of international slots reclassified as domestic slots; (6) permit Canadian carriers to participate in any lotteries of domestic slots; and (7) amend the regulatory deadline for submitting requests for international allocation to coincide with the published IATA deadline.

Environmental Review

The primary purpose of the regulation is to amend the slot rule to conform to the U.S.-Canadian Bilateral Agreement. FAA has concluded that the provisions of the regulation that implement the Agreement do not involve proposed federal agency action within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, or other environmental laws. As explained below, that Agreement specifically mandates the reclassification of Canadian international slots as domestic slots and the allocation of base level slots for Canadian carriers at LaGuardia and O'Hare. These base level allocations reflect current slot holdings by Canadian carriers except at O'Hare, where additional allocation was required. The FAA had no discretion in this regard. In allocating the additional slots required at O'Hare, the FAA could not maintain the same total number of slots. There is a legislative cap on the number of domestic slots withdrawn for international operations and the FAA lacks a regulatory mechanism to permanently withdraw slots from one carrier to redirect them to another for purposes of maintaining international obligations.

To assure fairness to the U.S. domestic carriers, the regulation will also reclassify certain international slots held by U.S. carriers as domestic slots. To reflect the reclassification, it will also reduce the international base allocation for carriers subject to 14 CFR 93.217(a)(10). FAA's exercise of discretion to exceed the requirements of the Agreement in this manner would not increase the overall number of slots or operations. This portion of the rule accordingly qualifies for categorical exclusion under the National Environmental Policy Act as administrative and operating actions pursuant to FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, paragraph 31(a)(1). As these provisions are procedural in nature and lack the potential to impact the environment, similarly no further analysis is required under other environmental laws or regulations.

Reclassification and Allocation of Slots for Canadian Carriers

In accordance with the Agreement, part one of this regulation reclassifies slots held by Canadian carriers at LaGuardia and O'Hare airports. The Canadian carriers' slots will be converted from international to a modified form of domestic slots. Under the arrangement mandated by the Agreement and codified in this regulation, the slots held by the Canadian carriers would resemble domestic slots in that (1) they can be bought, sold, or traded on the open market, and (2) they are subject to the bi-monthly use or lose requirement. Unlike other domestic slots, however, the slots held by Canadian carriers are not subject to seasonal withdrawal for international use pursuant to 14 C.F.R. section 93.217 or for new entrants.

Part two of this regulation establishes base levels of permanent slots for the Canadian carriers at LaGuardia and O'Hare. The Agreement directs that the Canadian carriers receive 42 permanent slots at LaGuardia. Currently, the Canadian carriers are using 42 slots at LaGuardia so no additional allocation of slots is necessary. This Agreement also directs that the Canadian carriers receive 36 Summer slots and 32 Winter slots at O'Hare. Currently, the Canadian carriers hold 22 permanent slots at O'Hare. The Canadian carriers also are currently allocated 14 seasonal slots for the summer and 10 seasonal slots for the winter under 14 C.F.R. 93.217 in the time periods for which domestic slots are withdrawn. To complete the base level of slots at O'Hare, the regulation provides that an additional 14 new slots in the summer and 10 new slots in the winter be allocated permanently to the Canadian carriers. Because the Canadian carriers are receiving these allocations as permanent per the Agreement, the regulation also provides that they are no longer eligible to receive international slots under 14 C.F.R. 93.217.

No NEPA or other environmental analysis is required because these portions of the regulation are ministerial in nature. The FAA has no choice about how to accomplish the international mandate, which reclassifies international slots held by Canadian carriers as domestic slots and provides additional slots at O'Hare. While the FAA retains complete authority to withdraw slots for operational needs in accordance with 14 C.F.R. 93.223, the existing allocating mechanisms do not provide a means for the FAA to allocate the slots to the Canadian carriers. Title 14 C.F.R. section 93.225 provides that if slots are available, the slots will be distributed by random lottery with new entrant and limited incumbent carriers receiving priority. In addition, fulfilling the Agreement obligation by allocating slots under 14 C.F.R. section 93.217 is not feasible since these slots are allocated seasonally. Furthermore, even if allocating slots under 14 C.F.R. 93.217 were feasible, slot withdrawals by the FAA are legislatively capped at the level of slots withdrawn as of October 31, 1993. 49 U.S.C. 41714(b)(2). As a practical matter, given the legislative cap, scheduling requirements, and regulations regarding priorities for reallocating slots, the withdrawal of slots will not provide for the 14 additional slots needed at O'Hare pursuant to the Bilateral Agreement. Thus, lacking a mechanism for withdrawing the slots from the existing slot holders and re-directing them to the Canadian carriers, the FAA has no choice but to comply with the Bilateral Agreement by creating 14 additional slots at O'Hare. NEPA requires agencies to take environmental concerns into consideration when making decisions where a range of alternatives is available. However, under these circumstances, where no choice is involved, an action is ministerial and no NEPA analysis is required.

The FAA's position that this portion of the regulation is ministerial finds support in the NEPA-implementing regulations promulgating by the Department of State, 22 C.F.R. part 161. Among the actions which the State Department exempts from NEPA analysis are:

Mandatory actions required under any treaty or international agreement to which the United States Government is a party, or required by the decisions of international organizations or authorities in which the United States is a member or participant, except when the United States has substantial discretion over implementation of such requirements.

By comparison, the allocation of slots of the Canadian carriers is an example of an action that would likely be exempt under the State Department regulations. The FAA is required by the Agreement to allot permanent slots to the Canadian carriers, and the agency has no

discretion but to create additional slots. Given the international agreement, the FAA adopts the position espoused by the State Department and concludes that the allocation of slots and establishment of a base level for the Canadian carriers, as required by the Agreement, does not involve proposed federal action within the meaning of NEPA and other environmental laws.

Reclassification of Slots Held by U.S. Carriers and Reduction of International Base Allocation of Carriers Subject to Regulatory Cap

To prevent disparate treatment between U.S. carriers and Canadian carriers, part one of the regulations also reclassifies certain identified international slots held by U.S. carriers as domestic slots. The FAA is also adopting the proposal to reduce the international slot base allocation for carriers subject to 14 C.F.R. 93.217(a)(10). While FAA is exercising discretional authority in these areas, none of these aspects of the regulation have the potential to increase total slots or operations. Accordingly, they qualify for categorical exclusion under the National Environmental Policy Act as administrative and operating actions pursuant to FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, paragraph 31(a)(1). No extraordinary circumstances exist that would warrant preparation of an environmental assessment, such as likelihood of controversy on environmental grounds. Similarly, as there are no potential environmental impacts, analysis is not required under other environmental laws and regulations.

Compatibility with ICAO Standards

In keeping with U.S. obligations under the convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, OMB directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule is ''a significant regulatory action'' under section 3(f) of Executive Order 12866 and is considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034, February 26, 1979). This rule will not have a significant impact on a substantial number of small entities and will not constitute a barrier to international trade.

Although the total number of slots (international plus domestic) will not increase for any of the U.S. carriers, the number of domestic slots for affected carriers will increase. The rule will generate benefits for those air carriers holding slots historically identified for international use under 14 CFR 93.215(d) because those international slots will be converted to domestic slots. Operators benefit because of the enhanced flexibility they receive to manage their scheduling at High Density Requirement airports. The slots that have been converted from international slots to domestic slots can be scheduled in Canada—U.S. transborder service, they can be scheduled in other domestic service, or they can be scheduled for international service. Operators also receive an expanded economic value because the market has placed a value on domestic slots if the operator decides to buy, sell, lease, barter, or collateralize slots. Therefore, the FAA believes that the rule will benefit operators not only because domestic slots present a greater measure of potential earning power than do international slots, but also because domestic slots offer operators a better opportunity to manage their assets in such a way as not to lose them due to the minimum usage requirements; international slots do not provide this benefit.

This rule only affects Canadian carriers conducting transborder service into and out of the HDR airports and U.S. carriers using certain designated international slots in 1985 and the equivalent number held as of February 24, 1998. The rule will not impose any additional equipment, training, administrative, or other cost to the carriers involved. Therefore, there is no compliance cost associated with the rule.

Qualitative benefits from the rule will come from converting certain identified international slots to domestic slots, thereby affording operators greater flexibility because the converted slots can be used for transborder service, any other domestic service, or for international service. Also, domestic slots have greater economic value than international slots because domestic slots can be bought, sold, leased, bartered, or used as collateral. Due to the advantages domestic slots offer over international slots, operators have an enhanced opportunity to manage their assets in such a way as to maximize their income. Therefore, the FAA has determined that the rule is cost beneficial.

Regulatory Flexibility Assessment

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principal, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rational for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This rule will impact entities regulated by part 93. The FAA has determined that the amendments to part 93, Subparts K and S will affect only two Canadian carriers and four major U.S. carriers and the amendments will not have a significant impact on these major air carriers' costs. Therefore, the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Statement

This rulemaking could positively effect the sale of Canadian aviation services in the United States, but it would also positively affect the sale of United States aviation services in Canada. However, this rule is not

expected to impose a competitive advantage or disadvantage to either U.S. air carriers doing business Canada or Canadian air carriers doing business in the United States. This assessment is based on the fact that this rule will not impose additional costs on either U.S. or Canadian air carriers.

Unfunded Mandates Reform Act Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain any Federal intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Paperwork Reduction Act

Information collection requirements in this amendment previously have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (49 U.S.C. 3507(d)), and have been assigned OMB control number 2120–0639.

This collection covers Canadian carriers or commuter operators needing to report to the FAA certain aspects of their operations at HDR airports. Specifically, FAA regulation requires notification of (1) requests for confirmation of transferred slots; (2) requests to be included in a lottery for available slots; (3) usage for slots on a bi-monthly basis; and (4) requests for short-term use of off peak hour slots. The total reporting burden associated with this rule is 66 hours. The requirement would be 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 current valid OMB control number. The OMB control number associated with the collection of this information is 2120–0639.

Federalism Implications

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

Energy Impact

The energy impact of this final rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (42 U.S.C. 6362). It has been determined that this proposed rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Alaska, Navigation (air), Reporting and recordkeeping.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 93 of Title 14, Code of Federal Regulations as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

2. Section 93.123 is amended in the first chart in paragraph (a) by adding a new footnote 5 in the headings in column 2 and 4 of the chart and by revising the heading of the fifth column to read as follows:

§ 93.123 High density traffic airports.

(a) * * *

IFR OPERATIONS PER HOUR—AIRPORT

Class of user				LaGuardia [4,5]	Newark	O'Hare [2,3,5]	Ronald Reagan National [1]
*	*	*	*	*	*	*	*

[1] Washington National Airport operations are subject to modifications per section 93.124.

[2] The hour period in effect at O'Hare begins at 6:45 a.m. and continues in 30-minute increments until 9:15 p.m.

[3] Operations at O'Hare International Airport shall not—

(a) Except as provided in paragraph (c) of the note, exceed 62 for air carriers and 13 for commuters and 5 for ''other'' during any 30-minute period beginning at 6:45 a.m. and continuing every 30 minutes thereafter.

(b) Except as provided in paragraph (c) of the note, exceed more than 120 for air carriers, 25 for commuters, and 10 for ''other'' in any two consecutive 30-minute periods.

(c) For the hours beginning as 6:45 a.m., 7:45 a.m., 11:45 a.m., 7:45 p.m. and 8:45 p.m., the hourly limitations shall be 105 for air carriers, 40 for commuters and 10 for ''other,'' and the 30-minute limitations shall be 55 for air carriers, 20 for commuters and 5 for ''other.'' For the hour beginning at 3:45 p.m., the hourly limitations shall be 115 for air carriers, 30 for commuters and 10 for ''others,'' and the 30-minute limitations shall be 60 for air carriers, 15 for commuters and 5 for ''other.''

[4] Operations at LaGuardia Airport shall not—

(a) Exceed 26 for air carriers, 7 for commuters and 3 for ''other'' during any 30-minute period.

(b) Exceed 48 for air carriers, 14 for commuters, and 6 for ''other'' in any two consecutive 30-minute period.

[5] Pursuant to bilateral agreement, 14 slots at LaGuardia and 24 slots at O'Hare are allocated to the Canadian carriers. These slots are excluded from the hourly quotas set forth in § 93.123 above.

* * * * *

3. Section 93.217 is amended by revising paragraphs (a) introductory text, (a)(5), (a)(6), (a)(8) and (a)(10)(i) to read as follows:

§ 93.217 Allocation of slots for international operations and applicable limitations.

(a) Any air carrier of commuter operator having the authority to conduct international operations shall be provided slots for those operations, excluding transborder service solely between HDR airports and Canada, subject to the following conditions and the other provisions of this section:

* * * * *

(5) Except as provided in paragraph (a)(10) of this section, at Kennedy and O'Hare Airports, a slot shall be allocated, upon request, for seasonal international operations, including charter operations, if the Chief Counsel of the FAA determines that the slot had been permanently allocated to and used by the requesting carrier in the same hour and for the same time period during the corresponding season of the preceding year. Requests for such slots must be submitted to the office specified in § 93.221(a)(1), by the deadline published in a **Federal Register** notice for each season. For operations during the 1986 summer season, requests under this paragraph must have been submitted to the FAA on or before February 1, 1986. Each carrier requesting a slot under this paragraph must submit its entire international schedule at the relevant airport for the particular season, noting which requests are in addition to or changes from the previous year.

(6) Except as provided in paragraph (a)(10) of this section, additional slots shall be allocated at O'Hare Airport for international scheduled air carrier and commuter operations (beyond those slots allocated under §§ 93.215 and 93.217(a)(5) if a request is submitted to the office specified in § 93.221(a)(1) and filed by the deadline published in a **Federal Register** notice for each season. These slots will be allocated at the time requested unless a slot is available within one hour of the requested time, in which case the unallocated slots will be used to satisfy the request.

* * * * *

(8) To the extent vacant slots are available, additional slots during the high density hours shall be allocated at Kennedy Airport for new international scheduled air carrier and commuter operations (beyond those operations for which slots have been allocated under §§ 93.215 and 93.217(a)(5)), if a request is submitted to the office specified in § 93.221(a)(1) by the deadline published in a **Federal Register** notice for each season. In addition, slots may be withdrawn from domestic operations for operations at Kennedy Airport under this paragraph if required by international obligations.

* * * * *

(10) * * *

(i) Allocation of the slot does not result in a total allocation to that carrier under this section that exceeds the number of slots allocated to and scheduled by that carrier under this section on February 23, 1990, and as reduced by the number of slots reclassified under § 93.218, and does not exceed by more than 2 the number of slots allocated to and scheduled by that carrier during any half hour of that day, or

* * * * *

3. A new § 93.218 is added to read as follows:

§ 93.218 Slots for transborder service to and from Canada.

(a) Except as otherwise provided in this subpart, international slots identified by U.S. carriers for international operations in December 1985 and the equivalent number of international slots held as of February 24, 1998, will be domestic slots. The Chief Counsel of the FAA shall be the final decisionmaker for these determinations.

(b) Canadian carriers shall have a guaranteed base level of slots of 42 slots at LaGuardia, 36 slots at O'Hare for the Sumner season, and 32 slots at O'Hare in the Winter season.

(c) Any modification to the slot base by the Government of Canada or the Canadian carriers that results in a decrease of the guaranteed base in paragraph (b) of this section shall permanently modify the base number of slots.

4. Section 93.223 is amended by adding a new paragraph (c)(4) to read as follows:

§ 93.223 Slot withdrawal.

* * * * *

(c) * * *

(4) No slot comprising the guaranteed base of slots, as defined in section 93.318(b), shall be withdrawn for use for international operations or for new entrants.

* * * * *

5. Section 93.225 is amended by revising paragraph (e) to read a follows:

§ 93.225 Lottery of available slots.

* * * * *

(e) Participation in a lottery is open to each U.S. air carrier or commuter operator operating at the airport and providing scheduled passenger service at the airport, as well as where provided for by bilateral agreement. Any U.S. carrier, or foreign air carrier where provided for by bilateral agreement, that is not operating scheduled service at the airport and has not failed to operate slots obtained in the previous lottery, or slots traded for those obtained by lottery, but wishes to initiate scheduled passenger service at the airport, shall be included in the lottery if that operator notifies, in writing, the Slot Administration Office, AGC–230, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. The notification must be received 15 days prior to the lottery date and state whether there is any common ownership or control of, by, or with any other air carrier or commuter operator as defined in § 93.213(c). New entrant and limited incumbent carriers will be permitted to complete their selections before participation by other incumbent carriers is initiated.

* * * * *

Issued in Washington, DC, on September 27, 1999.

Jane F. Garvey,

Administrator.

[FR Doc. 99–25453 Filed 9–30–99; 8:45 am]

BILLING CODE 4910–13–M

Friday
October 1, 1999

Part V

Department of Education

Direct Grant Programs; Notice

DEPARTMENT OF EDUCATION

Direct Grant Programs

AGENCY: Department of Education.

ACTION: Notice reopening application deadline dates for certain direct grant and fellowship programs.

SUMMARY: The Secretary reopens the deadline dates for the submission of applications by certain applicants (see ELIGIBILITY) under certain direct grant programs. All of the affected competitions are among those under which the Secretary is making new awards for fiscal year (FY) 2000. The Secretary takes this action to allow more time for the preparation and submission of applications by potential applicants adversely affected by severe weather conditions resulting from Hurricane Floyd. The reopenings are intended to help these potential applicants compete fairly with other applicants under these programs.

Note: Twelve of the affected programs or competitions are under the Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services. You can find information related to each of these under Group I. Three of the programs or competitions are under the National Institute on Disability and Rehabilitation Research, Office of Special Education and Rehabilitative Services. You can find information related to each of these under Group II.

ELIGIBILITY: The extension of deadline dates in this notice applies to you if you are a potential applicant in an area that the President declared a disaster area as a result of Hurricane Floyd. These areas include the following:

State	County and/or city
Connecticut	Fairfield, Hartford.
Delaware	New Castle.
Florida	Brevard, Broward, Dade, Duval, Flagler, Indian River, Martin, Nassau, Palm Beach, St. Johns, St. Lucie, Volusia.
Georgia	Bryan, Camden, Chatham, Glynn, Liberty, Mcintosh.
Maryland	Anne Arundel, Calvert, Caroline, Cecil, Charles, Harford, Kent, Queen Anne's, Somerset, St. Mary's, Talbot.
New Jersey	Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex, Union, Warren.
New York	Essex, Orange, Putnam, Rockland, Westchester.
North Carolina	Alamance, Anson, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lee, Lenoir, Martin, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Tyrrell, Union, Vance, Wake, Warren, Washington, Wayne, Wilson.
Pennsylvania	Bucks, Chester, Delaware, Lancaster, Montgomery, Philadelphia, York.
South Carolina	Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Chesterfield, Clarendon, Colleton, Darlington, Dillon, Dorchester, Florence, Georgetown, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Marlboro, Orangeburg, Richland, Sumter, Williamsburg.
Virginia	Accomack, Brunswick, Caroline, Chesapeake (city), Chesterfield, Colonial Heights (City), Dinwiddie, Emporia (city), Essex, Franklin (city) Gloucester, Greenville, Halifax, Hampton (city), Isle of Wight, James City, King and Queen, King William, Lancaster, Matthews, Mecklenberg, Middlesex, New Kent, Newport News (city), Norfolk (city), Northampton, Northumberland, Petersburg (city), Poquoson (city), Portsmouth (city), Prince George, Richmond, Richmond (city), Suffolk (city), Surry, Sussex, Southampton, Virginia Beach (city), Westmoreland, Williamsburg, York.

DATES: The new deadline date for transmitting applications under each competition is listed with that competition.

If the program in which you are interested is subject to Executive Order 12372 (that is, all competitions in Group I), the deadline date for the transmittal of State process recommendations by State Single Points of Contact (SSPOCs) and comments by other interested parties remains as originally posted: November 16, 1999.

ADDRESSES: The address and telephone number for obtaining applications for, or information about, an individual program are in the application notice for that program. We have listed the date and **Federal Register** citation of the application notice for each program.

If you use a telecommunications device for the deaf (TDD), you may call the TDD number, if any, listed in the individual application notice. If we have not listed a TDD number, you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

If you want to transmit a recommendation or comment under Executive Order 12372, you can find the addresses of individual SSPOCs in the appendix to the notice inviting applications for new awards for FY 1999 under the Community Technology Centers Program. This notice was published in the **Federal Register** on April 28, 1999 (64 FR 22960–22963). You can also find the list of SSPOCs in the appendix to the Forecast of Funding Opportunities under the Department of Education Discretionary Grant Programs for Fiscal Year (FY) 2000. This is available on the internet only at ed.gov/funding.html.

SUPPLEMENTARY INFORMATION: The following is specific information about each of the programs or competitions covered by this notice:

GROUP I.—REHABILITATION SERVICES ADMINISTRATION, OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

CFDA No. and name	Publication date and Federal Register cite	Original deadline date for applications	Revised deadline date for applications
84.129B Rehabilitation Long-Term Training-Vocational Rehabilitation Counseling	7/27/99 (64 FR 40585)	9/17/99	10/15/99
Rehabilitation Long-Term Training			
84.129C Rehabilitation Administration	7/27/99 (64 FR 40581)	9/17/99	10/15/99
84.129D–1 Physical Therapy			
84.129D–2 Occupational Therapy			
84.129E Rehabilitation Technology			
84.129F Vocational Evaluation and Work Adjustment			
84.129H Rehabilitation of Individuals Who Are Mentally Ill			
84.129J Rehabilitation Psychology			
84.129N Speech Pathology and Audiology			
84.129P Specialized Personnel for Rehabilitation of Individuals Who Are Blind or Have Vision Impairments			
84.129Q Rehabilitation of Individuals Who Are Deaf or Hard of Hearing			
84.129R Job Development and Job Placement Services to Individuals with Disabilities			
84.129W Rehabilitation Long Term Training-Comprehensive System of Personnel Development	7/27/99 (64 FR 40584)	9/17/99	10/15/99

GROUP II.—NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION, OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

CFDA No. and name	Publication date and Federal Register cite	Original deadline date for applications	Revised deadline date for applications
84.133F Research Fellowships	7/15/99 (64 FR 38248)	9/30/99	10/15/99
84.133G Field-Initiated Projects	7/15/99 (64 FR 38248)	9/30/99	10/15/99
84.133P Advanced Rehabilitation Research Training Projects	7/15/99 (64 FR 38248)	9/30/99	10/15/99

If you are an individual with a disability, you may obtain a copy of this notice in an alternate format (*e.g.* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the individual application notices.

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:

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Dated: September 29, 1999.

Thomas P. Skelly,

Acting Chief Financial Officer.

[FR Doc. 99–25705 Filed 9–29–99; 2:36 pm]

BILLING CODE 4000–01–U

Federal Register

Friday
October 1, 1999

Part VI

The President

Federal Register
Vol. 64, No. 190
Friday, October 1, 1999

Presidential Documents

Title 3—

The President

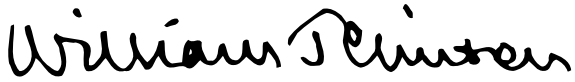
Presidential Determination No. 99–38 of September 21, 1999

Waiver of Sanctions on India and Pakistan

Memorandum for the Secretary of State[,] the Secretary of the Interior[, and the] Director, United States Information Agency

Pursuant to the authority vested in me as President of the United States, and consistent with section 902 of the India-Pakistan Relief Act of 1998 (Public Law 105–277), to the extent provided in that section, I hereby waive until October 20, 1999, the sanctions and prohibitions contained in sections 101 and 102 of the Arms Export Control Act insofar as such sanctions and prohibitions would otherwise apply to assistance to the Asian Elephant Conservation Fund, the Rhinoceros and Tiger Conservation Fund, and the Indo-American Environmental Leadership Program.

The Secretary of State is hereby authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 21, 1999.

[FR Doc. 99–25779
Filed 9–30–99; 9:43 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 99–39 of September 21, 1999

Military Assistance Under Section 506(a)(1) of the Foreign Assistance Act of 1961, as Amended, to States Participating in the Multinational Force for East Timor

Memorandum for the Secretary of State [and] the Secretary of Defense

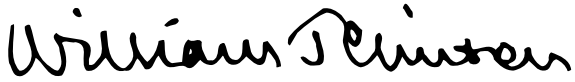
Pursuant to the authority vested in me by section 506(a)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2318(a)(1) (the ''Act''), I hereby determine that:

(1) an unforeseen emergency exists that requires immediate military assistance to states that may participate in the Multinational Force for East Timor; and,

(2) the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except section 506(a)(1) of the Act.

Therefore, I direct the drawdown of defense articles from the stocks the Department of Defense, defense services of the Department of Defense, and military education and training of an aggregate value not to exceed $55,000,000 to provide military assistance to such states to support their efforts and to enhance their capabilities to restore peace and security to East Timor.

The Secretary of State is authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 21, 1999.

[FR Doc. 99–25780
Filed 9–30–99; 9:43 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 99–40 of September 21, 1999

Drawdown of Commodities and Services Under Section 552(c)(2) of the Foreign Assistance Act of 1961, as Amended, for the United Nations Interim Administration Mission in Kosovo

Memorandum for the Secretary of State [and] the Secretary of Defense

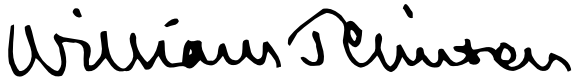
Pursuant to the authority vested in me by section 552(c)(2) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2348a(c)(2) (the ''Act''), I hereby determine that:

(1) as a result of an unforeseen emergency, the provision of assistance under Chapter 6 of Part II of the Act in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States; and

(2) such unforeseen emergency requires the immediate provision of assistance under Chapter 6 of Part II of the Act.

Therefore, I direct the drawdown of up to $5 million in commodities and services from the inventory and resources of the Department of Defense for the United Nations Interim Administration Mission in Kosovo.

The Secretary of State is authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 21, 1999.

[FR Doc. 99–25781
Filed 9–30–99; 9:43 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 99–41 of September 22, 1999

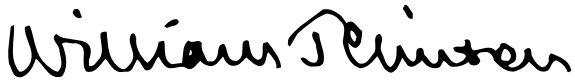
Certification To Permit U.S. Contributions to the International Fund for Ireland With Fiscal Year 1998 and 1999 Funds

Memorandum for the Secretary of State

Pursuant to section 5(c) of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415), as amended in section 2811 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), I hereby certify that I am satisfied that: (1) the Board of the International Fund for Ireland, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and (2) disbursements from the International Fund (a) will be distributed to individuals and entities whose practices are consistent with principles of economic justice; and (b) will address the needs of both communities in Northern Ireland and will create employment opportunities in regions and communities of Northern Ireland suffering from high rates of unemployment.

You are authorized and directed to transmit this determination, together with the attached statement setting forth a detailed explanation of the basis for this certification, to the Congress.

This determination shall be effective immediately and shall be published in the **Federal Register.**



THE WHITE HOUSE,
Washington, September 22, 1999.

[FR Doc. 99–25782
Filed 9–30–99; 9:43 am]
Billing code 4710–10–M

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FEDERAL REGISTER PAGES AND DATE, OCTOBER

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Affirmative action reform in Federal procurement; published 7-2-99

Small entity compliance guide; published 7-2-99

PENSION BENEFIT GUARANTY CORPORATION

Single-employer plans:

Allocation of assets—

RULES GOING INTO EFFECT OCTOBER 3, 1999

RULES GOING INTO EFFECT OCTOBER 4, 1999

COMMENTS DUE NEXT WEEK

Eurocopter France; comments due by 10-4-99; published 8-4-99

Raytheon; comments due by 10-4-99; published 8-20-99

Robinson Helicopter Co.; comments due by 10-4-99; published 8-4-99

Airworthiness standards:

Special conditions—

GEC-Marconi/Boeing Model 737-800 airplane; comments due by 10-4-99; published 8-18-99

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Glazing materials—

Low-speed vehicles, etc.; comments due by 10-4-99; published 8-4-99

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Pipeline safety:

Gas gathering lines, definition; electronic discussion forum; comments due by 10-8-99; published 7-1-99

TREASURY DEPARTMENT

Fiscal Service

Marketable Treasury securities redemption operations; comments due by 10-4-99; published 8-5-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 1905/P.L. 106–57
Legislative Branch Appropriations Act, 2000 (Sept. 29, 1999; 113 Stat. 408)

H.R. 2490/P.L. 106–58
Treasury and General Government Appropriations Act, 2000 (Sept. 29, 1999; 113 Stat. 430)

S. 1637/P.L. 106–59
To extend through the end of the current fiscal year certain expiring Federal Aviation Administration authorizations. (Sept. 29, 1999; 113 Stat. 482)

Last List October 1, 1999

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to www.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@www.gsa.gov** with the following text message:

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CFR ISSUANCES 1999
January—July 1999 Editions and Projected October, 1999 Editions

This list sets out the CFR issuances for the January–July 1999 editions and projects the publication plans for the **October, 1999** quarter. A projected schedule that will include the **January, 2000** quarter will appear in the first **Federal Register** issue of January.

For pricing information on available 1998–1999 volumes consult the CFR checklist which appears every Monday in the Federal Register.

Pricing information is not available on projected issuances. The weekly CFR checklist and the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR titles and parts, revision date and price of each volume.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

Titles revised as of January 1, 1999:

Title

CFR Index 200–End

1–2 (Cover only)

3 (Compilation)

4 (Cover only)

5 Parts:
1–699
700–1199
1200–End

6 [Reserved]

7 Parts:
1–26
27–52
53–209
210–299
300–399
400–699
700–899
900–999
1000–1199
1200–1599
1600–1899
1900–1939
1940–1949
1950–1999
2000–End

8

9 Parts:
1–199

10 Parts:
1–50
51–199
200–499
500–End

11

12 Parts:
1–199
200–219
220–299
300–499
500–599
600–End

13

14 Parts:
1–59
60–139
140–199
200–1199
1200–End

15 Parts:
0–299
300–799
800–End

16 Parts:
0–999
1000–End

Titles revised as of April 1, 1999:

Title

17 Parts:
1–199
200–239
240–End

18 Parts:
1–399
400–End

19 Parts:
1–140
141–199
200–End

20 Parts:
1–399
400–499
500–End (cover only)

21 Parts:
1–99
100–169
170–199
200–299
300–499
500–599
600–799
800–1299
1300–End

22 Parts:
1–299
300–End

23

24 Parts:
0–199
200–499
500–699
700–1699
1700–End

25

26 Parts:
1 (§§ 1.0-1–1.60)
1 (§§ 1.61–1.169)
1 (§§ 1.170–1.300)
1 (§§ 1.301–1.400)
1 (§§ 1.401–1.440)
1 (§§ 1.441–1.500)
1 (§§ 1.501–1.640) (cover only)
1 (§§ 1.641–1.850)
1 (§§ 1.851–1.907)
1 (§§ 1.908–1.1000)
1 (§§ 1.1001–1.1400)
1 (§ 1.1401–End)
2–29
30–39
40–49
50–299
300–499
500–599
600–End

27 Parts:
1–199
200–End

Titles revised as of July 1, 1999:

Title

28 Parts:
0–42
43–End

29 Parts:
0–99
100–499
500–899 (cover only)
900–1899
1900–1910.999
1910.1000–End
1911–1925
1926
1927–End

30 Parts:
1–199
200–699
700–End

31 Parts:
0–199
200–End

32 Parts:
1–190
191–399
400–629
630–699
700–799
800–End

33 Parts:
1–124
125–199
200–End

34 Parts:
1–299
300–399
400–End

35 (cover only)

36 Parts:
1–199
200–299
300–End

37

38 Parts:
0–17
18–End

39

40 Parts:
1–49
50–51
52 (§ 52.01—52.1018)
52 (§ 52.1019 to end)
53–59
60
61–62
63 (§ 63.1—63.1199)
63 (§ 63.1200—End)
64–71
72–80
81–85
86
87–135
136–149
150–189
190–259
260–265
266–299
300–399
400–424
425–699
700–789
790–End

41 Parts:
Chs. 1–100
Ch. 101
Chs. 102–200
Ch. 201–End

Projected October 1, 1999 editions:

Title

42 Parts:
1–399
400–429
430–End

43 Parts:
1–999
1000–End

44

45 Parts:
1–199
200–499
500–1199
1200–End

46 Parts:
1–40
41–69
70–89
90–139
140–155
156–165
166–199
200–499
500–End

47 Parts:
0–19
20–39
40–69
70–79
80–End

48 Parts:
Ch. 1 (1–51)
Ch. 1 (52–99)
Ch. 2 (201–299)
Chs. 3–6
Chs. 7–14
Ch. 15–28
Ch. 29–End

49 Parts:
1–99
100–185
186–199
200–399
400–999
1000–1199
1200–End

50 Parts:
1–199
200–599
600–End

TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 1999

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
October 1	October 18	November 1	November 15	November 30	December 30
October 4	October 19	November 3	November 18	December 3	January 4
October 5	October 20	November 4	November 19	December 6	January 4
October 6	October 21	November 5	November 22	December 6	January 4
October 7	October 22	November 8	November 22	December 6	January 5
October 8	October 25	November 8	November 22	December 7	January 6
October 12	October 27	November 12	November 26	December 13	January 11
October 13	October 28	November 12	November 29	December 13	January 11
October 14	October 29	November 15	November 29	December 13	January 12
October 15	November 1	November 15	November 29	December 14	January 13
October 18	November 2	November 17	December 2	December 17	January 16
October 19	November 3	November 18	December 3	December 20	January 19
October 20	November 4	November 19	December 6	December 20	January 19
October 21	November 5	November 22	December 6	December 20	January 19
October 22	November 8	November 22	December 6	December 21	January 20
October 25	November 9	November 24	December 9	December 27	January 25
October 26	November 10	November 26	December 10	December 27	January 25
October 27	November 12	November 26	December 13	December 27	January 25
October 28	November 12	November 29	December 13	December 27	January 26
October 29	November 15	November 29	December 13	December 28	January 27