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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

RIN Number 0551–AA58

Dairy Tariff-Rate Import Quota Licensing

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This final rule makes two revisions to Import Regulation 1, Revision 8, which governs the administration of the tariff-rate import quota (TRQ) licensing system for certain dairy products. It broadens the definition for ''Licensing Authority'' and provides for the review and correction of errors made by officers or employees of the Federal Government.

EFFECTIVE DATE: This final rule is effective on February 9, 2000.

FOR FURTHER INFORMATION CONTACT: Richard P. Warsack, Dairy Import Quota Manager, Import Policies and Programs Division, 1400 Independence Avenue SW, AG BOX 1021, U.S. Department of Agriculture, Washington, DC 20250–1021 or e-mail at warsack@fas.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12372

This program is not subject to the provision of Executive Order 12372, which requires intergovernmental consultation with State or local officials. (See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983).

Executive Order 12988

This final rule has been reviewed under Executive Order 12988. The provisions of this final rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The final rule would not have retroactive effect. The rule does not require that administrative remedies be exhausted before suit may be filed.

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. It has been determined to be not significant for the purpose of E.O. 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Office of the Secretary is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

In accordance with provisions of the Paperwork Reduction Act of 1995, the current information collection is approved by OMB under OMB control number 0551–0001, expiring on October 31, 2000. The final rule would not add a paperwork burden on the public.

Background

This final rule revises Import Regulation 1, Revision 8, that governs the administration of the import licensing system for certain dairy products, which are subject to TRQs provided for in the Harmonized Tariff Schedule of the United States (HTS). The final rule amends § 6.21 by changing the definition of ''Licensing Authority.'' Also, the final rule adds a new § 6.35, Correction of Errors. This section provides that if a person demonstrates, to the satisfaction of the Licensing Authority, that errors were made by officers or employees of the United States Government, the Licensing Authority will review and rectify the errors to the extent possible under the regulation. Licenses issued annually by the U.S. Department of Agriculture qualify importers to enter specific quantities of certain dairy products under the low-tier tariff rates established in the HTS.

Discussion of Major Comments

One comment was received in response to the proposed rule published in the **Federal Register**, 64 FR 42288, August 4, 1999. The comment stated that the proposed rule should not set a deadline for discovery of errors. Based on the comment, the Department reviewed the proposed rule and extended the deadline date for notification to the Licensing Authority in the final rule from March 15 to August 31 of the calendar year following the calendar year during which the alleged error occurred. The Department believes that changing the proposed deadline date from March 15 to August 31 provides licensees adequate time to review their final license portfolio which USDA would have issued in mid-March of the same year. In addition, USDA chose the August 31 date for administrative reasons because it is the last day before the beginning of the next application period for dairy product import licenses. The Department believes that all licensees should know immediately upon receiving the final licenses in mid-March whether the license amounts in their current portfolio are correct or if an error has been committed.

The Department clarified § 6.35(b) and added language to indicate that licensees must notify the Department of any errors by letter, postmarked not later than August 31.

List of Subjects in 7 CFR Part 6

Agricultural commodities, Cheese, Dairy products, Reports and recordkeeping requirements.

Final Rule

Accordingly, 7 CFR part 6 subpart—Dairy Tariff-Rate Import Quota Licensing is amended to read as follows:

PART 6—[AMENDED]

Subpart—Tariff-Rate Import Quota Licensing

1. The authority citation for part 6 subpart—Dairy Tariff-Rate Import Quota Licensing, continues to read as follows:

Authority: Additional U.S. Notes 6, 7, 8, 12, 14, 16–23 and 25 to Chapter 4 and General Note 15 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), Pub. L. 97–258, 96 Stat. 1051, as amended (31 U.S.C. 9701), and secs. 103 and 104, Pub. L. 103–465, 108 Stat. 4819 (19 U.S.C. 3513 and 3601).

2. Amend § 6.21 by revising the definition of *Licensing Authority* to read as follows:

§ 6.21 Definitions.

* * * * *

Licensing Authority. Any officer or employee of the U.S. Department of Agriculture designated to act in this position by the Director of the Division charged with managing the Dairy Tariff-Rate Import Quota Licensing System, currently the Import Policies and Programs Division of the Foreign Agricultural Service.

* * * * *

3. Redesignate § 6.35 and 6.36 as § 6.36 and 6.37 respectively.

4. Add a new § 6.35 to read as follows:

§ 6.35 Correction of errors.

(a) If a person demonstrates, to the satisfaction of the Licensing Authority, that errors were made by officers or employees of the United States Government, the Licensing Authority will review and rectify the errors to the extent permitted under this subpart.

(b) To be considered, a person must provide sufficient documentation regarding the error to the Licensing Authority by letter, postmarked not later than August 31 of the calendar year following the calendar year in which the error was alleged to have been committed.

(c) If the error resulted in the loss of a historical license by a license holder, the Licensing Authority will transfer the amount of such license from Appendix 2 to Appendix 1 in order to provide for the issuance of such license in the calendar year following the calendar year for which the license was revoked. The cumulative annual transfers to Appendix 1 in accordance with this paragraph will be published in the **Federal Register**.

Signed at Washington, DC on November 29, 1999.

Timothy J. Galvin,

Administrator, Foreign Agricultural Service.

[FR Doc. 00–409 Filed 1–7–00; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

[Docket No. 97–025–1]

Organization, Functions, and Delegations of Authority

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization, functions, and delegations of authority of the Animal and Plant Health Inspection Service (APHIS) to reflect changes in the internal APHIS organization. APHIS units are already functioning as described in this rule. The new internal APHIS organization stimulates interdependence and cooperation throughout the agency, enhances the ability of the Administrator to manage the agency, and provides improved support to the field organization through better planning, clearer direction, timely action, and better use of resources.

EFFECTIVE DATE: December 23, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Ira Johnson, Jr., Position Classification Specialist, Human Resources Division, MRPBS, APHIS, Room 1724, 14th Street and Independence Avenue, SW, Washington, DC 20250; (202) 720–9407.

SUPPLEMENTARY INFORMATION:

Background

The statement of organization, functions, and delegations of authority of the Animal and Plant Health Inspection Service (APHIS) is being revised to reflect changes made in the internal APHIS organization. These changes create a headquarters organization based on function, rather than program discipline.

The statement of organization, functions, and delegations of authority was approved by APHIS and the United States Department of Agriculture (USDA) management after a comprehensive review of all APHIS activities.

The major changes in the statement of organization, functions, and delegations of authority are as follows:

1. Redefine the Roles of the Plant Protection and Quarantine (PPQ) Unit

PPQ has added responsibilities which include: Assisting in the development, adoption, and enforcement of sanitary and phytosanitary measures regulating the field release, interstate movement, and importation of genetically modified organisms that may contain plant pests; serving as a member of the North American Plant Protection Organization; and enforcing animal disease exclusion policies, procedures, and regulations at international ports of entry relative to all animal products and associated materials.

2. Redefine the Roles of the Veterinary Services (VS) Unit

VS has added the responsibility of planning, directing, and coordinating the activities for the Center for Veterinary Biologics and the administration of a veterinary biologics program.

3. Redesignate the Management and Budget (M&B) Unit as Marketing and Regulatory Programs Business Services (MRPBS) and Redefine Its Roles

This redesignation better reflects the actual functions of this unit. MRPBS has added the responsibility of directing and coordinating program activities related to investigations and enforcement of APHIS laws and regulations.

4. Redesignate the Animal Damage Control (ADC) Unit as the Wildlife Services (WS) Unit

This redesignation better reflects the actual functions of this unit.

5. Redesignate the Regulatory Enforcement and Animal Care (REAC) Unit as the Animal Care (AC) Unit and Redefine Its Roles

This redesignation better reflects the actual functions of this unit. AC is no longer responsible for directing the formal investigation of reported violations of laws and regulations applicable to APHIS activities. AC still has the responsibility of directing activities to ensure compliance with and enforcement of animal welfare and horse protection laws and the regulations promulgated under those laws.

6. Redefine the Roles of the Policy and Program Development (PPD) Unit

PPD has added responsibilities that include ensuring agency compliance with the National Environmental Policy Act, handling environmental documentation activities for the agency, and handling pesticide and animal drug registration responsibilities.

7. Reassign the Responsibilities of the Former Recruitment and Development (R&D) Unit

R&D's responsibilities have been reassigned to MRPBS, PPQ, and VS.

8. Reassign the Responsibilities of the Former Science and Technology (S&T) Unit

S&T's responsibilities have been reassigned to PPQ, VS, and WS.

9. Reassign the Responsibilities of the Former Biotechnology, Biologics, and Environmental Protection (BBEP) Unit

BBEP's responsibilities have been reassigned to PPD, PPQ, and VS.

10. Continuing Responsibilities of the Legislative and Public Affairs (LPA) Unit

LPA's responsibilities within the Agency remain the same.

11. Continuing Responsibilities of the International Services (IS) Unit

IS' responsibilities within the Agency remain the same.

We have also made a number of editorial changes.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Also, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12866. Further, this action is not a rule as defined by 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Authority delegations (Government agencies), Organization and functions (Government agencies).

1. Part 371 is revised to read as follows:

PART 371—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Sec.

371.1 General Statement.
371.2 The Office of the Administrator.
371.3 Plant Protection and Quarantine.
371.4 Veterinary Services.
371.5 Marketing and Regulatory Programs Business Services.
371.6 Wildlife Services.
371.7 Animal Care.
371.8 International Services.
371.9 Policy and Program Development.
371.10 Legislative and Public Affairs.
371.11 Delegations of authority.
371.12 Concurrent authority and responsibility to the Administrator.
371.13 Reservation of authority.
371.14 Availability of information and records.

Authority: 5 U.S.C. 301.

§ 371.1 General statement.

(a) *The creation of APHIS.* The Animal and Plant Health Inspection Service (APHIS) was created by the Secretary of Agriculture on April 2, 1972 (37 FR 6327, March 28, 1972).

(b) *Central offices.* APHIS is headquartered in Washington, DC, and Riverdale, MD. The APHIS Management Team at these locations consists of the following:

Administrator
Associate Administrator
Deputy Administrator, Plant Protection and Quarantine (PPQ)
Deputy Administrator, Veterinary Services (VS)
Deputy Administrator, Marketing and Regulatory Programs Business Services (MRPBS)
Deputy Administrator, Wildlife Services (WS)
Deputy Administrator, Animal Care (AC)
Deputy Administrator, International Services (IS)
Director, Policy and Program Development (PPD)
Director, Legislative and Public Affairs (LPA)

(c) *Field organization.* AC, MRPBS, PPQ, VS, and WS all have field offices located throughout the United States. IS has field offices located throughout the world. A list of APHIS' field offices with addresses and telephone numbers is in the blue pages of local telephone books.

§ 371.2 The Office of the Administrator.

(a) *The Administrator.* (1) The Administrator of APHIS formulates, directs, and supervises the execution of APHIS policies, programs, and activities.

(2) The Administrator is authorized to take any action authorized by law and deemed necessary to carry out APHIS functions. Delegations of authority by the Administrator and provisions for redelegations of authority are stated in § 371.11.

(b) *The Associate Administrator.* The Associate Administrator of APHIS shares responsibility with the Administrator for general direction and supervision of APHIS programs and activities. The Associate Administrator may act for the Administrator.

§ 371.3 Plant protection and quarantine.

(a) *General statement.* Plant Protection and Quarantine (PPQ) protects and safeguards the Nation's plant resources through programs and activities to prevent the introduction and spread of plant pests and diseases.

(b) *Deputy Administrator of PPQ.* The Deputy Administrator of PPQ is responsible for:

(1) Participating with the Administrator of APHIS and other officials in the planning and formulation of policies, programs, procedures, and activities of APHIS.

(2) Providing direction and coordination for PPQ programs and activities. The authorities for PPQ programs include:

(i) Section 102, Organic Act of September 21, 1944, as amended, and the Act of April 6, 1937, as amended (7 U.S.C. 147a, 148, and 148a–148e), relating to control and eradication of plant pests and diseases;

(ii) The Mexican Border Act, as amended (7 U.S.C. 149);

(iii) The Golden Nematode Act (7 U.S.C. 150 through 150g);

(iv) The Federal Plant Pest Act, as amended (7 U.S.C. 150aa through 150jj);

(v) The Plant Quarantine Act, as amended (7 U.S.C. 151 through 164a, and 167);

(vi) The Terminal Inspection Act, as amended (7 U.S.C. 166);

(vii) The Honeybee Act, as amended (7 U.S.C. 281 through 286);

(viii) The Federal Noxious Weed Act of 1974, as amended (7 U.S.C. 2801 through 2814);

(ix) The Endangered Species Act of 1973 (16 U.S.C. 1531–1544);

(x) Executive Order 11987;

(xi) The responsibilities of the United States under the International Plant Protection Convention;

(xii) Lacey Act Amendments of 1981, as amended (16 U.S.C. 3371 through 3378);

(xiii) Title III (and Title IV to the extent that it relates to activities under Title III) of the Federal Seed Act, as amended (7 U.S.C. 1581 through 1610);

(xiv) Authority to prescribe and collect fees under The Act of August 31, 1951, as amended (31 U.S.C. 9701), and sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136 and 136a).

(3) Developing of regulations (including quarantines) regarding noxious weeds and plant pests and diseases.

(4) Cooperating with and providing technical assistance to State and local governments, farmer's associations, and individuals with regard to plant pest control. Cooperating with and providing technical assistance to foreign governments with regard to plant pests and diseases.

(5) Assisting in the development of sanitary and phytosanitary measures.

(6) Regulating the field release into the environment, interstate movement, and importation of genetically modified organisms.

(7) Serving as a member of the North American Plant Protection Organization (NAPPO). NAPPO is composed of plant protection officials and industry cooperators from Canada, Mexico, and the United States.

(8) Administering plant and animal pest and disease exclusion policies, procedures, and regulations at

international ports of entry (land, sea, and air) relative to all plants and plant and animal products and associated materials (excluding live animals).

(9) Providing laboratory support, diagnostic services, methods development, and research activities in support of PPQ programs.

§ 371.4 Veterinary Services.

(a) *General statement.* Veterinary Services (VS) protects and safeguards the Nation's livestock and poultry through programs and activities to prevent the introduction and spread of pests and disease of livestock and poultry. VS also provides leadership and coordinates activities pertaining to veterinary biologics.

(b) *Deputy Administrator of VS.* The Deputy Administrator of VS is responsible for:

(1) Participating with the Administrator of APHIS and other officials in the planning and formulation of policies, programs, procedures, and activities of APHIS.

(2) Providing direction and coordination for the activities of the Center for Veterinary Biologics.

(3) Providing direction and coordination for VS programs and activities.

The authorities for VS programs include:

(i) Section 306 of the Tariff Act of June 17, 1930, as amended (19 U.S.C. 1306);

(ii) Act of August 30, 1890, as amended (21 U.S.C. 102 through 105);

(iii) Act of May 29, 1884, as amended, Act of February 2, 1903, as amended, and Act of March 3, 1905, as amended, and supplemental legislation (21 U.S.C. 111 through 114a, 114a through 114a–1, and 115 through 130);

(iv) Act of February 28, 1947, as amended (21 U.S.C. 114b through 114c, and 114d–1);

(v) Act of June 16, 1948 (21 U.S.C. 114e through 114f);

(vi) Act of September 6, 1961 (21 U.S.C. 114g through 114h);

(vii) Act of July 2, 1962 (21 U.S.C. 134 through 134h);

(viii) Act of May 6, 1970 (21 U.S.C. 135 through 135b);

(ix) Sections 12 through 14 of the Federal Meat Inspection Act, as amended, and the portion of Section 18 of the Act that pertains to the issuance of certificates of condition of live animals intended and offered for export (21 U.S.C. 612 through 614, and 618);

(x) Improvement of poultry, poultry products, and hatcheries (7 U.S.C. 429);

(xi) 28 Hour Law, as amended (49 U.S.C. 80502);

(xii) Act of August 26, 1983, as amended (46 U.S.C. 3901 through 3902);

(xiii) Harmonized Tariff Schedule of the United States;

(xiv) Virus-Serum-Toxin Act (21 U.S.C. 151 through 159);

(xv) Sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended, with respect to voluntary inspection and certification of animal products; inspection, testing, treatment, and certification of animals; and a program to investigate and develop solutions to the problems resulting from the use of sulfonamides in swine (7 U.S.C. 1622 and 1624);

(xvi) Section 101(d) of the Organic Act of September 21, 1944 (7 U.S.C. 430);

(xvii) The Swine Health Protection Act (7 U.S.C. 3801 through 3813);

(xviii) Conducting diagnostic and related activities necessary to prevent, detect, control, or eradicate foot-and-mouth disease and other animal diseases (21 U.S.C. 113a);

(xix) Authority to prescribe and collect fees under the Act of August 31, 1951, as amended (31 U.S.C. 9701), and sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136 and 136a); and

(xx) Transportation of horses to slaughter under sections 901–905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note).

(4) Directing and coordinating animal health information systems and maintaining a Federal-State program operation capable of responding to exotic livestock and poultry disease outbreaks.

(5) Cooperating with and providing technical assistance to State and local governments, farmer's associations and similar organizations, and individuals with regard to VS programs and activities. Cooperating with and providing technical assistance to foreign governments with regard to pests and diseases of livestock and poultry.

(6) Providing laboratory support, diagnostic services, methods development, and research activities in support of VS programs.

§ 371.5 Marketing and Regulatory Programs Business Services.

(a) *General statement.* Marketing and Regulatory Programs Business Services (MRPBS) plans and provides for the agency's human, financial, and physical resources.

(b) *Deputy Administrator of MRPBS.* The Deputy Administrator of MRPBS is responsible for:

(1) Assisting the Under Secretary for Marketing and Regulatory Programs, and the Administrators of APHIS, the Agricultural Marketing Service (AMS), and the Grain Inspection and Packers and Stockyards Administration (GIPSA), and other APHIS, AMS, and GIPSA officials in the planning and formulation of MRP policies, programs, and activities. Providing human resource, certain financial, and management services for AMS, APHIS, and GIPSA.

(2) Planning, formulating and coordinating policies, and directing management support functions for APHIS and designated functions for other MRP agencies, including finance, personnel, and management services.

(3) Conducting administrative reviews and inspections in APHIS to assess the implementation of policies and procedures and to assess the accomplishments of program objectives.

(4) Evaluating and issuing administrative directives.

(5) Serving as APHIS' liaison official with the General Accounting Office and the Office of the Inspector General.

(6) Preparing cooperative agreements, memoranda of understanding, agreements between APHIS and other agencies, and agreements that require the signature of more than one Deputy Administrator or Director.

(7) Directing and coordinating investigations related to APHIS program laws and regulations and coordinating enforcement of program laws and regulations with the Office of the General Counsel.

(8) Supporting and enforcing APHIS program activities, which include:

(i) Title 7, Code of Federal Regulations, §§ 371.3(b)(2)(i) through (xiv);

(ii) Title 7, Code of Federal Regulations, §§ 371.4(b)(3)(i) through (xx);

(iii) The Animal Welfare Act, as amended (7 U.S.C. 2131 through 2159); and

(iv) The Virus-Serum Toxin Act, as amended (21 U.S.C. 159).

(9) Formulating and recommending employee development and training policies.

(10) Developing, delivering, and administering organizational development, training, recruitment, and employee development programs for MRP agencies.

(11) Providing computer support and related services for APHIS.

§ 371.6 Wildlife Services.

(a) *General statement.* Wildlife Services (WS) manages problems caused by wildlife.

(b) *Deputy Administrator of WS.* The Deputy Administrator of WS is responsible for:

(1) Participating with the Administrator of APHIS and other

officials in the planning and formulation of policies, programs, procedures, and activities of APHIS.

(2) Providing direction and coordination for programs authorized by the Act of March 2, 1931 (7 U.S.C. 426 and 426b, as amended).

(3) Assisting Federal, State, local, and foreign agencies and individuals with regard to wildlife damage and control.

(4) Conducting research to develop wildlife damage management methods.

§ 371.7 Animal Care.

(a) *General statement.* Animal Care (AC) establishes acceptable standards of humane care and treatment for regulated animals and monitors and achieves compliance through inspections, enforcement, education, and cooperative efforts under the Animal Welfare and Horse Protection Acts.

(b) *Deputy Administrator of AC.* The Deputy Administrator of AC is responsible for:

(1) Participating with the Administrator of APHIS and other officials in the planning and formulation of policies, programs, and activities of APHIS.

(2) Directing activities to ensure compliance with and enforcement of animal welfare and horse protection laws and regulations. These laws are:

(i) The Animal Welfare Act, as amended (7 U.S.C. 2131 through 2159); and

(ii) The Horse Protection Act (15 U.S.C. 1821 through 1831).

(3) Providing recommendations for policy and program changes and promulgating requirements, procedures, and guidelines for the conduct of field activities relating to AC programs.

§ 371.8 International Services.

(a) *General statement.* International Services (IS) protects U.S. agriculture and enhances agricultural trade with foreign countries.

(b) *Deputy Administrator of IS.* The Deputy Administrator of IS is responsible for:

(1) Participating with the Administrator of APHIS and other officials in the planning and formulation of international policies, programs, and activities of APHIS.

(2) Maintaining and administering the foreign service personnel system for employees of APHIS in accordance with section 202(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3922), E.O. 12363, dated May 21, 1982, and the provisions of § 2.51(a)(1) of this title.

(3) Developing and maintaining systems for monitoring and reporting the presence and movement of plant and animal diseases and pests in foreign countries.

(4) Developing and maintaining cooperative relationships and programs with other Federal agencies, foreign governments, industry, and international organizations, such as the Food and Agriculture Organization of the United Nations, with regard to APHIS activities in foreign countries.

(5) Developing and maintaining systems for observing the effects of plant and animal diseases in foreign countries and evaluating their effect on the agriculture industry.

(6) Developing and directing programs to enhance the trade in U.S. plants, animals, and their products in compliance with established international sanitary and phytosanitary standards.

(7) Providing recommendations for policy and program changes, and promulgating requirements, procedures, and guidelines for the conduct of field activities relating to IS programs.

§ 371.9 Policy and Program Development.

(a) *General statement.* Policy and Program Development (PPD) provides analytical support for agency decisions and plans.

(b) *Director of PPD.* The Director of PPD is responsible for:

(1) Participating with the Administrator of APHIS and other officials in the planning and formulation of APHIS policies, programs, and activities.

(2) Providing planning and evaluations; regulations development; and policy, risk, and economic analysis for APHIS programs.

(3) Analyzing the environmental effects of APHIS programs to ensure their compliance with environmental laws and regulations and providing support for pesticide registration and drug approval.

(4) Coordinating registration of chemicals and other substances used in APHIS control and eradication programs.

§ 371.10 Legislative and Public Affairs.

(a) *General statement.* Legislative and Public Affairs (LPA) is the communications arm of APHIS.

(b) *Director of LPA.* The Director of LPA is responsible for:

(1) Advising and assisting the Administrator and other officials on matters relating to agency legislative and media affairs.

(2) Preparing legislative proposals for APHIS programs and responsibilities. Assisting in compiling support material for agency witnesses for congressional hearings. Preparing legislative reports.

(3) Establishing and maintaining liaison with Members of Congress, various congressional committees and subcommittees, and their staffs on matters pertaining to APHIS.

(4) Planning and conducting an information program to promote interest in and increase the public knowledge of APHIS programs and activities.

(5) Drafting and administering policy guidelines on press contacts, photography, audiovisual activities, graphic design, radio-TV, and policy/editorial/graphics clearances for publications. Planning and conducting a program to explain APHIS policies in written form to Members of Congress, State and industry leaders, officials of foreign governments, and private citizens.

(6) Preparing replies to written inquiries and establishing and maintaining a system for the control of written inquiries referred by the Office of the Secretary or sent directly to the agency.

(7) Assisting in the preparation of position papers regarding APHIS programs.

(8) Assisting in the preparation of directives, procedural manuals, articles for publication, and agency correspondence. Coordinating APHIS activities within the scope of the Freedom of Information Act and the Privacy Act.

§ 371.11 Delegations of authority.

(a) *Associate Administrator.* The Associate Administrator is delegated the authority to perform the duties and to exercise the functions and powers that are now, or that may become, vested in the Administrator, including the power of redelegation except where prohibited, and including authority reserved to the Administrator in § 371.14 of this part. The Associate Administrator is also authorized to act for the Administrator in the absence of the Administrator.

(b) *Deputy Administrators and Directors.* The Deputy Administrators of Plant Protection and Quarantine (PPQ), Veterinary Services (VS), Wildlife Services (WS), Marketing and Regulatory Programs Business Services (MRPBS), Animal Care (AC), and International Services (IS); the Directors of Policy and Program Development (PPD) and Legislative and Public Affairs (LPA); and the officers they designate to act for them, with prior specific approval of the Administrator, are delegated the authority, severally, to perform duties and to exercise the functions and powers that are now, or that may become vested in the Administrator (including the power of redelegation, except where prohibited) except authority that is reserved to the Administrator. Each Deputy

Administrator or Director shall be responsible for the programs and activities in APHIS assigned to that Deputy Administrator or Director.

§ 371.12 Concurrent authority and responsibility to the Administrator.

(a) *Delegations that preclude the Administrator or each Deputy Administrator or Director from exercising powers or functions.* No delegation or authorization in this part shall preclude the Administrator or each Deputy Administrator or Director from exercising any of the powers or functions or from performing any of the duties conferred upon each, respectively. Any delegation or authorization is subject, at all times, to withdrawal or amendment by the Administrator, and in their respective fields, by each Deputy Administrator or Director. The officers to whom authority is delegated in this part shall:

(1) Maintain close working relationships with the officers to whom they report.

(2) Keep them advised with respect to major problems and developments.

(3) Discuss with them proposed actions involving major policy questions or other important considerations or questions, including matters involving relationships with other Federal agencies, other agencies of the Department, other divisions, staffs, or offices of the agency, or other governmental, private organizations, or groups.

(b) *Prior authorizations and delegations.* All prior delegations and redelegations of authority relating to any function, program, or activity covered by the statement of Organization, Functions, and Delegations of Authority, shall remain in effect except as they are inconsistent with this part or are amended or revoked. Nothing in this part shall affect the validity of any action taken previously under prior delegations or redelegations of authority or assignments of functions.

§ 371.13 Reservation of authority.

The following are reserved to the Administrator, or to the individual designated to act for the Administrator:

(a) The initiation, change, or discontinuance of major program activities.

(b) The issuance of regulations pursuant to law.

(c) The transfer of functions between Deputy Administrators and Directors.

(d) The transfer of funds between Deputy Administrators and Directors.

(e) The transfer of funds between work projects within each Deputy Administrator's or Director's area, except those not exceeding 10 percent of base funds or $50,000 in either work project, whichever is less.

(f) The approval of any change in the formal organization, including a section, its equivalent, or higher level.

(g) The making of recommendations to the Department concerning establishment, consolidation, change in location, or abolishment of any regional, State, area, and other field headquarters, and any region or other program area that involves two or more States, or that crosses State lines.

(h) Authority to establish, consolidate, change a location, abolish any field office, or change program area boundaries not included in paragraph (g) of this section.

(i) Approval of all appointments, promotions, and reassignments at the GS–14 level and above.

(j) Authorization for foreign travel and for attendance at foreign and international meetings, including those held in the United States.

(k) Approval of all appointments, promotions, and reassignments of employees to foreign countries.

(l) Approval of program budgets.

(m) Authority to determine the circumstances under which commuted traveltime allowances may be paid to employees performing inspections and necessary auxiliary services after normal working hours or on holidays, when these services come within the scope of the Act of August 28, 1950 (7 U.S.C. 2260).

§ 371.14 Availability of information and records.

Any person desiring information or to comment on the programs and functions of the agency should address correspondence to the appropriate Deputy Administrator or Director, APHIS, U.S. Department of Agriculture, Washington, DC 20250. The availability of information and records of the agency is governed by the rules and regulations in part 370 of this chapter.

Done in Washington, DC, this 23rd day of December 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–435 Filed 1–7–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 997, 998, and 999

[Docket Nos. FV99–997–2 FIR, FV99–998–1 FIR, and FV99–999–1 FIR]

Domestically Produced and Imported Peanuts; Change in the Maximum Percentage of Foreign Material Allowed Under Quality Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule changing the outgoing quality control requirements currently prescribed under Marketing Agreement No. 146 (Agreement). The Agreement regulates the handling of peanuts grown in 16 States and is administered locally by the Peanut Administrative Committee (Committee). This rule continues to relax the allowance for foreign material to .20 percent from .10 percent in the three ''with splits'' edible grade categories to make them consistent with the other seven edible grade categories, as unanimously recommended by the Committee. The same change continues to apply to peanuts handled by handlers who have not signed the Agreement, and to imported peanuts.

EFFECTIVE DATE: February 9, 2000.

FOR FURTHER INFORMATION CONTACT: George Kelhart, Technical Advisor, of the Marketing Order Administration Branch, FVP, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698; or Jim Wendland, Marketing Specialist, DCMFO, MOAB, FVP, AMS, USDA, 4700 River Road, Unit 155, Suite 5D03, Riverdale, MD 20737; phone (301) 734–5246, Fax (301) 734–5275 or E-mail: james.wendland@usda.gov. or george.kelhart@usda.gov.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, at the first address above, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 146 (Agreement) (7 CFR part 998), regulating the handling of peanuts grown in 16 States. The Agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended (Act) (7 U.S.C. 601–674). Also, subparagraph (f)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C.

1445c3) and section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271) provide that the Secretary of Agriculture shall require that all peanuts in the domestic and export markets fully comply with all quality requirements under the Agreement. This has been implemented through regulations governing peanuts handled by persons not subject to the Agreement (non-signers program) (7 CFR part 997) and regulations governing imports of peanuts (peanut import regulation) (7 CFR part 999). Thus, the Agreement and the non-signers regulations regulate the quality of domestically produced peanuts and the peanut import regulations regulate the quality of imported peanuts.

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

This 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. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The outgoing quality requirements under the Agreement were changed in August 1998, as unanimously recommended by the Peanut Administrative Committee (Committee). The Committee is responsible for local administration of Marketing Agreement No. 146's quality assurance program in the 16–State peanut production area. The four basic varieties of peanuts produced domestically are: Runners, which account for about 75 percent of total U.S. production; Virginias, which have the largest kernels; Spanish, which have smaller kernels but higher oil content; and Valencias, which are very sweet and are grown mostly in New Mexico. Each of the grades may be certified ''with splits'' (where the two halves have come apart) provided all applicable quality requirements are met. A Sound Split and Broken Kernels tolerance of 15 percent is allowed, of which not more than 3 percent will pass thru a prescribed screen.

At its April 30, 1997, meeting the Committee unanimously recommended that for the 1997 and subsequent crop years the outgoing quality regulation and the terms and conditions of indemnification be amended to provide that all lots of edible quality peanuts be eligible for indemnification. This recommendation was adopted. Prior to 1997 only edible quality peanuts meeting specifications applicable to indemnifiable grades were eligible for indemnification. Basically, this indemnification program insured that if a handler's milled peanuts met the Agreement's requirements when shipped but were later found to be out of compliance, the Committee would provide reimbursement to the handler for those peanuts if a valid claim was submitted.

This modification to § 998.200 (a) of the Agreement removed Table (2) INDEMNIFIABLE GRADES from the Agreement (63 FR 2846; January 16, 1998). The modification inadvertently eliminated the specifications applicable to all nine of the INDEMNIFIABLE GRADE CATEGORIES. The Committee's intent was to cause all edible grade categories of peanuts to be eligible for indemnification benefits, not to eliminate any grade specifications. The Committee therefore unanimously recommended incorporating the last three categories of Table 2—Runner with splits, Virginia with splits, and Spanish and Valencia with splits—into Table 1 which had been retained in § 998.200. That recommendation was finalized and published in the August 23, 1998, issue of the **Federal Register** (63 FR 41323).

However, at that time, the Committee inadvertently did not include a request for modification of the tolerance for foreign material in the three categories which were moved. The foreign material allowance in the three moved categories was .10 percent in the old Table 2. Therefore, these three moved categories were not consistent with the foreign material allowance of the other seven edible peanut categories already listed in the MAXIMUM LIMITATIONS table in § 998.200 of the Agreement. Retaining different allowances would only cause confusion in the industry. Therefore, in order to eliminate any confusion and correct the situation, the Committee unanimously recommended at its March 18, 1999, public meeting to request an increase in the allowance for the three ''with splits'' categories to .20 percent. This would make all 10 edible peanut categories consistent. This rule continues implementation of that recommendation.

The Agricultural Act of 1949 and the Federal Agriculture Improvement and Reform Act of 1996 provide that the Secretary of Agriculture shall require that all peanuts in the domestic and export markets fully comply with all quality requirements under the Agreement. Thus, this action continues to apply to Agreement signer and non-signer handlers, and peanut importers for the remainder of the crop year ending June 30, 2000, and subsequent crop years.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule 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 agreements issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, these statutes have small entity orientation and compatibility. There are approximately 36 peanut handlers and 15 importers who are subject to regulation under the Agreement, the non-signers program, or the peanut import regulation, and approximately 23,000 commercial peanut producers in the 16-State production area. Small agricultural service firms, which include handlers and importers, are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. Approximately 25 percent of the signatory handlers, less than one-third of the importers, virtually all of the non-signer handlers, and most of the producers may be classified as small entities. In addition, based on the 1998 marketing year average price received by farmers of 25.5¢ per pound times approximately 3.96 billion pounds production results in the value of domestic production totaled about $1.01 billion. Dividing this by approximately 23,000 producers results in an average annual producer revenue of approximately $44,000. Regarding peanut importers, approximately 15 business entities imported peanuts during the 1998 import quota period beginning January 1, 1998, for Mexico, and April 1, 1998, for Argentina and ''other countries'' and both ending 12 months later. They appear to cover a broad range of business entities, including fresh and processed food handlers, and both large and small commodity brokers who buy agricultural products on behalf of others. The majority of peanut importers are believed to be large business entities with annual receipts of over $5,000,000. AMS is not aware of any peanut producers (farmers) who imported peanuts during that quota period. In

view of the foregoing, it can be concluded that the majority of peanut handlers, and producers may be classified as small entities, but not the importers.

This rule continues changes to the outgoing quality regulation of increasing the allowance for foreign material in the three edible categories of peanuts ''with splits'' to .20 percent from .10 percent, to make the allowance for all 10 edible grade categories consistent. The three edible categories are Runner with splits, Virginia with splits, and Spanish and Valencia with splits.

The Agricultural Act of 1949 and the Federal Agriculture Improvement and Reform Act of 1996 provide that the Secretary of Agriculture shall require that all peanuts in the domestic and export markets fully comply with all quality requirements under the Agreement. Thus, this action applies to Agreement signer and non-signer handlers, and peanut importers for the remainder of the crop year ending June 30, 2000, and subsequent crop years.

The Committee discussed alternatives to this rule, including making no change, but unanimously concluded that such alternatives would not be in the best interests of the industry.

This action continues to relax the outgoing quality regulations imposed on all domestic peanut handlers and importers. It is applied uniformly on all peanut handlers and importers, and should tend to reduce their costs slightly since less lots will likely have to be remilled to meet outgoing quality requirements. Also, this relaxation may slightly reduce any reporting and recordkeeping burden on regulated persons. As with all Federal marketing agreement and order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meetings were widely publicized throughout the peanut industry and all interested persons were invited to attend the meetings and participate in deliberations on all issues. Like all Committee meetings, the February 2, 1999, and March 18, 1999, meetings were public meetings and all entities, both large and small, were able to express views on this issue. The Committee itself consists of 18 members of whom 9 represent handlers and 9 represent producers.

An interim final rule concerning this action was published in the **Federal Register** on October 18, 1999. Copies of the rule were mailed by the Peanut Administrative Committee staff to all Committee members and Agreement signer handlers. Also, the Department mailed approximately 500 copies to importers, non-signer handlers, and other interested persons. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended December 17, 1999. No comments referencing that rule were received by the Docket Clerk.

A small business guide on complying with fruit, vegetable, and specialty 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 material presented, including the information and recommendation submitted by the Committee and other available information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (64 FR 56133, October 18, 1999) will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 997

Food grades and standards, Peanuts, Reporting and recordkeeping requirements.

7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

7 CFR Part 999

Dates, Food grades and standards, Hazelnuts, Imports, Nuts, Peanuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

PART 997—PROVISIONS REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS HANDLED BY PERSONS NOT SUBJECT TO MARKETING AGREEMENT NO. 146

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

Accordingly, the interim final rule amending 7 CFR parts 997, 998, and 999 which was published at 64 FR 56133 on October 18, 1999, is adopted as a final rule without change.

Dated: January 4, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–506 Filed 1–7–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 94 and 96

[Docket No. 95–027–2]

Importation of Pork and Pork Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of pork and pork products into the United States. Specifically, we will allow pork that originates in a region where African swine fever exists to be imported into the United States if it has been heated to an internal temperature of at least 69 °C after the bones have been removed. We also will provide an alternative, dry heat processing method for pork from regions where swine vesicular disease exists. In addition, we are making other minor amendments to the regulations for importing pork and pork products from regions where African swine fever, swine vesicular disease, or hog cholera exists. These changes will relieve some restrictions on the importation of pork and pork products from regions where these diseases exist without presenting a significant risk of introducing African swine fever, hog cholera, or swine vesicular disease into the United States.

EFFECTIVE DATE: February 9, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Masoud A. Malik, Senior Staff Veterinarian, Import/Export Products, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–7834.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (the regulations) prohibit or restrict the importation of specified animals and animal products into the United States to prevent the introduction of various animal diseases, including foot-and-mouth disease, rinderpest, African

swine fever (ASF), hog cholera (HC), and swine vesicular disease (SVD), into the United States. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.8 of the regulations restricts the importation of pork and pork products into the United States from regions in which ASF exists or is reasonably believed to exist (ASF regions). Section 94.9 of the regulations restricts the importation into the United States of pork and pork products from regions where HC is known to exist (HC regions). Section 94.12 of the regulations restricts the importation into the United States of pork and pork products from regions where SVD is known to exist (SVD regions). According to the regulations, pork and pork products from an ASF, HC, or SVD region must be processed as specified in the regulations to be eligible for entry into the United States.

One of the options for processing pork and pork products in an ASF region is that the bones must be removed and then the pork or pork product must be heated, by a method other than flash heating, to an internal temperature of at least 69 °C. (156 °F.) throughout. To qualify for this option, the pork or pork products must have originated from swine raised and slaughtered in a region free of ASF. In addition, the pork must be shipped to the processing facility in the ASF region in a sealed container and accompanied by a certificate of origin, and the processing establishment may not receive any live swine and may use only pork or pork products that originate in an ASF-free region. The processing establishments must also enter into a compliance agreement and trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) that provides for, and pays the costs of, APHIS inspections of the facilities to ensure compliance with the regulations.

The regulations in 9 CFR part 96 govern the importation of swine casings into the United States to prevent the introduction of contagious livestock diseases. Swine casings are intestines, stomachs, esophagi, and urinary bladders from swine that are used to encase processed meats, such as sausage. The ASF virus may be present in, and spread by, swine, pork, pork products, and byproducts, including casings. Section 96.2(a) specifically prohibits the importation of swine casings that originated in an ASF region.

On July 14, 1999, we published in the **Federal Register** (64 FR 37897–37903, Docket No. 95–027–1) a proposed rule to, among other things, amend the requirements in § 94.8 concerning pork and pork products from regions listed as having ASF. We proposed to remove the requirements that the pork or pork products originate in an ASF-free region because research has shown that removing the bones and heating the pork or pork products to an internal temperature of at least 69 °C. (156 °F.) throughout is sufficient to destroy the virus that causes ASF. In conjunction with this change, we also proposed to remove the requirements that the pork be shipped to the processing facility in a sealed container and accompanied by a certificate of origin. We also proposed to remove the requirements that the processing establishment may not receive any live swine and may use only pork or pork products that originate in an ASF-free region. We proposed to require, instead, that the facility take specified steps to ensure that pork or pork products intended for export to the United States are not commingled with other pork or pork products or contaminated after processing. Additionally, we proposed to remove the requirements for a compliance agreement, trust fund agreement, and the attendant inspections, and to rely, instead, on certification by the national government of the region in which the processing facility is located.

We proposed editorial changes to the regulations in 9 CFR part 96, which contains references to § 94.8.

We also proposed several changes to the processing requirements for pork and pork products from HC and SVD regions.

We solicited comments concerning our proposal for 60 days ending September 13, 1999. We received five comments by that date. The comments were from an association representing domestic pork producers and from foreign meat processors and their representatives. Four of the comments supported the proposal as written. One comment, while supportive of the changes in processing requirements related to ASF, emphasized that adequate safeguards must be in place to ensure that processing is properly performed and that contamination during and after processing does not occur. This comment is discussed in more detail below.

Comment: The current requirements for operators of processing establishments in ASF regions to enter into a compliance agreement and trust fund agreement with APHIS should be retained. APHIS must continue to inspect the establishments to ensure that they meet U.S. requirements. Certification by the foreign government that the pork and pork products have been processed in accordance with the regulations should be a requirement in addition to, not instead of, these agreements and inspections.

Response: We believe that it is safe and appropriate to shift responsibility of ensuring compliance with our regulations to the national government of the region where the pork is processed. Establishments processing pork and pork products under this final rule must continue to meet requirements under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations in 9 CFR, chapter III, part 327. The Food Safety and Inspection Service of the U.S. Department of Agriculture periodically inspects these processing establishments to make sure important requirements, including cooking temperature requirements, are met. If there is indication that any of our requirements are not being met by a particular establishment, we can turn back shipments that don't meet our requirements and enforce a hold order for increased sampling of future shipments of pork and pork products coming from that establishment until we are certain that all of our requirements are being met. The type of certification we will require for pork and pork products from ASF regions is already required for pork and pork products from HC and SVD regions and has proven effective in guarding against the introduction of those diseases into the United States. Therefore, we are not making any change to the rule based on this comment.

Comment: APHIS should provide detailed guidance to processing plants on specific procedures, including types of disinfectants, to use in the processing establishments. Also, more definition should be provided on what is meant by processing U.S. eligible pork and pork products at the same time as ineligible pork and pork products. Does this refer to the entire operation from slaughter through fabrication, or only the fabrication area? For proper disinfection and clearing of ineligible pork and pork products, this should refer to the entire plant.

Response: There are various standard procedures and disinfectants that are used by processing establishments for cleaning and disinfecting that are effective in ensuring that pork and pork products processed for exportation will not become contaminated with the ASF virus. We believe that the operators of processing facilities should be allowed to choose an effective method for cleaning and disinfection as permitted by the government of their country. Each area, utensil, and piece of equipment that comes in contact with pork or pork products that are not

eligible for export to the United States must be disinfected before it can be used for processing or other handling of pork or pork products that are eligible for export to the United States. Thus, processing establishments will need to make separate processing runs for pork or pork products that are eligible for export to the United States and pork or pork products that are not, thereby eliminating any possibility of commingling the two from the time they enter the establishments until the time they are packaged.

Original Certificates

Under §§ 94.8 and 96.2 of this rule, we require that pork and pork products from ASF regions and swine casings processed in ASF regions, respectively, must be accompanied by a certificate stating that all of the requirements in the regulations have been met. Our intention was that the original certificate that is issued by the official of the national government in the region in which the processing establishment is located would accompany the shipment and then be presented to an authorized inspector at the port of arrival. In most cases, the certificate that is presented to an authorized inspector is the original certificate; however, occasionally, a copy of the certificate is presented. To clarify that we require an original certificate, we are amending §§ 94.8(a)(3)(iii) and 96.2(a)(9) in this final rule to specify that the shipment must be accompanied by an original certificate.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule amends 9 CFR 94.8 to allow pork and pork products that originated in an ASF region to be imported into the United States if the meat has been cooked to a minimum internal temperature of 69 °C. (156 °F.) throughout after removal of the bones.

Regions listed in § 94.8 as regions in which ASF exists or is reasonably believed to exist are all the countries of Africa; Brazil, Cuba, Haiti, and Malta; and the Island of Sardinia, Italy.

Total pork production in the United States in 1996 was 7,764,000 metric tons. Brazil, the largest pork producer of the listed regions, produced 1,600,000 metric tons of pork in 1996. The combined pork production of the other listed regions was 1,033,767 metric tons in 1996. While Brazil's pork production was 21 percent of the U.S. pork production in 1996, the second largest pork producer among the other listed regions was Nigeria. Nigeria produced 278,080 metric tons of pork, only 4 percent of U.S. pork production. Therefore, other than Brazil, none of the listed regions produces enough pork to make the possibility of increased exports from those countries likely. Furthermore, much of the pork produced in Brazil and the other listed regions is consumed in the region of origin. This trend is expected to continue based on the strong pork demand in Brazil and the other listed regions. In 1996, Brazil consumed 97 percent of its pork production, exporting only 56,000 metric tons. According to projections by the Economic Research Service (ERS) of the United States Department of Agriculture, Brazil is expected to consume 94 percent of its increasing pork production in each of the years 2000 through 2005. Even if Brazil exported to the United States the remaining 6 percent of its pork production in those years, those exports would only represent about 1 percent of projected U.S. pork production. Therefore, adoption of this rule is unlikely to significantly affect the pork industry or consumer prices in the United States.

Additionally, ERS projected that U.S. pork imports would decline by more than 1 percent annually between 1998 and 2007. Declining imports are expected due to the restructured U.S. pork industry. One of the results of the restructuring has been production of low-cost pork products. These low-cost pork products are expected, increasingly, to price imported pork out of the domestic U.S. market.

This rule will allow pork from SVD regions to be processed using dry heat after deboning. This dry heat cooking method can produce Mortadella ham and other meats. Italian producers of Mortadella ham are interested in exporting Mortadella ham to the United States.

The precise volume of Mortadella ham that would enter the United States as a result of this rule is not available. However, we expect the volume will be minimal. Mortadella ham is a specialty food that is likely to satisfy only a small niche market in the United States. Due to its high fat content, Mortadella ham is not likely to be popular with a broad cross section of American consumers.

Based on this information, we expect very little additional pork or pork products to be imported into the United States as a result of this rule. Thus, any economic effect on small domestic swine producers will likely be minimal. In 1997, there were about 109,754 hog and pig farms in the United States, of which an estimated 91 percent would be considered ''small'' entities (annual sales of less than $0.5 million, according to the Small Business Administration (SBA) size criteria). These small entities maintain about 40 percent of the U.S. hog and pig inventories.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws 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.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

Lists of Subjects

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

9 CFR Part 96

Imports, Livestock, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR parts 94 and 96 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 94.8 is amended as follows:

a. In the introductory paragraph by removing the word ''island'' and adding the word ''Island'' in its place.

b. By revising paragraph (a)(3) to read as set forth below.

c. By adding a new paragraph (a)(4) to read as set forth below.

d. By removing paragraph (d).

§ 94.8 Pork and pork products from regions where African swine fever exists or is reasonably believed to exist.

* * * * *

(a) * * *

(3) Such pork or pork product:

(i) Was processed in a single establishment that meets the requirements in paragraph (a)(4).

(ii) Was heated by other than a flash-heating method to an internal temperature of at least 69 °C. (156 °F.) throughout after the bones had been removed.

(iii) Is accompanied to the United States by an original certificate stating that all of the requirements of this section have been met. The certificate must be written in English. The certificate must be issued by an official of the national government of the region in which the processing establishment is located. The official must be authorized to issue the foreign meat inspection certificate required by part 327 of chapter III of this title. Upon arrival of the pork or pork products in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

(4) The processing establishment [9] in a region listed in this section must comply with the following requirements:

(i) All areas, utensils, and equipment likely to contact the pork or pork products to be processed, including skinning, deboning, cutting, and packing areas, and related utensils and equipment, must be cleaned and disinfected after processing pork or pork products not eligible for export to the United States and before processing any pork or pork products eligible for export to the United States.

(ii) Pork or pork products eligible for export to the United States may not be handled, cut, or otherwise processed at the same time as any pork or pork products not eligible for export to the United States.

(iii) Pork or pork products eligible for export to the United States must be packed in clean new packaging that is clearly distinguishable from that containing any pork or pork products not eligible for export to the United States.

* * * * *

3. In § 94.9, paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B) are revised to read as follows:

§ 94.9 Pork and pork products from regions where hog cholera exists.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) All bones were completely removed prior to cooking; and

(B) Such pork or pork product was heated by other than a flash-heating method to an internal temperature of 69 °C. (156 °F.) throughout; or

* * * * *

4. Section 94.12 is amended as follows:

a. By removing ''; or'' and adding a period in its place at the end of paragraph (b)(1)(i) and at the end of paragraph (b)(1)(iii)(B).

b. By revising paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B) to read as set forth below.

c. By adding a new paragraph (b)(1)(v) to read as set forth below.

d. In paragraph (b)(2), by removing the word ''; and'' at the end of the paragraph and adding a period in its place.

§ 94.12 Pork and pork products from regions where swine vesicular disease exists.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) All bones were completely removed prior to cooking; and

(B) Such pork or pork product received heat treatment in a commercially accepted manner used for perishable canned pork products so that it reached an internal temperature of 69 °C. (156 °F.) throughout.

* * * * *

(v) Such pork or pork product is in compliance with the following requirements:

(A) All bones were completely removed prior to cooking; and

(B) Such pork or pork product received continual heat treatment in an oven for a minimum of 10 hours so that it reached an internal temperature of 65 °C. (149 °F.) throughout. The oven temperature started at a minimum of 62 °C. (143.6 °F.) and reached at least 85 °C. (185 °F.).

* * * * *

PART 96—RESTRICTION OF IMPORTATIONS OF FOREIGN ANIMAL CASINGS OFFERED FOR ENTRY INTO THE UNITED STATES

6. The authority citation for part 96 continues to read as follows:

Authority: 21 U.S.C. 111, 136, 136a; 7 CFR 2.22, 2.80, and 371.2(d).

§ 96.10 [Amended]

7. Section 96.10 is amended by redesignating footnote 1 and its reference as footnote 2.

8. Section 96.2 is revised to read as follows:

§ 96.2 Prohibition of casings due to African swine fever and bovine spongiform encephalopathy.

(a) *Swine casings.* The importation of swine casings that originated in or were processed in a region where African swine fever exists, as listed in § 94.8 of this subchapter, is prohibited, with the following exception: Swine casings that are processed in a region where African swine fever exists may be imported into the United States under the following conditions:

(1) *Origin of casings.* The swine casings were derived from swine raised and slaughtered in a region not listed in § 94.8(a) of this subchapter.

(2) *Shipping requirements.* The casings were shipped from the region of origin to a processing establishment in a region listed in § 94.8 of this subchapter in a closed container sealed with serially numbered seals applied by an official of the national government of the region of origin.

(3) *Origin certificate.* The casings were accompanied from the region of origin to the processing establishment by a certificate written in English and signed by an official of the national government of the region of origin specifying the region of origin, the processing establishment to which the swine casings were consigned, and the numbers of the seals applied.

[9] As a condition of entry into the United States, pork or pork products must also meet all of the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations thereunder (9 CFR, chapter III, part 327), including requirements that the pork or pork products be prepared only in approved establishments.

(4) *Integrity of seals.* The casings were taken out of the container at the processing establishment only after an official of the national government of the region where the processing establishment is located determined that the seals were intact and free of any evidence of tampering and had so stated on the certificate referred to in paragraph (a)(3) of this section.

(5) *The processing establishment.* The casings were processed at a single processing establishment [1] in a region listed in § 94.8 of this subchapter. The processing establishment does not receive or process any live swine and uses only pork and pork products that originate in a region not listed in § 94.8 of this subchapter and that are shipped to the processing establishment in accordance with paragraphs (a)(2) through (a)(4) of this section.

(6) *Compliance agreement.* The processing establishment is operated by persons who have entered into a valid written compliance agreement with APHIS to maintain on file at the processing establishment for at least 2 years copies of the certificates referred to in paragraph (a)(4) of this section, to allow APHIS personnel to make unannounced inspections as necessary to monitor compliance with the provisions of this section, and to otherwise comply with the provisions of this section.

(7) *Cooperative service agreement.* The processing establishment is operated by persons who have entered into a cooperative service agreement with APHIS. The establishment is current in paying for APHIS personnel to inspect the establishment (it is anticipated that such inspections will occur once per year). In addition, the processing establishment has on deposit with APHIS an unobligated amount equal to the cost for APHIS personnel to conduct one inspection, including travel, salary, subsistence, administrative overhead, and other incidental expenses (including excess baggage provisions up to 150 pounds).

(8) *Compliance agreement cancellation.* Any compliance agreement may be canceled orally or in writing by the inspector who is supervising its enforcement whenever the authorized inspector finds that such person has failed to comply with the provisions of this section or any conditions imposed by this section. If the cancellation is oral, the decision and the reasons will be confirmed in writing, as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision to the Administrator, in writing, within 10 days after receiving written notification of the cancellation. The appeal should state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. The Administrator will grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing will be held to resolve such conflict. Rules of Practice governing such a hearing will be adopted by the Administrator.

(9) *Export certification.* The casings are accompanied to the United States by an original certificate stating that all of the requirements of this section have been met. The certificate must be written in English. The certificate must be issued by an official of the national government of the region in which the processing establishment is located. The official must be authorized to issue the foreign meat inspection certificate required by part 327 in chapter III of this title. Upon arrival of the swine casings in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

(b) *Bovine or other ruminant casings.* The importation of casings, except stomachs, from bovines and other ruminants that originated in or were processed in any region listed in § 94.18(a) of this subchapter is prohibited.

(Approved by the Office of Management and Budget under control number 0579–0015)

Done in Washington, DC, this 23rd day of December 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–436 Filed 1–7–00; 8:45 am]

BILLING CODE 3410–34–U

[1] As a condition of entry into the United States, pork or pork products must also meet all of the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations under the Act (9 CFR, chapter III, part 327), including requirements that the pork or pork products be prepared only in approved establishments.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–26]

Amendment of Class D Airspace; Jacksonville NAS, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D airspace at Jacksonville NAS, FL. The U.S. Navy has discontinued operations at NAS Cecil Field, FL, including decommissioning the Cecil Tactical Air Navigation (TACAN) navigation aid. Therefore, the airspace extension created by the Cecil TACAN 084° radial is eliminated and the reference to Jacksonville, Cecil Field NAS, FL, Class D airspace area is removed. The Jacksonville, FL, Port Authority has opened a contract airport traffic control tower at Cecil Field, therefore the Class D airspace area has been renamed Jacksonville Cecil Field, FL.

EFFECTIVE DATE: 0901 UTC, February 24, 2000.

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

SUPPLEMENTARY INFORMATION:

History

The U.S. Navy has discontinued operations at NAS Cecil Field, including decommissioning the Cecil TACAN navigation aid. Therefore, the airspace extension created by the Cecil TACAN 084° radial is eliminated and the reference to Jacksonville, Cecil Field NAS, FL, Class D airspace area is removed from the Jacksonville NAS, FL, Class D airspace description. The Jacksonville, FL, Port Authority has opened a contract airport traffic control tower at the airport; therefore the Class D airspace area has been renamed Jacksonville Cecil Field, FL. As a result, the Jacksonville NAS, FL, Class D airspace area must be amended. This rule will become effective on the date specified in the **DATE** section. Since this action revokes the Class D extension area, and as a result, eliminates the impact of Class D airspace on users of the airspace in the vicinity of Jacksonville NAS, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class D airspace at Jacksonville NAS, FL.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a

''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air). Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [AMENDED]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Jacksonville NAS, FL [Revised]

Jacksonville NAS, FL
(Lat. 30°14′05″N, long. 81°40′35″W)
Cecil Field, FL
(Lat. 30°13′07″N, long. 81°52′36″W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.3-mile radius of Jacksonville NAS; excluding that airspace within the Jacksonville Cecil Field, FL, Class D airspace area.

* * * * *

Issued in College Park, Georgia, on December 22, 1999.

Armando Castro,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 00–476 Filed 1–7–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–27]

Amendment of Class D Airspace; Jacksonville Whitehouse NOLF, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the description of the Class D airspace at Jacksonville Whitehouse NOLF, FL, by removing reference to Jacksonville, Cecil Field NAS, FL, Class D airspace area. The U.S. Navy has discontinued operations at NAS Cecil Field. The Jacksonville, FL, Port Authority has opened a contract airport traffic control tower at the airport; therefore the Class D airspace area has been renamed Jacksonville Cecil Field, FL.

EFFECTIVE DATE: 0901 UTC, February 24, 2000.

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

SUPPLEMENTARY INFORMATION:

History

The U.S. Navy has discontinued operations at NAS Cecil Field. The Jacksonville, FL, Port Authority has opened a contract airport traffic control tower at the Airport and the Class D airspace area has been renamed Jacksonville Cecil Field, FL. Therefore, the Jacksonville Whitehouse NOLF, FL, Class D airspace must be amended. This rule will become effective on the date specified in the **EFFECTIVE DATE** section. Since this action is technical in nature and does not change the airspace design and, therefore, has no impact on the users of the airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class D airspace at Jacksonville Whitehouse NOLF, FL.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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

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

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Jacksonville Whitehouse NOLF, FL [Revised]

Jacksonville, Whitehouse NOLF, FL
(Lat 30°21′01″ N, long. 81°52′59″ W)
Cecil Field, FL
(Lat. 30°13′07″ N, long. 81°52′36″ W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5-mile radius of Whitehouse NOLF; excluding that airspace within the Jacksonville Cecil Field, FL, Class D airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on December 15, 1999.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–477 Filed 1–7–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8853]

RIN 1545–AV07

Recharacterizing Financing Arrangements Involving Fast-Pay Stock

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that recharacterize, for tax purposes, financing arrangements involving fast-pay stock. The regulations are necessary to prevent taxpayers from using fast-pay stock to achieve inappropriate tax avoidance. The regulations affect corporations that issue fast-pay stock, holders of fast-pay stock, and other shareholders that may claim tax benefits purported to result from arrangements involving fast-pay stock.

DATES: *Effective Date:* February 27, 1997.

Applicability Dates: For dates of applicability, see §§ 1.1441–10(e) and 1.7701(l)–3(g) of these regulations.

FOR FURTHER INFORMATION CONTACT: Jonathan Zelnik, (202) 622–3920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1642. Responses to this collection of information are mandatory.

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

The estimated average annual burden hours per respondent/recordkeeper: 1 hour.

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

Background

On February 27, 1997, the IRS issued Notice 97–21, 1997–1 C.B. 407, which relates to financing arrangements involving fast-pay stock. Among other things, the notice informed the public that the IRS and Treasury Department expected to issue regulations recharacterizing these arrangements to prevent tax avoidance. No comments were received in response to Notice 97–21.

On January 6, 1999, the IRS published in the **Federal Register** a notice of proposed rulemaking (64 FR 805) providing rules for the recharacterization of certain fast-pay arrangements under section 7701(l) of the Internal Revenue Code. Because no one requested to speak at the public hearing, the hearing was canceled. Four written comments responding to the notice of proposed rulemaking were received. The comments addressed neither (1) the accuracy of the estimate of the collection of information burden nor (2) the accuracy of the IRS's understanding that the total number of entities engaging in transactions affected by these regulations is not substantial and most are not small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. chapter 6). After considering the comments, the proposed regulations are adopted as final regulations with some changes.

The preamble to the proposed regulations (64 FR 805) provides a detailed discussion of fast-pay arrangements and the proposed regulations.

Summary of Comments and Changes

In General

Two commentators were generally favorable to the proposed regulations. One considered them a reasonable attempt to address abusive transactions. The other viewed them as consistent with section 7701(l), but preferred, as a matter of tax policy, a legislative solution. One of these commentators also recommended narrowing the scope of the proposed regulations, asserting they might penalize shareholders who do not benefit from the fast-pay arrangement. Significantly, neither of these commentators recommended that the final regulations adopt a different approach, such as the one taken in Notice 97–21.

A third commentator criticized the proposed regulations as inconsistent with section 7701(l). This commentator viewed them as addressing not a conduit financing issue, but a tax accounting issue, namely, that the amount of dividend income under tax principles can exceed the economic income from the stock. Additionally, this commentator believed that regulations under section 7701(l) cannot operate if there is no back-to-back structure or if the corporation subject to recharacterization holds bona fide assets such as third-party debt. Finally, the commentator questioned whether the grant of regulatory authority under section 7701(l) permits recharacterizing transactions subject to other, comprehensive statutory rules such as the rules governing the transactions of RICs and REITs.

The IRS and Treasury Department have concluded that section 7701(l) authorizes recharacterization of any multiple-party financing transaction, including a fast-pay arrangement. The IRS and Treasury Department have also concluded (as did the other two commentators) that recharacterizing a fast-pay arrangement as an arrangement directly between the fast-pay shareholders and the benefited shareholders is consistent with the legislative mandate of section 7701(l). Thus, the final regulations retain the approach of the proposed regulations while making some changes to address other comments.

Definition of Fast-Pay Stock

Under the proposed regulations, stock is fast-pay stock if it is structured so that dividends (as defined in section 316) paid by the corporation with respect to the stock are economically (in whole or in part) a return of the holder's investment (as opposed to only a return on the holder's investment). To determine if it is fast-pay stock, stock is examined when issued, and, for stock that is not fast-pay stock when issued, when there is a significant modification in the terms of the stock or the related agreements or a significant change in the relevant facts and circumstances.

Two commentators expressed concern about the interaction of section 302 with the definition of fast-pay stock and the duty to retest stock. In particular, the commentators asked whether stock that is not fast-pay stock when issued can become fast-pay stock solely because a redemption of the stock is treated as a dividend under section 302. This conversion is possible because section 302 treats certain redemptions as distributions of property to which

section 301 applies rather than as distributions in exchange for stock.

The commentators gave different reasons why stock should not become fast-pay stock solely because a redemption is treated as a dividend. One reason was that section 302 and the provisions referring to it (for example, section 1059(e)) already recharacterize certain redemptions of stock, which indicates Congress has determined the appropriate tax treatment of these transactions. Another reason was that applying the fast-pay regulations to arrangements involving redemptions may have a chilling effect on common, non-abusive transactions. Finally, it was suggested that any changes affecting the application of section 302 should be accomplished by issuing new regulations under that statute.

The IRS and Treasury Department agree it is inappropriate to treat as a fast-pay arrangement every arrangement in which a redemption of stock produces dividend income under section 302. The IRS and Treasury Department, however, conclude that eliminating all such arrangements from the scope of the regulations would render the regulations meaningless. Little difference exists between a fast-pay arrangement resulting from redemptions structured to be dividends and a fast-pay arrangement resulting from dividends structured to be a return of the holder's investment.

To balance the concerns of the commentators and the concerns of the IRS and Treasury Department, the final regulations add a new rule clarifying the effect of section 302 on the determination of whether stock is fast-pay stock. Under this rule, stock is not fast-pay stock solely because a redemption is treated as a dividend by section 302 unless there is a principal purpose of achieving the same economic and tax effect as a fast-pay arrangement. In this way, only those arrangements in which redemptions are designed to return a shareholder's economic investment as dividends are recharacterized. Because the problem of stock redemptions may be common to many different fast-pay arrangements, regardless of how they are structured, the rule addressing such problem is placed within the regulations under section 7701(l) rather than under a different section.

Characterization of the Financing Instruments

Under the proposed regulations, the fast-pay shareholders are treated as holding financing instruments issued by the benefited shareholders rather than as holding the fast-pay stock. The character of financing instruments (for example, stock or debt) is determined under general tax principles and depends on all the facts and circumstances.

All three commentators were concerned by the failure of the proposed regulations to classify the financing instruments as debt. If the financing instruments are classified as stock, the benefited shareholders are subject to substantially greater tax liabilities: they must include in income all dividends paid by the corporation that issues the fast-pay stock, but cannot deduct amounts deemed paid with respect to the financing instruments. According to the commentators, this result distorts the benefited shareholders' economic income. Therefore, the regulations should classify the financing instruments as debt in all cases.

After careful consideration of the comments, the IRS and Treasury Department have decided against characterizing the financing instruments in the final regulations. Although debt characterization may be appropriate in some cases, in other cases it will be more appropriate to characterize the financing instruments as equity or something else. Thus, the rule in the proposed regulations is retained. (As explained below, however, the final regulations permit taxpayers, for a limited period, to determine their taxable income attributable to a recharacterized fast-pay arrangement by treating the financing instruments as debt.)

Election to Limit Taxable Income Attributable to a Recharacterized Fast-Pay Arrangement for Periods Before April 1, 2000

Because the regulations are effective February 27, 1997 (the date Notice 97–21 was issued to the public), the proposed regulations permit a shareholder of a recharacterized fast-pay arrangement to limit, for certain taxable years, its income from the arrangement. Specifically, a shareholder may limit its taxable income attributable to a recharacterized fast-pay arrangement to the taxable income that results if the fast-pay arrangement is recharacterized under Notice 97–21. This limit is available under the proposed regulations for taxable years ending after the effective date of the regulations and before the regulations are finalized. Any amount excluded under this limit must be included as an adjustment to taxable income in the shareholder's first taxable year that includes the date the regulations are finalized. Thus, the sole benefit of limiting taxable income under the proposed regulations is a timing benefit. The preamble to the proposed regulations found this appropriate on the assumption that over the life of a fast-pay arrangement a shareholder has the same amount of taxable income whether the fast-pay arrangement is recharacterized under Notice 97–21 or under the regulations.

One commentator criticized this assumption, and, therefore, the limit and later adjustment. In particular, the commentator pointed out that if the financing instruments are treated as equity under the regulations, a benefited shareholder would have had less taxable income over the life of the fast-pay arrangement under the recharacterization of Notice 97–21 (that is, a shareholder would have a permanent reduction to taxable income). Thus, the limit is without any substantive effect because any non-timing reduction in taxable income due to the limit is included in the year the regulations are finalized. To rectify this problem, the commentator asked that, if the final regulations do not classify the financing instruments as debt in all cases, they should at least classify the financing instruments as debt for the period starting after the effective date of the final regulations and ending before the final regulations are published.

To address these concerns, the final regulations adopt a different rule from the one in the proposed regulations. As with the proposed regulations, a shareholder may limit its taxable income to either the amount determined under Notice 97–21 or the amount determined under the regulations. For purposes of this limit, a shareholder may assume the financing instruments are debt under the final regulations. A shareholder may also make this assumption to determine the amount of any later adjustment to income because of the limit. Thus, the later adjustment will not include any permanent reduction to taxable income a shareholder realizes by limiting its taxable income to the amount determined under Notice 97–21.

The final regulations also adopt a longer period during which shareholders may limit their taxable income. Under the proposed regulation, a shareholder may limit its taxable income for taxable years ending after February 26, 1997, and before the date these regulations are published as final regulations in the **Federal Register**. The final regulations permit a shareholder to limit its taxable income for all periods before April 1, 2000. Thus, for all taxable years ending after February 26, 1997 and before April 1, 2000, and for that part of a shareholder's taxable year before April 1, 2000, a shareholder may

limit its taxable income attributable to the fast-pay arrangement.

In permitting shareholders to determine their taxable income under the regulations by assuming that the financing instruments are debt for periods before April 1, 2000, the IRS and Treasury Department intend no implication regarding the proper characterization of the financing instruments under general tax principles. Rather, the rule regarding the financing instruments is intended solely for the purpose of giving shareholders the benefit of the recharacterization described in Notice 97–21 for periods before April 1, 2000.

Use of Derivatives To Avoid the Regulations

One commentator recommended adding an explicit rule to prevent parties from using derivative contracts to create a fast-pay arrangement that escapes either the regulations or the effect of the recharacterization rules. To illustrate this point, the commentator posited a simplified transaction in which a corporation issues fast-pay stock to one tax-exempt entity and benefited stock to another tax-exempt entity. The tax-exempt entity holding the benefited stock enters into a prepaid forward contract with a taxable person. Under the prepaid forward contract, the taxable person must buy the benefited stock in the future for an amount substantially below its expected value. According to the commentator, unless the taxable person is treated as owning the benefited stock, the parties have created a fast-pay arrangement in which the recharacterization of the regulations fails to prevent tax avoidance. Without making a recommendation, the commentator offered a number of rules to correct this situation. (The commentator did not discuss whether the benefited holder would be subject to the ''debt-financing'' rules in section 514).

The IRS and Treasury Department have concluded that there is no present need to modify the regulations to address this problem. First, the tax treatment of derivatives in general is outside of the scope of these regulations. Therefore, a rule specific to these regulations would only increase the complexity regarding the tax treatment of derivatives. Second, and more importantly, the IRS and Treasury Department have concluded that under existing law the party entitled to purchase the benefited stock under a prepaid forward contract such as the one described above is the owner of the benefited stock for federal income tax purposes. See Rev. Rul. 82–150, 1982–2 C.B. 110 (concluding that the holder of a deep-in-the-money option is the owner of the reference property). Finally, the regulations state they are to be interpreted in a manner consistent with preventing the avoidance of tax. Mechanically applying the regulations in a manner that does not prevent tax avoidance is clearly inconsistent with the purpose of the regulations and the Congressional mandate of section 7701(l).

Fast-Pay Arrangement Defined

The proposed regulations define a fast-pay arrangement as any arrangement in which a corporation has outstanding for any part of its taxable year two or more classes of stock, at least one of which is fast-pay stock. Some taxpayers assert that the regulations can be avoided by creating a fast-pay arrangement in which a corporation issues what is nominally a single class of shares, notwithstanding that some of the shares are subject to a related agreement. These taxpayers apparently rely on the formal meaning of ''class'' under state corporate law and ignore the direction in the proposed regulations to determine whether stock is fast-pay stock based on all the facts and circumstances.

To remove any doubt that the regulations cover fast-pay arrangements no matter how contrived, the IRS and Treasury Department have simplified the definition of ''fast-pay arrangement'' in the final regulations. Under this definition, a fast-pay arrangement is any arrangement in which a corporation has fast-pay stock outstanding for any part of its taxable year. The regulations illustrate this point with an example.

Effective Date

These regulations apply to taxable years ending after February 26, 1997.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the understanding of the IRS and Treasury Department that the total number of fast-pay arrangements is fewer than 100, that the number of entities engaging in transactions affected by these regulations is not substantial and, of those entities, few or none are small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. chapter 6). Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small businesses.

Drafting Information

The principal authors of these regulations are Jonathan Zelnik and Marshall Feiring of the Office of the Assistant Chief Counsel (Financial Institutions & Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Section 1.7701(l)–3 also issued under 26 U.S.C. 7701(l). * * *

Par. 2. Section 1.1441–10, is added to read as follows:

§ 1.1441–10 Withholding agents with respect to fast-pay arrangements.

(a) *In general.* A corporation that issues fast-pay stock in a fast-pay arrangement described in § 1.7701(l)–3(b)(1) is a withholding agent with respect to payments made on the fast-pay stock and payments deemed made under the recharacterization rules of § 1.7701(l)–3. Except as provided in this paragraph (a) or in paragraph (b) of this section, the withholding tax rules under section 1441 and section 1442 apply with respect to a fast-pay arrangement described in § 1.7701(l)–3(c)(1)(i) in accordance with the recharacterization rules provided in § 1.7701(l)–3(c). In all cases, notwithstanding paragraph (b) of this section, if at any time the withholding agent knows or has reason to know that the Commissioner has exercised the discretion under either § 1.7701(l)–3(c)(1)(ii) to apply the recharacterization rules of § 1.7701(l)–

3(c), or § 1.7701(l)–3(d) to depart from the recharacterization rules of § 1.7701(l)–3(c) for a taxpayer, the withholding agent must withhold on payments made (or deemed made) to that taxpayer in accordance with the characterization of the fast-pay arrangement imposed by the Commissioner under § 1.7701(l)–3.

(b) *Exception.* If at any time the withholding agent knows or has reason to know that any taxpayer entered into a fast-pay arrangement with a principal purpose of applying the recharacterization rules of § 1.7701(l)–3(c) to avoid tax under section 871(a) or section 881, then for each payment made or deemed made to such taxpayer under the arrangement, the withholding agent must withhold, under section 1441 or section 1442, the higher of—

(1) The amount of withholding that would apply to such payment determined under the form of the arrangement; or

(2) The amount of withholding that would apply to deemed payments determined under the recharacterization rules of § 1.7701(l)–3(c).

(c) *Liability.* Any person required to deduct and withhold tax under this section is made liable for that tax by section 1461, and is also liable for applicable penalties and interest for failing to comply with section 1461.

(d) *Examples.* The following examples illustrate the rules of this section:

Example 1. REIT W issues shares of fast-pay stock to foreign individual A, a resident of Country C. United States source dividends paid to residents of C are subject to a 30 percent withholding tax. W issues all shares of benefited stock to foreign individuals who are residents of Country D. D's income tax convention with the United States reduces the United States withholding tax on dividends to 15 percent. Under § 1.7701(l)–3(c), the dividends paid by W to A are deemed to be paid by W to the benefited shareholders. W has reason to know that A entered into the fast-pay arrangement with a principal purpose of using the recharacterization rules of § 1.7701(l)–3(c) to reduce United States withholding tax. W must withhold at the 30 percent rate because the amount of withholding that applies to the payments determined under the form of the arrangement is higher than the amount of withholding that applies to the payments determined under § 1.7701(l)–3(c).

Example 2. The facts are the same as in *Example 1* of this paragraph (d) except that W does not know, or have reason to know, that A entered into the arrangement with a principal purpose of using the recharacterization rules of § 1.7701(l)–3(c) to reduce United States withholding tax. Further, the Commissioner has not exercised the discretion under § 1.7701(l)–3(d) to depart from the recharacterization rules of § 1.7701(l)–3(c). Accordingly, W must withhold tax at a 15 percent rate on the dividends deemed paid to the benefited shareholders.

(e) *Effective date.* This section applies to payments made (or deemed made) on or after January 6, 1999.

Par. 3. Section 1.7701(l)–0 is added to read as follows:

§ 1.7701(l)–0 Table of contents.

This section lists captions that appear in §§ 1.7701(l)–1 and 1.7701(l)–3:

§ 1.7701(l)–1 Conduit financing arrangements.

§ 1.7701(l)–3 Recharacterizing financing arrangements involving fast-pay stock.

(a) Purpose and scope.
(b) Definitions.
(1) Fast-pay arrangement.
(2) Fast-pay stock.
(i) Defined.
(ii) Determination.
(3) Benefited stock.
(c) Recharacterization of certain fast-pay arrangements.
(1) Scope.
(2) Recharacterization.
(i) Relationship between benefited shareholders and fast-pay shareholders.
(ii) Relationship between benefited shareholders and corporation.
(iii) Relationship between fast-pay shareholders and corporation.
(3) Other rules.
(i) Character of the financing instruments.
(ii) Multiple types of benefited stock.
(iii) Transactions affecting benefited stock.
(A) Sale of benefited stock.
(B) Transactions other than sales.
(iv) Adjustment to basis for amounts accrued or paid in taxable years ending before February 27, 1997.
(d) Prohibition against affirmative use of recharacterization by taxpayers.
(e) Examples.
(f) Reporting requirement.
(1) Filing requirements.
(i) In general.
(ii) Controlled foreign corporation.
(iii) Foreign personal holding company.
(iv) Passive foreign investment company.
(2) Statement.
(g) Effective date.
(1) In general.
(2) Election to limit taxable income attributable to a recharacterized fast-pay arrangement for periods before April 1, 2000.
(i) Limit.
(ii) Adjustment and statement.
(iii) Examples.
(3) Rule to comply with this section.
(4) Reporting requirements.

Par. 4. Section 1.7701(l)–3 is added to read as follows:

§ 1.7701(l)–3 Recharacterizing financing arrangements involving fast-pay stock.

(a) *Purpose and scope.* This section is intended to prevent the avoidance of tax by persons participating in fast-pay arrangements (as defined in paragraph (b)(1) of this section) and should be interpreted in a manner consistent with this purpose. This section applies to all fast-pay arrangements. Paragraph (c) of this section recharacterizes certain fast-pay arrangements to ensure the participants are taxed in a manner reflecting the economic substance of the arrangements. Paragraph (f) of this section imposes reporting requirements on certain participants.

(b) *Definitions*—(1) *Fast-pay arrangement.* A fast-pay arrangement is any arrangement in which a corporation has fast-pay stock outstanding for any part of its taxable year.

(2) *Fast-pay stock*—(i) *Defined.* Stock is fast-pay stock if it is structured so that dividends (as defined in section 316) paid by the corporation with respect to the stock are economically (in whole or in part) a return of the holder's investment (as opposed to only a return on the holder's investment). Unless clearly demonstrated otherwise, stock is presumed to be fast-pay stock if—

(A) It is structured to have a dividend rate that is reasonably expected to decline (as opposed to a dividend rate that is reasonably expected to fluctuate or remain constant); or

(B) It is issued for an amount that exceeds (by more than a de minimis amount, as determined under the principles of § 1.1273–1(d)) the amount at which the holder can be compelled to dispose of the stock.

(ii) *Determination.* The determination of whether stock is fast-pay stock is based on all the facts and circumstances, including any related agreements such as options or forward contracts. A related agreement includes any direct or indirect agreement or understanding, oral or written, between the holder of the stock and the issuing corporation, or between the holder of the stock and one or more other shareholders in the corporation. To determine if it is fast-pay stock, stock is examined when issued, and, for stock that is not fast-pay stock when issued, when there is a significant modification in the terms of the stock or the related agreements or a significant change in the relevant facts and circumstances. Stock is not fast-pay stock solely because a redemption is treated as a dividend as a result of section 302(d) unless there is a principal purpose of achieving the same economic and tax effect as a fast-pay arrangement.

(3) *Benefited stock.* With respect to any fast-pay stock, all other stock in the corporation (including other fast-pay stock having any significantly different characteristics) is benefited stock.

(c) *Recharacterization of certain fast-pay arrangements*—(1) *Scope.* This paragraph (c) applies to any fast-pay arrangement—

(i) In which the corporation that has outstanding fast-pay stock is a regulated investment company (RIC) (as defined in section 851) or a real estate investment trust (REIT) (as defined in section 856); or

(ii) If the Commissioner determines that a principal purpose for the structure of the fast-pay arrangement is the avoidance of any tax imposed by the Internal Revenue Code. Application of this paragraph (c)(1)(ii) is at the Commissioner's discretion, and a determination under this paragraph (c)(1)(ii) applies to all parties to the fast-pay arrangement, including transferees.

(2) *Recharacterization.* A fast-pay arrangement described in paragraph (c)(1) of this section is recharacterized as an arrangement directly between the benefited shareholders and the fast-pay shareholders. The inception and resulting relationships of the recharacterized arrangement are deemed to be as follows:

(i) *Relationship between benefited shareholders and fast-pay shareholders.* The benefited shareholders issue financial instruments (the financing instruments) directly to the fast-pay shareholders in exchange for cash equal to the fair market value of the fast-pay stock at the time of issuance (taking into account any related agreements). The financing instruments have the same terms (other than issuer) as the fast-pay stock. Thus, for example, the timing and amount of the payments made with respect to the financing instruments always match the timing and amount of the distributions made with respect to the fast-pay stock.

(ii) *Relationship between benefited shareholders and corporation.* The benefited shareholders contribute to the corporation the cash they receive for issuing the financing instruments. Distributions made with respect to the fast-pay stock are distributions made by the corporation with respect to the benefited shareholders' benefited stock.

(iii) *Relationship between fast-pay shareholders and corporation.* For purposes of determining the relationship between the fast-pay shareholders and the corporation, the fast-pay stock is ignored. The corporation is the paying agent of the benefited shareholders with respect to the financing instruments.

(3) *Other rules*—(i) *Character of the financing instruments.* The character of a financing instrument (for example, stock or debt) is determined under general tax principles and depends on all the facts and circumstances.

(ii) *Multiple types of benefited stock.* If any benefited stock has any significantly different characteristics from any other benefited stock, the recharacterization rules of this paragraph (c) apply among the different types of benefited stock as appropriate to match the economic substance of the fast-pay arrangement.

(iii) Transactions affecting benefited stock—(A) Sale of benefited stock. If one person sells benefited stock to another—

(*1*) In addition to any consideration actually paid and received for the benefited stock, the buyer is deemed to pay and the seller is deemed to receive the amount necessary to terminate the seller's position in the financing instruments at fair market value; and

(*2*) The buyer is deemed to issue financing instruments to the fast-pay shareholders in exchange for the amount necessary to terminate the seller's position in the financing instruments.

(B) *Transactions other than sales.* Except for transactions subject to paragraph (c)(3)(iii)(A) of this section, in the case of any transaction affecting benefited stock, the parties to the transaction must make appropriate adjustments to properly take into account the fast-pay arrangement as characterized under paragraph (c)(2) of this section.

(iv) *Adjustment to basis for amounts accrued or paid in taxable years ending before February 27, 1997.* In the case of a fast-pay arrangement involving amounts accrued or paid in taxable years ending before February 27, 1997, and recharacterized under this paragraph (c), a benefited shareholder must decrease its basis in any benefited stock (as determined under paragraph (c)(2)(ii) of this section) by the amount (if any) that—

(A) Its income attributable to the benefited stock (reduced by deductions attributable to the financing instruments) for taxable years ending before February 27, 1997, computed by recharacterizing the fast-pay arrangement under this paragraph (c) and by treating the financing instruments as debt; exceeds

(B) Its income attributable to such stock for taxable years ending before February 27, 1997, computed without applying the rules of this paragraph (c).

(d) *Prohibition against affirmative use of recharacterization by taxpayers.* A taxpayer may not use the rules of paragraph (c) of this section if a principal purpose for using such rules is the avoidance of any tax imposed by the Internal Revenue Code. Thus, with respect to such taxpayer, the Commissioner may depart from the rules of this section and recharacterize (for all purposes of the Internal Revenue Code) the fast-pay arrangement in accordance with its form or its economic substance. For example, if a foreign person acquires fast-pay stock in a REIT and a principal purpose for acquiring such stock is to reduce United States withholding taxes by applying the rules of paragraph (c) of this section, the Commissioner may, for purposes of determining the foreign person's United States tax consequences (including withholding tax), depart from the rules of paragraph (c) of this section and treat the foreign person as holding fast-pay stock in the REIT.

(e) *Examples.* The following examples illustrate the rules of paragraph (c) of this section:

Example 1. Decline in dividend rate—(i) *Facts.* Corporation X issues 100 shares of A Stock and 100 shares of B Stock for $1,000 per share. By its terms, a share of B Stock is reasonably expected to pay a $110 dividend in years 1 through 10 and a $30 dividend each year thereafter. If X liquidates, the holder of a share of B Stock is entitled to a preference equal to the share's issue price. Otherwise, the B Stock cannot be redeemed at either X's or the shareholder's option.

(ii) *Analysis.* When issued, the B Stock has a dividend rate that is reasonably expected to decline from an annual rate of 11 percent of its issue price to an annual rate of 3 percent of its issue price. Since the B Stock is structured to have a declining dividend rate, the B Stock is fast-pay stock, and the A Stock is benefited stock.

Example 2. Issued at a premium—(i) *Facts.* The facts are the same as in *Example 1* of this paragraph (e) except that a share of B Stock is reasonably expected to pay an annual $110 dividend as long as it is outstanding, and Corporation X has the right to redeem the B Stock for $400 a share at the end of year 10.

(ii) *Analysis.* The B Stock is structured so that the issue price of the B Stock ($1,000) exceeds (by more than a de minimis amount) the price at which the holder can be compelled to dispose of the stock ($400). Thus, the B Stock is fast-pay stock, and the A Stock is benefited stock.

Example 3. Planned section 302(d) redemptions—(i) *Facts.* Corporation L, a subchapter C corporation, issues 220 shares of common stock for $1,000 per share. No other stock is authorized, but L can issue warrants entitling the holder to acquire L common stock for $3,000 per share until such time as L adopts a plan of liquidation. L can adopt a plan of liquidation if approved by 90 percent of its shareholders. Half of L's stock is purchased by Corporation M, and half by Organization N, which is tax exempt. At the time of purchase, M and N agree that for a period of ten years L will annually redeem (and N will tender) ten shares of stock in exchange for $12,100 and ten warrants. It is anticipated that, under sections 302 and 301, the annual payment to N will be a distribution of property that is a dividend.

(ii) *Analysis.* Considering all the facts and circumstances, including the agreement between M and N, L's redemption of N's stock is undertaken with a principal purpose of achieving the same economic and tax

effect as a fast-pay arrangement. Thus, N's stock is fast-pay stock, M's stock is benefited stock, and the parties have entered into a fast-pay arrangement. Because L is neither a RIC nor a REIT, whether this fast-pay arrangement is recharacterized under paragraph (c) of this section depends on whether the Commissioner determines, under paragraph (c)(1)(ii) of this section, that a principal purpose for the structure of the fast-pay arrangement is the avoidance of any tax imposed by the Internal Revenue Code.

Example 4. Recharacterization illustrated—(i) *Facts.* On formation, REIT Y issues 100 shares of C Stock and 100 shares of D Stock for $1,000 per share. By its terms, a share of D Stock is reasonably expected to pay a $110 dividend in years 1 through 10 and a $30 dividend each year thereafter. In years 1 through 10, persons holding a majority of the D Stock must consent before Y may take any action that would result in Y liquidating or dissolving, merging or consolidating, losing its REIT status, or selling substantially all of its assets. Thereafter, Y may take these actions without consent so long as the D Stock shareholders receive $400 in exchange for their D Stock.

(ii) *Analysis.* When issued, the D Stock has a dividend rate that is reasonably expected to decline from an annual rate of 11 percent of its issue price to an annual rate of 3 percent of its issue price. In addition, the $1,000 issue price of a share of D Stock exceeds the price at which the shareholder can be compelled to dispose of the stock ($400). Thus, the D Stock is fast-pay stock, and the C Stock is benefited stock. Because Y is a REIT, the fast-pay arrangement is recharacterized under paragraph (c) of this section.

(iii) *Recharacterization.* The fast-pay arrangement is recharacterized as follows:

(A) Under paragraph (c)(2)(i) of this section, the C Stock shareholders are treated as issuing financing instruments to the D Stock shareholders in exchange for $100,000 ($1,000, the fair market value of each share of D Stock, multiplied by 100, the number of shares).

(B) Under paragraph (c)(2)(ii) of this section, the C Stock shareholders are treated as contributing $200,000 to Y (the $100,000 received for the financing instruments, plus the $100,000 actually paid for the C Stock) in exchange for the C Stock.

(C) Under paragraph (c)(2)(ii) of this section, each distribution with respect to the D Stock is treated as a distribution with respect to the C Stock.

(D) Under paragraph (c)(2)(iii) of this section, the C Stock shareholders are treated as making payments with respect to the financing instruments, and Y is treated as the paying agent of the financing instruments for the C Stock shareholders.

Example 5. Transfer of benefited stock illustrated—(i) *Facts.* The facts are the same as in Example 4 of this paragraph (e). Near the end of year 5, a person holding one share of C Stock sells it for $1,300. The buyer is unrelated to REIT Y or to any of the D Stock shareholders. At the time of the sale, the amount needed to terminate the seller's position in the financing instruments at fair market value is $747.

(ii) *Benefited shareholder's treatment on sale.* Under paragraph (c)(3)(iii)(A) of this section, the seller's amount realized is $2,047 ($1,300, the amount actually received, plus $747, the amount necessary to terminate the seller's position in the financing instruments at fair market value). The seller's gain on the sale of the common stock is $47 ($2,047, the amount realized, minus $2,000, the seller's basis in the common stock). The seller has no income or deduction with respect to terminating its position in the financing instruments.

(iii) *Buyer's treatment on purchase.* Under paragraph (c)(3)(iii)(A) of this section, the buyer's basis in the share of D Stock is $2,047 ($1,300, the amount actually paid, plus $747, the amount needed to terminate the seller's position in the financing instruments at fair market value). Under paragraph (c)(3)(iii)(B) of this section, simultaneous with the sale, the buyer is treated as issuing financing instruments to the fast-pay shareholders in exchange for $747, the amount necessary to terminate the seller's position in the financing instruments at fair market value.

Example 6. Fast-pay arrangement involving amounts accrued or paid in a taxable year ending before February 27, 1997—(i) *Facts.* Y is a calendar year taxpayer. In June 1996, Y acquires shares of REIT T benefited stock for $15,000. In December 1996, Y receives dividends of $100. Under the recharacterization rules of paragraph (c)(2) of this section, Y's 1996 income attributable to the benefited stock is $1,200, Y's 1996 deduction attributable to the financing instruments is $500, and Y's basis in the benefited stock is $25,000.

(ii) *Analysis.* Under paragraph (c)(3)(iv) of this section, Y's basis in the benefited stock is reduced by $600. This is the amount by which Y's 1996 income from the fast-pay arrangement as recharacterized under this section ($1,200 of income attributable to the benefited stock less $500 of deductions attributable to the financing instruments), exceeds Y's 1996 income from the fast-pay arrangement as not recharacterized under this section ($100 of income attributable to the benefited stock). Thus, in 1997 when the fast-pay arrangement is recharacterized, Y's basis in the benefited stock is $24,400.

(f) *Reporting requirement*—(1) *Filing requirements*—(i) *In general.* A corporation that has fast-pay stock outstanding at any time during the taxable year must attach the statement described in paragraph (f)(2) of this section to its federal income tax return for such taxable year. This paragraph (f)(1)(i) does not apply to a corporation described in paragraphs (f)(1)(ii), (iii), or (iv) of this section.

(ii) *Controlled foreign corporation.* In the case of a controlled foreign corporation (CFC), as defined in section 957, that has fast-pay stock outstanding at any time during its taxable year (during which time it was a CFC), each controlling United States shareholder (within the meaning of § 1.964–1(c)(5)) must attach the statement described in paragraph (f)(2) of this section to the shareholder's Form 5471 for the CFC's taxable year. The provisions of section 6038 and the regulations under section 6038 apply to any statement required by this paragraph (f)(1)(ii).

(iii) *Foreign personal holding company.* In the case of a foreign personal holding company (FPHC), as defined in section 552, that has fast-pay stock outstanding at any time during its taxable year (during which time it was a FPHC), each United States citizen or resident who is an officer, director, or 10-percent shareholder (within the meaning of section 6035(e)(1)) of such FPHC must attach the statement described in paragraph (f)(2) of this section to his or her Form 5471 for the FPHC's taxable year. The provisions of sections 6035 and 6679 and the regulations under sections 6035 and 6679 apply to any statement required by this paragraph (f)(1)(iii).

(iv) *Passive foreign investment company.* In the case of a passive foreign investment company (PFIC), as defined in section 1297, that has fast-pay stock outstanding at any time during its taxable year (during which time it was a PFIC), each shareholder that has elected (under section 1295) to treat the PFIC as a qualified electing fund and knows or has reason to know that the PFIC has outstanding fast-pay stock must attach the statement described in paragraph (f)(2) of this section to the shareholder's Form 8621 for the PFIC's taxable year. Each shareholder owning 10 percent or more of the shares of the PFIC (by vote or value) is presumed to know that the PFIC has issued fast-pay stock. The provisions of sections 1295(a)(2) and 1298(f) and the regulations under those sections (including § 1.1295–1T(f)(2)) apply to any statement required by this paragraph (f)(1)(iv).

(2) *Statement.* The statement required under this paragraph (f) must say, ''This fast-pay stock disclosure statement is required by § 1.7701(l)–3(f) of the income tax regulations.'' The statement must also identify the corporation that has outstanding fast-pay stock and must contain the date on which the fast-pay stock was issued, the terms of the fast-pay stock, and (to the extent the filing person knows or has reason to know such information) the names and taxpayer identification numbers of the shareholders of any stock that is not traded on an established securities market (as described in § 1.7704–1(b)).

(g) *Effective date*—(1) *In general.* Except as provided in paragraph (g)(4) of this section (relating to reporting requirements), this section applies to taxable years ending after February 26, 1997. Thus, all amounts accrued or paid

during the first taxable year ending after February 26, 1997, are subject to this section.

(2) *Election to limit taxable income attributable to a recharacterized fast-pay arrangement for periods before April 1, 2000*—(i) *Limit.* For periods before April 1, 2000, provided the shareholder recharacterizes the fast-pay arrangement consistently for all such periods, a shareholder may limit its taxable income attributable to a fast-pay arrangement recharacterized under paragraph (c) of this section to the taxable income that results if the fast-pay arrangement is recharacterized under either—

(A) Notice 97–21, 1997–1 C.B. 407, see § 601.601(d)(2) of this chapter; or

(B) Paragraph (c) of this section, computed by assuming the financing instruments are debt.

(ii) *Adjustment and statement.* A shareholder that limits its taxable income to the amount determined under paragraph (g)(2)(i)(A) of this section must include as an adjustment to taxable income the excess, if any, of the amount determined under paragraph (g)(2)(i)(B) of this section, over the amount determined under paragraph (g)(2)(i)(A) of this section. This adjustment to taxable income must be made in the shareholder's first taxable year that includes April 1, 2000. A shareholder to which this paragraph (g)(2)(ii) applies must include a statement in its books and records identifying each fast-pay arrangement for which an adjustment must be made and providing the amount of the adjustment for each such fast-pay arrangement.

(iii) *Examples.* The following examples illustrate the rules of this paragraph (g)(2). For purposes of these examples, assume that a shareholder may limit its taxable income under this paragraph (g)(2) for periods before January 1, 2000.

Example 1. Fast-pay arrangement recharacterized under Notice 97–21; REIT holds third-party debt—(i) *Facts.* (A) REIT Y is formed on January 1, 1997, at which time it issues 1,000 shares of fast-pay stock and 1,000 shares of benefited stock for $100 per share. Y and all of its shareholders are U.S. persons and have calendar taxable years. All shareholders of Y have elected to accrue market discount based on a constant interest rate, to include the market discount in income as it accrues, and to amortize bond premium.

(B) For years 1 through 5, the fast-pay stock has an annual dividend rate of $17 per share ($17,000 for all fast-pay stock); in later years, the fast-pay stock has an annual dividend rate of $1 per share ($1,000 for all fast-pay stock). At the end of year 5, and thereafter, a share of fast-pay stock can be acquired by Y in exchange for $50 ($50,000 for all fast-pay stock).

(C) On the day Y is formed, it acquires a five-year mortgage note (the note) issued by an unrelated third party for $200,000. The note provides for annual interest payments on December 31 of $18,000 (a coupon interest rate of 9.00 percent, compounded annually), and one payment of principal at the end of 5 years. The note can be prepaid, in whole or in part, at any time.

(ii) *Recharacterization under Notice 97–21*—(A) *In general.* One way to recharacterize the fast-pay arrangement under Notice 97–21 is to treat the fast-pay shareholders and the benefited shareholders as if they jointly purchased the note from the issuer with the understanding that over the five-year term of the note the benefited shareholders would use their share of the interest to buy (on a dollar-for-dollar basis) the fast-pay shareholders' portion of the note. The benefited shareholders' and the fast-pay shareholders' yearly taxable income under Notice 97–21 can then be calculated after determining their initial portions of the note and whether those initial portions are purchased at a discount or premium.

(B) *Determining initial portions of the debt instrument.* The fast-pay shareholders' and the benefited shareholders' initial portions of the note can be determined by comparing the present values of their expected cash flows. As a group, the fast-pay shareholders expect to receive cash flows of $135,000 (five annual payments of $17,000, plus a final payment of $50,000). As a group, the benefited shareholders expect to receive cash flows of $155,000 (five annual payments of $1,000, plus a final payment of $150,000). Using a discount rate equal to the yield to maturity (as determined under § 1.1272–1(b)(1)(i)) of the mortgage note (9.00 percent, compounded annually), the present value of the fast-pay shareholders' cash flows is $98,620, and the present value of the benefited shareholders' cash flows is $101,380. Thus, the fast-pay shareholders initially acquire 49 percent of the note at a $1,380 premium (that is, they paid $100,000 for $98,620 of principal in the note). The benefited shareholders initially acquire 51 percent of the note at a $1,380 discount (that is, they paid $100,000 for $101,380 of principal in the note). Under section 171, the fast-pay shareholders' premium is amortizable based on their yield in their initial portion of the note (8.574 percent, compounded annually). The benefited shareholders' discount accrues based on the yield in their initial portion of the note (9.353 percent, compounded annually).

(C) *Taxable income under Notice 97–21*—(*1*) *Fast-pay shareholders.* Under Notice 97–21, the fast-pay shareholders compute their taxable income attributable to the fast-pay arrangement for periods before January 1, 2000, by subtracting the amortizable premium from the accrued interest on the fast-pay shareholders' portion of the note. For purposes of paragraph (g)(2)(i)(A) of this section, the fast-pay shareholders' taxable income as a group is as follows:

Taxable period	Interest income	Amortizable premium	Taxable income
1/1/97–12/31/97	$8,876	($302)	$8,574
1/1/98–12/31/98	8,145	(293)	7,852
1/1/99–12/31/99	7,348	(281)	7,067
Total	24,369	(876)	23,493

(*2*) *Benefited shareholders.* Under Notice 97–21, the benefited shareholders compute their taxable income attributable to the fast-pay arrangement for periods before January 1, 2000, by adding the accrued discount to the accrued interest on the benefited shareholders' portion of the note. For purposes of paragraph (g)(2)(i)(A) of this section, the benefited shareholders' taxable income as a group is as follows:

Taxable period	Interest income	Amortizable premium	Taxable income
1/1/97–12/31/97	$9,124	$229	$9,353
1/1/98–12/31/98	9,855	251	10,106
1/1/99–12/31/99	10,652	274	10,926
Total	29,631	754	30,385

(iii) *Taxable income under the recharacterization of this section*—(A) *Fast-pay shareholders.* Under paragraphs (c) and (g)(2)(i)(B) of this section, the fast-pay shareholders' taxable income attributable to the fast-pay arrangement for periods before January 1, 2000, is the interest deemed paid on the financing instruments. For purposes of paragraph (g)(2)(i)(B) of this section, the fast-pay shareholders' taxable income as a group is as follows:

Taxable period	Taxable income
1/1/97–12/31/97	$8,574
1/1/98–12/31/98	7,852
1/1/99–12/31/99	7,067
Total	23,493

(B) *Benefited shareholders.* Under paragraphs (c) and (g)(2)(i)(B) of this section, the benefited shareholders compute their taxable income attributable to the fast-pay arrangement for periods before January 1, 2000, by subtracting the interest deemed paid on the financing instruments from the dividends actually and deemed paid on the benefited stock. For purposes of paragraph (g)(2)(i)(B) of this section, the benefited shareholders' taxable income as a group is as follows:

Taxable period	Dividends paid on benefited stock	Interest paid on financing instruments	Taxable income
1/1/97–12/31/97	$18,000	($8,574)	$9,426
1/1/98–12/31/98	18,000	(7,852)	10,148
1/1/99–12/31/99	18,000	(7,067)	10,933
Total	54,000	(23,493)	30,507

(iv) *Limit on taxable income under paragraph (g)(2)(i) of this section*—(A) *Fast-pay shareholders.* For periods before January 1, 2000, the fast-pay shareholders have the same taxable income under the recharacterization of Notice 97–21 and paragraph (g)(2)(i)(A) of this section ($23,493) as they have under the recharacterization of paragraphs (c) and (g)(2)(i)(B) of this section ($23,493). Thus, under paragraph (g)(2)(i) of this section, the fast-pay shareholders may limit their taxable income attributable to the fast-pay arrangement for periods before January 1, 2000, to $23,493 (as a group).

(B) *Benefited shareholders.* For periods before January 1, 2000, the benefited shareholders have taxable income attributable to the fast-pay arrangement of $30,385 under the recharacterization of Notice 97–21 and paragraph (g)(2)(i)(A) of this section, and taxable income of $30,507 under the recharacterization of paragraphs (c) and (g)(2)(i)(B) of this section. Thus, under paragraph (g)(2)(i) of this section, the benefited shareholders may limit their taxable income attributable to the fast-pay arrangement for periods before January 1, 2000, to either $30,385 (as a group) or $30,507 (as a group).

(v) *Adjustment to taxable income under paragraph (g)(2)(ii) of this section.* Under paragraph (g)(2)(ii) of this section, any benefited shareholder that limited its taxable income to the amount determined under paragraph (g)(2)(i)(A) of this section must include as an adjustment to taxable income the excess, if any, of the amount determined under paragraph (g)(2)(i)(B) of this section, over the amount determined under paragraph (g)(2)(i)(A) of this section. If all benefited shareholders limited their taxable income to the amount determined under paragraph (g)(2)(i)(A) of this section, then as a group their adjustment to income is $122 ($30,507, minus $30,385). Each shareholder must include its adjustment in income for the taxable year that includes January 1, 2000.

Example 2. REIT holds debt issued by a benefited shareholder—(i) *Facts.* The facts are the same as in *Example 1* of this paragraph (g)(2) except that corporation Z holds 800 shares (80 percent) of the benefited stock, and Z, instead of a third party, issues the mortgage note acquired by Y.

(ii) *Recharacterization under Notice 97–21.* Because Y holds a debt instrument issued by Z, the fast-pay arrangement is recharacterized under Notice 97–21 as an arrangement in which Z issued one or more instruments directly to the fast-pay shareholders and the other benefited shareholders.

(A) *Fast-pay shareholders.* Consistent with this recharacterization, Z is treated as issuing a debt instrument to the fast-pay shareholders for $100,000. The debt instrument provides for five annual payments of $17,000 and an additional payment of $50,000 in year five. Thus, the debt instrument's yield to maturity is 8.574 percent per annum, compounded annually.

(B) *Benefited shareholders.* Z is also treated as issuing a debt instrument to the other benefited shareholders for $20,000 (200 shares multiplied by $100, or 20 percent of the $100,000 paid to Y by the benefited shareholders as a group). This debt instrument provides for five annual payments of $200 and an additional payment of $30,000 in year five. The debt instrument's yield to maturity is 9.304 percent per annum, compounded annually.

(C) *Issuer's interest expense under Notice 97–21.* Under Notice 97–21, Z's interest expense attributable to the fast-pay arrangement for periods before January 1, 2000, equals the interest accrued on the debt instrument held by the fast-pay shareholders, plus the interest accrued on the debt instrument held by the benefited shareholders other than Z. For purposes of paragraph (g)(2)(i)(A) of this section, Z's interest expense is as follows:

Taxable period	Accrued interest fast-pay shareholders	Accrued interest other benefited shareholders	Total interest expense
1/1/97–12/31/97	($8,574)	($1,861)	($10,435)
1/1/98–12/31/98	(7,852)	(2,015)	(9,867)
1/1/99–12/31/99	(7,067)	(2,184)	(9,251)
Total	(23,493)	(6,060)	(29,553)

(iii) *Recharacterization under this section.* Under paragraphs (c) and (g)(2)(i)(B) of this section, Z's taxable income attributable to the fast-pay arrangement for periods before January 1, 2000, equals Z's share of the dividends actually and deemed paid on the benefited stock (80 percent of the outstanding benefited stock), reduced by the sum of the interest accrued on the note held by Y and the interest accrued on the financing instruments deemed to have been issued by Z. For purposes of paragraph (g)(2)(i)(B) of this section, Z's taxable income is as follows:

Taxable period	Dividends benefited stock	Accrued interest on debt held by Y	Accrued interest financing instruments	Taxable expense
1/1/97–12/31/97	$14,400	($18,000)	($6,859)	($10,459)
1/1/98–12/31/98	14,400	(18,000)	(6,281)	(9,881)
1/1/99–12/31/99	14,400	(18,000)	(5,654)	(9,254)
Total	43,200	(54,000)	(18,794)	(29,594)

(iv) *Limit on taxable income under this paragraph (g)(2).* For periods before January 1, 2000, Z has a taxable loss attributable to the fast-pay arrangement of $29,553 under the recharacterization of Notice 97–21 and paragraph (g)(2)(i)(A) of this section, and a taxable loss of $29,594 under the recharacterization of paragraphs (c) and (g)(2)(i)(B) of this section. Thus, under paragraph (g)(2)(i) of this section, Z may report a taxable loss attributable to the fast-pay arrangement for periods before January 1, 2000, of either $29,553 or $29,594. Under paragraph (g)(2)(ii), Z has no adjustment to its taxable income for its taxable year that includes January 1, 2000.

(3) *Rule to comply with this section.* To comply with this section for each taxable year in which it failed to do so, a taxpayer should file an amended return. For taxable years ending before Janaury 10, 2000, a taxpayer that has complied with Notice 97–21, 1997–1 C.B. 407 (see § 601.601(d)(2) of this chapter), for all such taxable years is considered to have complied with this section and limited its taxable income under paragraph (g)(2)(i)(A) of this section.

(4) *Reporting requirements.* The reporting requirements of paragraph (f) of this section apply to taxable years (of the person required to file the statement) ending after Janaury 10, 2000.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 6. Section 602.101(b) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(6) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.7701(l)–3	1545–1642
* * * * *	

Approved: December 10, 1999.

Jonathan Talisman,

Acting Assistant Secretary of the Treasury.

Robert Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 00–114 Filed 1–7–00; 8:45 am]

BILLING CODE 4830–01–P

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This document describes the numerous amendments consolidated in the Transmittal Letter for Issue 55 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations, see 39 CFR 111.1. These amendments reflect changes in mail preparation requirements and other miscellaneous rules and regulations not previously published in the **Federal Register**.

EFFECTIVE DATE: January 10, 2000.

FOR FURTHER INFORMATION CONTACT: Anne Emmerth, (202) 268–2363.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual (DMM), incorporated by reference in title 39, Code of Federal Regulations, part 111, contains the basic standards of the U.S. Postal Service governing its domestic mail services, descriptions of the mail classes and special services and conditions governing their use, and standards for rate eligibility and mail preparation. The document is amended and republished about every six months, with each issue sequentially numbered. Interim updates of the DMM are posted monthly on the USPS Postal Explorer web site (http://pe.usps.gov). DMM Issue 55, the next printed edition, is scheduled for release on January 10, 2000. Issue 55 will contain all changes previously published in the **Federal Register** and all changes listed below. The following excerpt from section I010, Summary of Changes, of the transmittal letter for DMM Issue 55 covers the minor changes not previously described in interim or final rules published in the **Federal Register**. Announcements of these minor changes were first published in various issues of the Postal Bulletin, an official biweekly document published by the Postal Service. In addition, the revised table of contents of DMM Issue 55 is presented.

Domestic Mail Manual Issue 55

Summary of Changes

A Addressing

A010.1.2 and A010.3.2 are amended to correct information on the placement of private mailbox numbers. Effective 6–3–99.

A010.1.2 and A010.3.2 are amended and A010.5.3 is added to reflect changes to regulations relevant to mail delivery procedures to a commercial mail receiving agency (CMRA). Effective 4–24–99.

A040.3.3 is amended to clarify the standards for placement of an optional endorsement line when used with the exceptional address format. Effective 9–9–99.

A950.5.4 is revised to incorporate changes to PS Form 3553, Coding Accuracy Support System (CASS) Summary Report. Effective 2–11–99.

C Characteristics and Content

C010.6.2 is added to clarify standards for items mailed in USPS-provided Express Mail and Priority Mail packaging. Effective 9–9–99.

C022.3.3, C023.2.2, and C023.8.5 are revised to reflect organizational changes for rulings and appeals authority. Effective 8–12–99.

C023 is revised to clarify the hazardous material standards concerning the use of shipping papers and the requirements for flammable and magnetized materials. Effective 5–6–99.

C023.4.0 is revised to clarify the standards that apply to flammable and combustible liquids in domestic mail. Effective 12–2–99.

C023.11.4 is amended to change the standards that apply to dry ice in domestic mail via surface transportation. Effective 5–6–99.

C023.11.4 is revised to clarify the standards that apply to dry ice in domestic mail. Effective 11–5–98.

C100.2.6 is revised to clarify the format standards for First-Class Mail card rate eligibility. Effective 9–9–99.

C100.2.6, C100.2.7, and C100.2.8 are amended to clarify the format standards for cards. Effective 5–6–99.

C200.1.5 is revised to allow a supplement's dimensions to exceed those of the host publication when the publication and the supplement are fully wrapped. Effective 12–17–98.

C200.1.1, C200.1.10, C200.4.1, and C200.4.3 are amended to clarify postal standards regarding label carriers, wrappers, and printed features. Effective 3–11–99.

C820 is revised to clarify specifications for automation flats. Effective 12–14–98.

C820.3.3 is corrected to show the correct thickness for automation flats. Effective 12–3–98.

C820.4.3 is revised to add two alternative mailpiece identification endorsements for polywrapped automation flats. Effective 5–6–99.

The title of C840 is revised for clarity. Effective 3–14–99.

C850 is revised to include information about barcode formatting requirements for delivery confirmation barcodes. Effective 3–14–99.

D Deposit, Collection, and Delivery

D041.2.8 is revised to clarify the circumstances under which customers of rural and highway contract routes may share a single mail receptacle. Effective 2–11–99.

D042.2.5, D042.2.6, and D042.2.7 are revised to reflect changes to regulations relevant to mail delivery procedures to a commercial mail receiving agency (CMRA). Effective 4–24–99.

D230.3.11 and D230.6.2 are revised to reflect organizational changes for rulings and appeals authority. Effective 8–12–99.

D910.5.3 is revised to expand the application of location-based fees for post office boxes. Effective 1–10–99.

D910.5.3 is revised to correct fee assignments previously published. Effective 1–10–99.

E Eligibility

E060 is revised to reflect changes in procedures for penalty mail. Effective 2–11–99.

E060.9.6 is amended to change the name and address of Stamp Fulfillment Services (formerly the Philatelic Fulfillment Service Center). Effective 9–9–99.

E060.12.7, E213.3.7, E213.4.3, E214.3.8, E214.3.11, E270.9.6, E670.10.3, and E670.11.3 are revised to reflect organizational changes for rulings and appeals authority. Effective 8–12–99.

E110.1.3, E110.4.1, E140.1.1, E611.1.2, E612.4.7, and E612.4.9 are revised to provide for the Mailing Online market test. Effective 10–22–98.

E110.1.3, E110.4.1, E140.1.1, E611.1.2, E612.4.7, and E612.4.9 are amended to terminate the Mailing Online market test. Effective 10–29–99.

E120.1.4 is amended and E500.1.6 is added to clarify standards for items mailed in USPS-provided Express Mail and Priority Mail packaging. Effective 9–9–99.

E150.2.0 is amended to change the application process for customers who want to participate in the Qualified Business Reply Mail (QBRM) program. Effective 5–6–99.

E211.10.3 is revised to allow publishers of bound and unbound publications the option of printing the Periodicals identification statement on the table of contents page. Effective 12–2–99.

E230, E250, E620, and E651 are amended to implement new labeling list L001 and optional package reallocation. Effective 7–29–99.

E270.2.4 and E270.5.5 are added to provide for a rate anomaly for Nonprofit and Classroom Periodicals publications. Effective 8–1–99.

E613.1.0 is revised to clarify minimum and maximum weights for Standard Mail (B) subclasses. Effective 6–3–99.

E651.1.1, E651.2.2, E651.2.6, E651.3.8, E652.3.0, and E652.4.2 are revised to clarify and add procedures for destination entry rate mailings and plant-verified drop shipment (PVDS) mailings to standardize requirements for Standard Mail (A) and (B) and to improve Periodicals service. Effective 9–9–99.

E651.2.2c and E652.4.2e are amended to change loading requirements for Periodicals and Standard Mail on the same vehicle. Effective 1–1–00.

E652 Exhibit 6.0, Exhibit 7.0, and Exhibit 8.0 are revised to change and add ZIP Codes for Parcel Post discounts. Effective 1–10–99.

E652 Exhibit 7.0 and Exhibit 8.0 are amended to change and add ZIP Codes for Parcel Post discounts and to correct existing entries for some ZIP Codes. Effective 9–9–99.

E652 Exhibit 8.0 is amended to add, change, and delete ZIP Codes for Parcel Post discounts. Effective 1–10–00.

E652 Exhibit 8.0 is revised to change a postal facility address. Effective 2–11–99.

E670.5.7 is revised to change the standards for mail matter eligible to be sent at Nonprofit Standard Mail rates. Effective 9–9–99.

E670.5.11 is revised to increase the value of low-cost products mailable at Nonprofit Standard Mail rates. Effective 1–1–99.

F Forwarding and Related Services

F010.8.2 is revised to reflect organizational changes for rulings and appeals authority. Effective 8–12–99.

Exhibit F010.4.1 is amended and F020.2.7 is added to reflect changes to regulations relevant to mail delivery procedures to a commercial mail receiving agency (CMRA). Effective 4–24–99.

G General Information

G020.3.4, G900.2.3, and G900.2.7 are revised to reflect organizational changes for rulings and appeals authority. Effective 8–12–99.

G043 and G900.1.4 are amended to change the name and address of Stamp Fulfillment Services (formerly the Philatelic Fulfillment Service Center). Effective 9–9–99.

G092 is amended to reflect changes to experimental classifications and rates for nonletter-size Business Reply Mail (BRM). Effective 6–8–99.

G093 is added to provide for the Mailing Online market test. Effective 10–22–98.

G093 is deleted to terminate the Mailing Online market test. Effective 10–29–99.

L Labeling Lists

L001 is added to implement optional package reallocation. Effective 7–29–99.

L001 is revised to reflect changes in mail processing operations. Effective 7–29–99.

L001, L002, L003, and L005 are revised to reflect changes in mail processing operations. Effective 7–29–99.

L001, L002, L003, L004, L005, and L801 are revised to reflect changes in mail processing operations. Effective 11–18–99.

L002, L005, and L801 are revised to reflect changes in mail processing operations. Effective 1–28–99.

L002, L003, L005, and L801 are revised to reflect changes in mail processing operations. Effective 12–3–98.

L004 and L803 are amended to reflect changes in mail processing operations. Effective 5–6–99.

M Mail Preparation and Sortation

M011, M031, M032, M033, M041, M045, M200, and M620 are amended to implement new mailing list L001 and optional package reallocation. Effective 7–29–99.

M012.2.2 is amended to clarify standards for marking exceptions for

automation letters and flats. Effective 11–4–99.

M012.2.2 is amended to add new automation markings for MLOCR-prepared First-Class Mail and Standard Mail (A) letters. Effective 1–3–00.

M012.3.1, M012.3.2, and M630.1.1 are revised to allow customers to use ''Parcel Select'' markings in place of, or in addition to, the currently required markings for pieces entered at Parcel Post DBMC, DSCF, and DDU rates. Effective 9–9–99.

M013.1.1, M014.2.4, and M014.2.5 are revised to show specific markings for optional endorsement and carrier route information lines on packages mailed at certain rates. Effective 7–1–99.

M013.1.5 is added to clarify the standards for placement of an optional endorsement line when used with the exceptional address format. Effective 9–9–99.

M041.2.0 and M041.3.0 are revised to allow mailers to stack pallets four tiers high subject to certain limitations. Effective 2–11–99.

M072 is revised to incorporate standards for Label 23, Priority Mail Drop Shipment Label. Effective 12–17–98.

M072.3.2 is revised to add a new optional marking for pieces contained in an Express Mail or Priority Mail drop shipment and to add a new minimum type size requirement for required rate markings on pieces in a drop shipment. Effective 9–9–99.

M810.1.3 is revised to incorporate new automation markings for MLOCR-prepared First-Class Mail and Standard Mail (A) letters. Effective 1–3–00.

M820.1.5 is revised to clarify specifications for automation flats. Effective 12–14–98.

M820.1.9 is revised to show that for Periodicals, packages of automation mail and packages of nonautomation mail may be sacked together in 3-digit, SCF, ADC, and mixed ADC sacks. Corrects language originally published in Postal Bulletin 21982 (10–8–98). Effective 12–31–98.

P Postage and Payment Methods

P011 is revised to reflect changes in procedures for penalty mail. Effective 2–11–99.

P011.4.2, P011.5.1, P014.4.6, P014.4.9, P710.4.5, P710.4.9, P720.2.4, P720.2.8, P730.2.5, P730.2.8, P760.1.9, P760.1.11, and P760.1.13 are revised to reflect organizational changes for rulings and appeals authority. Effective 8–12–99.

P011.4.0 and P011.5.0 are revised to clarify appeal procedures for revenue deficiency assessments and to standardize time limits for appealing all revenue deficiency rulings at 30 days. Effective 9–9–99.

P012 is amended to implement new labeling list L001 and optional package reallocation. Effective 7–29–99.

P013.1.4, P013.1.5, and P013.2.2 are amended to clarify language about computing postage for single-piece rate mailings and Express Mail and to remove references to Presorted Priority Mail, which was eliminated on January 10, 1999. P013.1.6 is deleted because all current postage meters are able to print fractional postage amounts. Effective 9–9–99.

P014.2.4 is revised to indicate that a full refund may be given for delivery confirmation if no service is provided. Effective 3–14–99.

P014.2.10 is revised to clarify exchange and refund procedures for Breast Cancer Research semi-postal stamps. Effective 1–10–99.

P014.4.14, P014.4.17, and P760 are revised to incorporate new automation markings for MLOCR prepared First-Class Mail and Standard Mail (A) letters. Effective 1–3–00.

P021.2.1 and P021.2.6 are amended to change the name and address of Stamp Fulfillment Services (formerly the Philatelic Fulfillment Service Center). Effective 9–9–99.

P040.5.1 is revised to provide for the Mailing Online market test. Effective 10–22–98.

P040.5.1d is deleted to terminate the Mailing Online market test. Effective 10–29–99.

P070.2.0 is amended to provide an exception to printing a permit imprint on the outside of a Periodicals publication when mailing First-Class Mail or Standard Mail (A) enclosures. Effective 7–29–99.

P100.3.2 and P100.3.3 are deleted to correct information about Presorted Priority Mail originally published in Postal Bulletin 21984A. Effective 1–10–99.

R Rates and Fees

R000.4.0 and R900.9.0 are revised to correct rate errors. Effective 1–10–99.

R200.1.3, R200.2.3, R200.3.3, R200.4.3, and R200.5.3 are amended to clarify eligibility for Periodicals SCF and DU per piece rate discounts. Effective 5–6–99.

R900.7.0 is revised to include fees for delivery confirmation service. Effective 3–14–99.

R900.9.0 is revised to clarify the differences in marking and treatment between parcels insured for $50 or less and parcels insured for more than $50. Effective 10–7–99.

S Special Services

S010.2.9 is amended to correct a reference to the fee for indemnity claims. Effective 3–11–99.

S911, S913, S915, S916, S921, and S930 are amended and S918 is added to provide standards for delivery confirmation service. Effective 3–14–99.

S913.2.3 is revised to clarify the differences in marking and treatment between parcels insured for $50 or less and parcels insured for more than $50. Effective 10–7–99.

S923 is revised to allow merchandise return service permit holders to distribute merchandise return service labels by facsimile transmission (fax) to customers or by electronic transmission to customers who then download, print, and affix the labels to mailpieces to be returned to the permit holders. Effective 12–31–98.

S923.1.0 and S923.5.0 are amended to clarify the standard that requires that instructions be given with merchandise return service labels about how and where to mail the parcels. Effective 6–3–99.

S924 is revised to provide for changes in bulk parcel return service (BPRS) to allow properly endorsed Standard Mail (A) machinable parcels to be returned to the original mailer when recipients have opened, resealed, and redeposited the parcels in the mail without paying additional postage. These changes also allow mailers the option to provide at their own expense a label with a barcode that can be used by recipients when returning a parcel to a previously designated postal facility. Effective 10–3–99.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

In consideration of the foregoing, 39 CFR part 111 is amended as set forth below:

PART 111—[AMENDED]

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

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. The table at the end of § 111.3(f) is amended by adding at the end thereof a new entry to read as follows:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

(f) * * *

Transmittal letter for issue	Dated	Federal Register publication
* * * * * * *	* * * * * * *	* * * * * * *
55	January 10, 2000	65 FR [*INSERT PAGE NUMBER*].

3. Section 111.5 is revised to read as follows:

§ 111.5 Contents of the Domestic Mail Manual.

A Addressing

A000 Basic Addressing
A010 General Addressing Standards
A040 Alternative Addressing Formats
A060 Detached Address Labels (DALs)
A800 Addressing for Automation
A900 Customer Support
A910 Mailing List Services
A920 Address Sequencing Services
A930 Other Services
A950 Coding Accuracy Support System (CASS)

C Characteristics and Content

C000 General Information
C010 General Mailability Standards
C020 Restricted or Nonmailable Articles and Substances
C021 Articles and Substances Generally
C022 Perishables
C023 Hazardous Materials
C024 Other Restricted or Nonmailable Matter
C030 Nonmailable Written, Printed, and Graphic Matter
C031 Written, Printed, and Graphic Matter Generally
C032 Sexually Oriented Advertisements
C033 Pandering Advertisements
C050 Mail Processing Categories
C100 First-Class Mail
C200 Periodicals
C500 Express Mail
C600 Standard Mail
C800 Automation-Compatible Mail
C810 Letters and Cards
C820 Flats
C830 OCR Standards
C840 Barcoding Standards for Letters and Flats
C850 Barcoding Standards for Standard Mail (B) Machinable Parcels

D Deposit, Collection, and Delivery

D000 Basic Information
D010 Pickup Service
D020 Plant Load
D030 Recall of Mail
D040 Delivery of Mail
D041 Customer Mail Receptacles
D042 Conditions of Delivery
D070 Drop Shipment
D071 Express Mail and Priority Mail
D072 Metered Mail
D100 First-Class Mail
D200 Periodicals
D210 Basic Information
D230 Additional Entry
D500 Express Mail
D600 Standard Mail
D900 Other Delivery Services
D910 Post Office Box Service
D920 Caller Service
D930 General Delivery and Firm Holdout

E Eligibility

E000 Special Eligibility Standards
E010 Overseas Military Mail
E020 Department of State Mail
E030 Mail Sent by U.S. Armed Forces
E040 Free Matter for the Blind and Other Handicapped Persons
E050 Official Mail (Franked)
E060 Official Mail (Penalty)
E070 Mixed Classes
E080 Absentee Balloting Materials
E100 First-Class Mail
E110 Basic Standards
E120 Priority Mail
E130 Nonautomation Rates
E140 Automation Rates
E150 Qualified Business Reply Mail (QBRM)
E200 Periodicals
E210 Basic Standards
E211 All Periodicals
E212 Qualification Categories
E213 Periodicals Mailing Privileges
E214 Reentry
E215 Copies Not Paid or Requested by Addressee
E216 Publisher Records
E230 Nonautomation Rates
E240 Automation Rates
E250 Destination Entry
E270 Preferred Periodicals
E500 Express Mail
E600 Standard Mail
E610 Basic Standards
E611 All Standard Mail
E612 Additional Standards for Standard Mail (A)
E613 Additional Standards for Standard Mail (B)
E620 Nonautomation Standard Mail (A) Rates
E630 Standard Mail (B)
E640 Automation Standard Mail (A) Rates
E650 Destination Entry
E651 Regular, Nonprofit, and Enhanced Carrier Route Standard Mail
E652 Parcel Post
E670 Nonprofit Standard Mail

F Forwarding and Related Services

F000 Basic Services
F010 Basic Information
F020 Forwarding
F030 Address Correction, Address Change, FASTforward, and Return Services

G General Information

G000 The USPS and Mailing Standards
G010 Basic Business Information
G011 Post Offices and Postal Services
G013 Trademarks and Copyrights
G020 Mailing Standards
G030 Postal Zones
G040 Information Resources
G041 Postal Business Centers
G042 Rates and Classification Service Centers
G043 Address List for Correspondence
G090 Experimental Classifications and Rates
G092 Nonletter-Size Business Reply Mail
G900 Philatelic Services

L Labeling Lists

L000 General Use
L001 5-Digit Scheme—Periodicals Flats and Irregular Parcels and Standard Mail (A) Flats
L002 3-Digit ZIP Code Prefix Matrix
L003 3-Digit ZIP Code Prefix Groups—3-Digit Scheme Sortation
L004 3-Digit ZIP Code Prefix Groups—ADC Sortation
L005 3-Digit ZIP Code Prefix Groups—SCF Sortation
L600 Standard Mail
L601 BMCs—Machinable Parcels
L602 BMCs/ASFs—DBMC Rates
L603 ADCs—Irregular Parcels
L604 Originating ADCs—Irregular Parcels
L605 BMCs—Nonmachinable Parcel Post
L800 Automation Rate Mailings
L801 AADCs—Letter-Size Mailings
L802 BMC/ASF Entry—Periodicals and Standard Mail (A)
L803 Non-BMC/ASF Entry—Periodicals and Standard Mail (A)

M Mail Preparation and Sortation

M000 General Preparation Standards
M010 Mailpieces
M011 Basic Standards
M012 Markings and Endorsements
M013 Optional Endorsement Lines
M014 Carrier Route Information Lines
M020 Packages and Bundles
M030 Containers
M031 Labels
M032 Barcoded Labels
M033 Sacks and Trays
M040 Pallets
M041 General Standards
M045 Palletized Mailings
M050 Delivery Sequence
M070 Mixed Classes
M071 Basic Information
M072 Express Mail and Priority Mail Drop Shipment
M073 Combined Mailings of Standard Mail (A) and Standard Mail (B) Parcels
M074 Plant Load Mailings
M100 First-Class Mail (Nonautomation)
M120 Priority Mail
M130 Presorted First-Class Mail
M200 Periodicals (Nonautomation)
M500 Express Mail
M600 Standard Mail (Nonautomation)
M610 Presorted Standard Mail (A)
M620 Enhanced Carrier Route Standard Mail
M630 Standard Mail (B)
M800 All Automation Mail
M810 Letter-Size Mail
M820 Flat-Size Mail

P Postage and Payment Methods

P000 Basic Information
P010 General Standards
P011 Payment
P012 Documentation
P013 Rate Application and Computation
P014 Refunds and Exchanges
P020 Postage Stamps and Stationery
P021 Stamped Stationery
P022 Postage Stamps
P023 Precanceled Stamps
P030 Postage Meters and Meter Stamps
P040 Permit Imprints
P070 Mixed Classes
P100 First-Class Mail
P200 Periodicals
P500 Express Mail
P600 Standard Mail
P700 Special Postage Payment Systems
P710 Manifest Mailing System (MMS)
P720 Optional Procedure (OP) Mailing System
P730 Alternate Mailing Systems (AMS)
P750 Plant-Verified Drop Shipment (PVDS)
P760 First-Class or Standard Mail (A) Mailings With Different Payment Methods

R Rates and Fees

R000 Stamps and Stationery
R100 First-Class Mail
R200 Periodicals
R500 Express Mail
R600 Standard Mail
R900 Services

S Special Services

S000 Miscellaneous Services
S010 Indemnity Claims
S020 Money Orders and Other Services
S070 Mixed Classes
S500 Special Services for Express Mail
S900 Special Postal Services
S910 Security and Accountability
S911 Registered Mail
S912 Certified Mail
S913 Insured Mail
S914 Certificate of Mailing
S915 Return Receipt
S916 Restricted Delivery
S917 Return Receipt for Merchandise
S918 Delivery Confirmation
S920 Convenience
S921 Collect on Delivery (COD) Mail
S922 Business Reply Mail (BRM)
S923 Merchandise Return Service
S924 Bulk Parcel Return Service
S930 Handling

I Index Information

I000 Information
I010 Summary of Changes
I020 References
I021 Forms Glossary
I022 Subject Index

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–516 Filed 1–7–00; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[OAR–FRL–6521–2]

Indian Tribes: Air Quality Planning and Management

AGENCY: Environmental Protection Agency (EPA).

ACTION: Clarification.

SUMMARY: On February 12, 1998, EPA issued its final rule on implementing section 301(d) of the CAA (63 FR 7254, Indian Tribes: Air Quality Planning and Management), hereafter known as the Tribal Authority Rule (TAR). The TAR specified provisions of the CAA for which EPA may treat Indian tribes in the same manner as states. Among other things, the preamble to the TAR described a process by which tribal assertions of jurisdiction would be submitted to ''appropriate governmental entities'' for review and comment. The purpose of this document is to clarify EPA's position on receiving comments on tribal jurisdictional assertions under section 301(d) of the CAA.

FOR FURTHER INFORMATION CONTACT: David R. LaRoche, Office of Air and Radiation (OAR 6101–A), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington DC 20460 at (202) 564–7416.

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with the treatment in the same manner as a state (TAS) process that EPA has historically implemented under the Clean Water and Safe Drinking Water Acts, the preamble to EPA's proposed rule on tribal CAA programs stated that the CAA TAS process ''will provide States with an opportunity to notify EPA of boundary disputes and enable EPA to obtain relevant information as needed[.]'' 59 FR at 43963. The proposal also indicated that a principal concern in utilizing the eligibility process was to streamline EPA's review of such requests to eliminate needless delay. *Id.* In finalizing the TAR to provide for notice to and comment from ''appropriate governmental entities,'' EPA was generally affirming prior TAS practice. EPA also noted in its proposal that the CAA does not mandate a specific process regarding TAS determinations, including determinations regarding jurisdiction.[1]

The Agency considers such TAS determinations to be informal adjudications. Therefore, primarily to inform EPA regarding the existence of competing claims over tribes' reservation boundary assertions and assertions of jurisdiction over non-reservation areas, the TAR provided for

[1] The four criteria established by the TAR to determine a tribe's eligibility to be treated in the same manner as a state are: (1) The applicant is an Indian tribe recognized by the Secretary of the Interior; (2) the Indian tribe has a governing body carrying out substantial governmental duties and functions; (3) the functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the tribe's jurisdiction; and (4) the Indian tribe is reasonably expected to be capable of carrying out the function to be exercised in a manner consistent with the terms and purposes of the CAA and all applicable regulations.

notice to and a limited opportunity for input by ''appropriate governmental entities,'' which the Agency has defined as states, tribes and other federal entities located contiguous to the tribe applying for eligibility. *See generally* 63 FR at 7267 (*citing* 56 FR 64876, 64884 (Dec. 12, 1991)). This practice recognized, in part, that to the extent genuine reservation boundary or non-reservation jurisdictional disputes exist, the assertion of such disputes is an inherently government-to-government process. EPA further explained that ''the part of the process that involves notifying 'appropriate governmental entities' and inviting them to review the tribal applicant's jurisdictional assertion is designed to be a fact-finding procedure to assist EPA in making these statutorily-prescribed determinations regarding the tribes' jurisdiction; it is not in any way to be understood as creating or approving a state or non-tribal oversight role for a statutory decision entrusted to EPA.'' 63 FR at 7267.

In the preamble to its final rule, EPA made clear, however, that others who might have information germane to the tribe's jurisdictional assertions would have the opportunity to provide that information to EPA through ''appropriate governmental entities.'' The preamble stated: ''Nonetheless, EPA seeks to make its notification [of the tribe's application for eligibility] sufficiently prominent to inform local governmental entities, industry and the general public * * *.'' 63 FR at 7267. EPA also stated that it ''will consider relevant factual information from these sources as well, provided * * * they are submitted through the identified 'appropriate governmental entities'.'' *Id.*

II. Clarification

Concerns have been raised about whether this process potentially inhibits EPA's receipt of pertinent information on a tribe's jurisdictional claims. One expressed concern is that the ''appropriate governmental entity'' may not always pass the comments along to EPA. In order to avoid potential confusion and ensure that EPA receives all potentially relevant information regarding a tribe's jurisdiction, EPA wishes to clarify its position on receiving information under the TAR from persons other than ''appropriate governmental entities.''

EPA continues to recognize that the tribal eligibility determination process is an inherently government-to-government process. Normally, most of the relevant information on jurisdictional boundaries resides with those sovereign entities most concerned with the specific jurisdictional claims. However, private citizens may at times possess information relevant to jurisdictional determinations. In such cases, EPA believes that nothing in the nature of the government-to-government relationship between the U.S. and the tribe requires involvement of a third sovereign—the state—in order to facilitate EPA's receipt of information. It has been EPA's general practice in making TAS eligibility determinations to accept all relevant information regarding such issues, whether or not it comes from ''appropriate governmental entities.'' In other words, when a member of the public has submitted relevant information on a tribe's jurisdictional claims directly to EPA, it has been EPA's practice to consider those comments in making its final determination.

Consequently, for purposes of the TAR, on those occasions when a member of the public may have relevant information on a tribe's jurisdictional claim, that information may be submitted directly to the appropriate EPA Regional office. In this context, ''relevant information'' is limited to information related to the tribe's jurisdictional assertions, *e.g.,* the geographic boundaries of the reservation, the status of areas outside the reservation boundaries, agreements that may limit the tribe's jurisdiction, etc. However, given the government-to-government nature of the process, as well as the need to inform all affected parties about relevant comments that are submitted, where a member of the public elects to submit comments directly to EPA, EPA suggests that the commenter also send a copy to its ''appropriate governmental entity.'' EPA will treat such information in the same way it treats all information received during the process and respond accordingly. All other aspects of the TAS tribal eligibility process, as described in the preamble and regulatory section of the TAR, remain unchanged.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3).

Dated: January 3, 2000.

Carol M. Browner,

Administrator.

[FR Doc. 00–486 Filed 1–7–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[WY–001–0005; FRL–6521–1]

Standards of Performance for New Stationary Sources; Supplemental Delegation of Authority to the State of Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and delegation of authority.

SUMMARY: The purpose of this document is to inform the public that, on June 3, 1999, EPA updated its delegation of authority to the State of Wyoming for implementation and enforcement of the Federal new source performance standards (NSPS) as in effect on July 1, 1997. EPA granted delegation in response to a May 21, 1999 request from the Governor of Wyoming. EPA is also updating the table in 40 CFR part 60 regarding the NSPS delegation status for EPA Region VIII States, and EPA is updating the Region VIII address listed in 40 CFR part 60.

EFFECTIVE DATE: This action will be effective February 9, 2000. The delegation of authority to Wyoming became effective on June 3, 1999.

ADDRESSES: Copies of the documents relative to this delegation are available for inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the State documents relevant to this delegation are available for public inspection at the Air Quality Division, Department of Environmental Quality, 122 West 25th Street, Cheyenne, Wyoming 82002.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, EPA Region VIII, (303) 312–6445.

SUPPLEMENTARY INFORMATION:

I. What Is the Purpose of This Document?

EPA provides notice that, on June 3, 1999, we delegated authority to the State of Wyoming to implement and enforce the NSPS of 40 CFR part 60 as in effect on July 1, 1997. EPA is also updating the table in 40 CFR 60.4 regarding the NSPS delegation status for Region VIII States. Last, EPA is updating the Region VIII address listed in 40 CFR 60.4.

EPA considers these changes to 40 CFR 60.4 to be minor amendments. Section 553 of the Administrative

Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. Because these regulatory changes are minor in nature, EPA has determined that there is good cause for making today's changes to 40 CFR 60.4 final without prior proposal and opportunity for comment. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

II. What Is EPA's Authority for Granting Delegation?

Sections 110, 111(c)(1) and 301, of the Clean Air Act (Act), as amended, authorize EPA to delegate authority to implement and enforce the NSPS standards set out in 40 CFR part 60.

III. How Was the Delegation of Authority Granted by EPA?

On May 21, 1999, the Governor of Wyoming submitted a request for delegation of authority for the NSPS in effect as of July 1, 1997. This delegation request was submitted subsequent to the State revising its adoption of the Federal NSPS by reference in section 22 of the Wyoming Air Quality Standards and Regulations (WAQSR). With this adoption of the NSPS as in effect on July 1, 1997, the State adopted four new NSPS subparts: large municipal waste combustors for which construction is commenced after September 20, 1994 or for which modification or reconstruction is commenced after June 19, 1996 (subpart Eb), volatile organic compound emissions from synthetic organic chemical manufacturing industry reactor processes (subpart RRR), calciners and dryers in mineral industries (subpart UUU), and municipal solid waste landfills (subpart WWW).

EPA granted delegation of authority to the State of Wyoming to implement and enforce the NSPS in effect as of July 1, 1997 in the following letter dated June 3, 1999:

Honorable Jim Geringer,
Governor of Wyoming, State Capitol,
Cheyenne, Wyoming 82002

Dear Governor Geringer: On May 21, 1999, you requested delegation of authority for revisions to the New Source Performance Standards (NSPS) in Section 22 of the Wyoming Air Quality Standards and Regulations (WAQSR). The State revised its NSPS to reflect the Federal NSPS in effect as of July 1, 1997.

Subsequent to states adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the State's regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of Wyoming and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of Wyoming. Therefore, pursuant to Section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR Part 60, EPA hereby delegates its authority for the implementation and enforcement of four NSPS to the State of Wyoming as follows:

(A) Responsibility for all sources located, or to be located, in the State of Wyoming subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60. The categories of new stationary sources covered by this delegation are as follows: large municipal waste combustors for which construction is commenced after September 20, 1994 or for which modification or reconstruction is commenced after June 19, 1996 (Subpart Eb), volatile organic compound emissions from synthetic organic chemical manufacturing industry reactor processes (Subpart RRR), calciners and dryers in mineral industries (Subpart UUU), and municipal solid waste landfills (Subpart WWW).

(B) Not all authorities of NSPS can be delegated to states under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR Part 60 being delegated in this letter, the following sections are not delegated to the State of Wyoming:

(i) 40 CFR 60.703(e), pertaining to volatile organic compound emissions from synthetic organic chemical manufacturing industry reactor processes (Subpart RRR); and

(ii) 40 CFR 60.754(a)(5), pertaining to municipal solid waste landfills (Subpart WWW).

(C) As 40 CFR Part 60 is updated, Wyoming should revise its regulations accordingly and in a timely manner.

This delegation is based upon and is a continuation of the same conditions as those stated in EPA's original delegation letter of August 2, 1977, except that condition 6, relating to Federal facilities, was voided by the Clean Air Act Amendments of 1977. Please also note that EPA retains concurrent enforcement authority as stated in condition 3. In addition, if at any time there is a conflict between a State and Federal NSPS regulation, the Federal regulation must be applied if it is more stringent than that of the State, as stated in condition 9. EPA published its August 2, 1977 delegation letter in the notices section of the September 15, 1977 **Federal Register** (42 FR 46386), along with an associated rulemaking notifying the public that certain reports and applications required from operators of new or modified sources shall be submitted to the State of Wyoming (42 FR 46304). Copies of the **Federal Register** are enclosed for your convenience.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of Wyoming will be deemed to accept all the terms of this delegation. EPA will publish an information notice in the **Federal Register** in the near future to inform the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me or have your staff contact Richard Long, Director of our Air and Radiation Program, at (303) 312–6005.

Sincerely yours,

William P. Yellowtail,

Regional Administrator.

Enclosures

cc: Dan Olson, Administrator, Wyoming Air Quality Division

IV. How Do I Know Which NSPS Subparts Have Been Delegated by EPA to the States?

We publish a table in 40 CFR 60.4 for Region VIII States that identifies, for each State, the NSPS subparts for which EPA has delegated authority to implement. In this document, we update that table to reflect the NSPS subparts delegated to Wyoming. We are also correcting an error in that table to identify that subpart E—Incinerators has been delegated to Wyoming.

V. What Are the Administrative Requirements Associated With This Document?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see section I. of this document), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule 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, as specified in Executive Order 13132 (64 FR 43255,

August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This minor action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Aluminum, ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Drycleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Wool, Zinc.

Dated: December 22, 1999.

William P. Yellowtail,

Regional Administrator, Region VIII.

Part 60, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601 as amended by the Clean Air Act Amendments of 1990, Pub. L. 101–549, 104 Stat. 2399 (November 15, 1990; 402, 409, 415 of the Clean Air Act as amended, 104 Stat. 2399, unless otherwise noted).

Subpart A—General Provisions

2. Section 60.4 is amended by:

a. Revising the address listed for ''Region VIII'' in paragraph (a) to read as follows; and

b. Amending the table entitled ''Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]'' by adding a new entry for ''Eb—Large Municipal Waste Combustors'' and by revising the entries for ''E—Incinerators,'' ''RRR—VOC Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Process,'' ''UUU—Calciners and Dryers in Mineral Industries,'' and ''WWW—Municipal Solid Waste Landfills'' to read as follows:

§ 60.4 Address.

(a) * * *

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, 999 18th Street, Suite 500, Denver, CO 80222–2466.

* * * * *

(c) * * *

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS

[(NSPS) for Region VIII]

Subpart	CO	MT[1]	ND	SD[1]	UT[1]	WY
* * * * * *						
E—Incinerators	(*)	(*)	(*)	(*)	(*)	(*)
* * * * * *						
Eb—Large Municipal Waste Combustors	.....	.....	.....	.....	.....	(*)
* * * * * *						
RRR—VOC Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Process	(*)	.....	(*)	.....	(*)	(*)
* * * * * *						
UUU—Calciners and Dryers in Mineral Industries	(*)	.....	(*)	.....	(*)	(*)
* * * * * *						
WWW—Municipal Solid Waste Landfills	.....	.....	(*)	.....	(*)	(*)

(*) Indicates approval of State regulation.

[1] Indicates approval of State regulation as part of the State Implementation Plan (SIP).

[FR Doc. 00–488 Filed 1–7–00; 8:45 am]
BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–11 and 301–74

[FTR Amdt. 89]

RIN 3090–AH02

Federal Travel Regulation; Conference Planning

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the Federal Travel Regulation (FTR) governing conference planning. Because conferences have different requirements than routine temporary duty (TDY) travel, GSA is providing specific guidance to minimize overall Government expenses associated with conferences. This amendment will reduce agency costs by easing the administrative burden of conference planning and processing.

EFFECTIVE DATE: This final rule is effective January 14, 2000.

FOR FURTHER INFORMATION CONTACT: Jim Harte, Travel Team Leader, Travel Management Policy Division (MTT), telephone 202–501–0483.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule with request for comments was published in the **Federal Register** on September 15, 1999 (64 FR 50051). All comments received were considered in the formulation of the final rule. GSA received a total of 176 comments from the Federal Government and the private sector. Of those, 171 expressed support of the proposed changes and five asked for clarification and/or offered suggested improvements.

What are the Significant Comments and Changes?

Comments and adopted changes are:

(a) *Government policy usage.* A private sector organization stated that the proposed change constitutes ''good, common sense.'' Additionally, it questioned whether it is prudent to include this level of detail in the FTR, since Government and contractor organizations are confronted with a myriad of different circumstances, and some flexibility is needed. It also stated that when the FTR lists examples and such language as ''not limited to,'' the user tends to adopt role compliance in lieu of judgment. While it is unclear what ''role compliance'' is, GSA recognizes that some contractors mirror the FTR in developing their own travel rules, but only Federal employees and agencies are subject to the FTR. No significant change, therefore, has been made in the FTR policy.

(b) *Federal Management Regulation (FMR) versus the FTR.* Because this policy encompasses a much broader range of agency management than the travel function, i.e., procurement, facilities, general and administrative services, an agency questioned why this guidance isn't issued as an FMR. This final rule focuses on the total costs involved in employee travel to conferences and, therefore, is appropriate as part of the FTR.

(c) *Interagency Travel Management Committee (ITMC).* One comment questioned how the ITMC will serve as a resource for planning a conference when it is not directly involved in making conference arrangements. GSA has organized the ITMC as a forum of approximately 100 Federal travel policy and financial managers. Active communication and sharing of information will ease conference planning for those Federal agencies that have an infrequent need to plan a conference.

(d) *Rules to co-sponsor a conference with an outside organization.* One comment suggested that the final rule should address situations in which a Federal agency co-sponsors a conference with an outside organization. Depending on who the co-sponsor is, the conference planners may have to consider ethics guidelines, financial assistance regulations, and acquisition laws and regulations. For policy regarding acceptance of payment from a non-Federal source, GSA refers users to FTR Chapter 304 which is written in consultation with the Office of Government Ethics.

(e) *Conference information package.* The third sentence of Appendix E to Chapter 301, ''Conference Information Package,'' states that ''You should finalize the package and send it to the printer at least 4 weeks in advance of the starting date.'' It was suggested that this is an ideal but unrealistic time frame for preparing materials since many conferences need to be planned with only one month's notice. GSA agrees, and has amended the sentence to allow the time frame as an option.

(f) *Light refreshments.* To eliminate the possibility of agency or individual abuse, specific guidance was requested to define ''light refreshments.'' While GSA does not want to limit agencies to a specific menu of light refreshments (intended only as a refresher, not intended to serve as a meal), § 301–74.10 is revised to add a suggested list of considerations. The serving of light refreshments for conference attendees during morning, afternoon and evening breaks, authorized by 5 U.S.C. 5702, is a common business practice, and should not be prohibited for Government-sponsored conferences.

(g) *Retention of records.* One comment recommended that this rule set a threshold based on number of attendees for the retention of records. The comment stated that without specific guides, any event of whatever size that had one or more attendees in travel status would appear to be subject to the record retention requirements. Such an all-encompassing rule would run counter to the overall Federal goal of reducing unnecessary paperwork and would have no apparent benefit for small events. GSA agrees, and has revised § 301–74.19 to require records for each conference the agency sponsors or funds, in whole or in part for 30 or more attendees. The National Archives and Records Administration issues the General Record Schedules to provide Governmentwide authority to destroy records common to several or all agencies of the Federal Government. The General Accounting Office has responsibility for approving the disposal of certain Federal records, including those relating to claims or demands by or against the Government, and those subject to audit. If Federal agencies need assistance to ensure adherence for the retention of records, GSA suggests that agencies contact their agency records officers.

B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 301–11 and 301–74

Government employees, Travel and transportation expenses.

For the reasons set forth in the preamble, 41 CFR parts 301–11 and 301–74 are amended as follows:

PART 301–11—PER DIEM EXPENSES

1. The authority citation for part 301–11 continues to read as follows:

Authority: 5 U.S.C. 5707.

2. Section 301–11.5 is revised to read as follows:

§ 301–11.5 How will my per diem expenses be reimbursed?

Per diem expenses will be reimbursed by the:

(a) Lodgings-plus per diem method;

(b) Reduced per diem method;

(c) Conference lodging allowance method (see §§ 301–74.7 and 301–74.22 of this chapter); or

(d) Actual expense method.

3. Part 301–74 is revised to read as follows:

PART 301–74—CONFERENCE PLANNING

Subpart A—Agency Responsibilities

Sec.

301–74.1 What policies must we follow in planning a conference?
301–74.2 What costs should be considered when planning a conference?
301–74.3 What must we do to determine which conference expenditures result in the greatest advantage to the Government?
301–74.4 What should cost comparisons include?
301–74.5 How should we select a location and a facility?
301–74.6 What can we do if we cannot find an appropriate conference facility at the chosen locality per diem rate?
301–74.7 What is the conference lodging allowance?
301–74.8 Who may authorize reimbursement of the conference lodging allowance for a Government sponsored conference?
301.74.9 Who may authorize reimbursement of the conference lodging allowance for a non-Government sponsored conference?
301–74.10 May the conference lodging allowance ever exceed 25 percent above the lodging per diem rate?
301–74.11 May we provide light refreshments at an official conference?
301–74.12 May we use both the conference lodging allowance and the actual expense method of reimbursement concurrently?
301–74.13 May we include conference administrative costs in an employee's per diem allowance payment for attendance at a conference?
301–74.14 Are there any special requirements for sponsoring or funding a conference at a hotel, motel or other place of public accommodation?
301–74.15 May we waive the requirement in § 301–74.14?
301–74.16 What must be included in any advertisement or application form relating to conference attendance?
301–74.17 What special rules apply when a conference is held in the District of Columbia?
301–74.18 What policies and procedures must we establish to govern the selection of conference attendees?
301–74.19 What records must we maintain to document the selection of a conference site?

Subpart B—Conference Attendees

301–74.21 What is the applicable M&IE rate when meals or light refreshments are furnished at nominal or no cost by the Government or are included in the registration fee?
301–74.22 When may an employee, attending a conference, be authorized the conference lodging allowance?
301–74.23 Is the conference lodging allowance an actual expense reimbursement?
301–74.24 When should actual expense reimbursement be authorized for conference attendees?

Authority: 5 U.S.C. 5707.

Subpart A—Agency Responsibilities

Note to Subpart A: Use of pronouns ''we'', ''you'', and their variants throughout this subpart refers to the agency.

§ 301–74.1 What policies must we follow in planning a conference?

When planning a conference, you must:

(a) Minimize all conference costs, including administrative costs, conference attendees' travel costs, and conference attendees' time costs;

(b) Maximize the use of Government-owned or Government provided conference facilities as much as possible;

(c) Identify opportunities to reduce costs in selecting a particular conference location and facility (e.g., through the availability of lower rates during the off-season at a site with seasonal rates); and

(d) Develop and establish internal policies to ensure these standards are met.

§ 301–74.2 What costs should be considered when planning a conference?

When planning a conference, you should consider all direct and indirect conference costs paid by the Government, whether paid directly by agencies or reimbursed by agencies to travelers or others associated with the conference. Some examples of such costs are:

(a) Authorized travel and per diem expenses;

(b) Hire of rooms for official business;

(c) Audiovisual and other equipment usage;

(d) Computer and telephone access fees;

(e) Light refreshments;

(f) Printing;

(g) Registration fees;

(h) Ground transportation; and

(i) Employees' time at the conference and on en route travel.

§ 301–74.3 What must we do to determine which conference expenditures result in the greatest advantage to the Government?

To determine conference expenditures, you must:

(a) Assure there is appropriate management oversight of the conference planning process;

(b) Always do cost comparisons of the size, scope, and location of the proposed conference;

(c) Determine if a Government facility is available at a cheaper rate than a commercial facility;

(d) Consider alternatives to a conference, e.g. teleconferencing; and

(e) Maintain written documentation of the alternatives considered and the selection rationale used.

§ 301–74.4 What should cost comparisons include?

Cost comparisons should include, but not be limited to, a determination of adequacy of lodging rooms at the established per diem rates, overall convenience of the conference location, fees, availability of meeting space, equipment, and supplies, and commuting or travel distance of attendees. (See Appendix E to Chapter 301, Guidance for Conference Planning.)

§ 301–74.5 How should we select a location and a facility?

Site selection is a final decision as to where to hold your conference. The term ''site'' refers to both the geographical location and the specific facility(ies) selected. In determining the best site in the interest of the Government, you should exercise strict fiscal responsibility to minimize costs. The actions in § 301–74.3 must be followed. Cost comparisons must cover factors such as those listed in § 301–

74.4. As part of the cost comparison, you must use the established per diem rate for the locations for which you are comparing costs.

§ 301–74.6 What can we do if we cannot find an appropriate conference facility at the chosen locality per diem rate?

While it is always desirable to obtain lodging facilities within the established lodging portion of the per diem rate for the chosen locality, it may not always be possible. In negotiating lodging rates with the properties in the chosen location, you may exceed the established lodging portion of the per diem rate by up to 25 percent under §§ 301–74.8 and 301–74.9, if necessary. This will provide flexibility in selecting an appropriate property at the most advantageous location. It will also permit agencies to reimburse their employees' subsistence expenses by using the conference lodging allowance method as prescribed in § 301–74.8 for a Government sponsored conference and in § 301–74.9 for non-Government sponsored conferences, rather than the actual expense method prescribed in subpart D of part 301–11 of this chapter.

§ 301–74.7 What is the conference lodging allowance?

The conference lodging allowance is a pre-determined maximum allowance of up to 25 percent greater than the applicable locality lodging portion of the per diem rate. Under this reimbursement method, employees will be reimbursed the actual amount incurred for lodging up to the conference lodging allowance.

§ 301–74.8 Who may authorize reimbursement of the conference lodging allowance for a Government sponsored conference?

The approval authority for the conference lodging allowance is the Government agency sponsoring the conference. The sponsoring agency will determine the appropriate conference lodging allowance, up to 25 percent above the established lodging allowance for the chosen location, and that rate shall be allowable for all employees of any agency authorized to attend the conference. The determination must be made by a senior agency official at the sponsoring agency.

§ 301.74.9 Who may authorize reimbursement of the conference lodging allowance for a non-Government sponsored conference?

The travel approving official of a Government employee authorized to attend a non-Government sponsored conference may authorize the employee to be reimbursed for lodging expenses incurred up to the conference lodging allowance rate.

§ 301–74.10 May the conference lodging allowance ever exceed 25 percent above the lodging per diem rate?

No, the conference lodging allowance may not exceed 25 percent above the applicable locality lodging per diem rate.

§ 301–74.11 May we provide light refreshments at an official conference?

Yes. Agencies sponsoring a conference may provide light refreshments to agency employees attending an official conference. Light refreshments for morning, afternoon or evening breaks are defined to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins.

§ 301–74.12 May we use both the conference lodging allowance method and the actual expense method of reimbursement concurrently?

No. You must only use one reimbursement method per day in accordance with § 301–11.4 of this chapter.

§ 301–74.13 May we include conference administrative costs in an employee's per diem allowance payment for attendance at a conference?

No. Per diem is intended only to reimburse the attendee's subsistence expenses. You must pay conference registration fees separately, either directly or by reimbursing employees who pay such expenses and submit travel claims.

§ 301–74.14 Are there any special requirements for sponsoring or funding a conference at a hotel, motel or other place of public accommodation?

Yes. When you sponsor or fund (see 15 U.S.C. 2225a), in whole or in part, a conference at a place of public accommodation in the United States, you must use an approved accommodation (see § 300–3.1 of this title), except as provided in § 301–74.15. This provision also applies to the government of the District of Columbia when it expends Federal funds for a conference and any non-Federal entity which uses Government funds to sponsor or fund a conference.

§ 301–74.15 May we waive the requirement in § 301–74.14?

Yes, if the head of your agency makes a written determination on an individual case basis that waiver of the requirement to use approved accommodations is necessary in the public interest for a particular event. Your agency head may delegate this waiver authority to a senior agency official or employee who is given waiver authority with respect to all conferences sponsored or funded, in whole or in part, by your agency.

§ 301–74.16 What must be included in any advertisement or application form relating to conference attendance?

(a) Any advertisement or application for attendance at a conference described in § 301–74.14 must include:

(1) Notice of the prohibition against using a non-FEMA approved place of public accommodation for conferences; and

(2) Notice that the conference lodging allowance applies to Federal attendees, if applicable.

(b) In addition, any executive agency, as defined in 5 U.S.C. 105, shall notify all non-Federal entities to which it provides Federal funds of this prohibition.

§ 301–74.17 What special rules apply when a conference is held in the District of Columbia?

In addition to the general rules provided in this part, the following special rules apply:

(a) You may not directly procure lodging facilities in the District of Columbia without specific authorization and appropriation from Congress (see 40 U.S.C. 34); and

(b) Any short-term conference meeting space you obtain in the District of Columbia must be procured under 41 CFR 101–17.101–4.

Note to § 301–74.17(a): This provision does not prohibit payment of per diem to an employee authorized to obtain lodging in the District of Columbia while performing official business travel.

§ 301–74.18 What policies and procedures must we establish to govern the selection of conference attendees?

You must establish policies that reduce the overall cost of conference attendance. The policies and procedures must:

(a) Limit your agency's representation to the minimum number of attendees determined by a senior official necessary to accomplish your agency's mission; and

(b) Provide for the consideration of travel expenses when selecting attendees.

§ 301–74.19 What records must we maintain to document the selection of a conference site?

For each conference you sponsor or fund, in whole or in part for 30 or more attendees, you must maintain a record of the cost of each alternative conference site considered. You must

consider at least three sites. You must make these records available for inspection by your Office of the Inspector General or other interested parties.

Subpart B—Conference Attendees

Note to subpart B: Use of pronouns ''we'', ''you'', and their variants throughout this subpart refers to the agency.

§ 301–74.21 What is the applicable M&IE rate when meals or light refreshments are furnished at nominal or no cost by the Government or are included in the registration fee?

When meals or light refreshments are furnished at nominal or no cost by the Government or are included in the registration fee the applicable M&IE will be calculated as follows:

(a) If meals are furnished the appropriate deduction from the M&IE rate must be made (see § 301–11.18 of this chapter.

(b) If light refreshments are furnished, no deduction of the M&IE allowance is required.

§ 301–74.22 When may an employee, attending a conference, be authorized the conference lodging allowance?

An employee, authorized to attend a conference, may be authorized the conference lodging allowance as prescribed in §§ 301–74.8 and 301–74.9.

§ 301–74.23 Is the conference lodging allowance an actual expense reimbursement?

No. The conference lodging allowance is a separate method of reimbursement for lodgings expenses.

§ 301–74.24 When should actual expense reimbursement be authorized for conference attendees?

If the conference lodging allowance still is inadequate, you may authorize actual expense reimbursement under § 301–11.300 of this chapter in lieu of the conference lodging allowance method.

4. Chapter 301 is amended by adding Appendix E to read as follows:

Appendix E to Chapter 301—Suggested Guidance for Conference Planning

Terms

Conference: A meeting, retreat, seminar, symposium or event that involves attendee travel. The term ''conference'' also apples to training activities that are considered to be conferences under 5 CFR 410.404.

Conference lodging allowance: The rate that is up to 25 percent above the established lodging per diem rate.

Milestone schedule: Deadlines, which need to be reached in a progressive and orderly manner.

Planner: The person designated to oversee the conference.

Planning committee: Operational group significantly contributing to a conference's overall success and able to fully reflect the needs of both the agency and the attendees.

Getting Started

Depending on the size, type, and intended effect of the conference, start planning a minimum of one year in advance. Designate a planner and a planning committee.

Planning Committee

Functions typically include, but are not limited to:

- Establishing a set of objectives.
- Developing a theme.
- Making recommendations for location, agenda, dates, and logistics, e.g., schedule, exhibits, speaker.
- Making suggestions as to who should attend.
- Serving as communications link between planners and participants.
- Evaluation and follow-up.

Milestone Schedule

(a) Develop a milestone schedule, which is essential to conference planning, by working backward from the beginning date of the conference to include each major step. Examples include:

- Planning committee meetings.
- Preparation of mailing lists.
- Letters of invitation.
- Designation of speakers.
- Confirmation letters to speakers.
- Confirmation with site selection official.
- Preparation of agenda.
- Preparation of specification sheet.
- Location and date selection.
- Exhibits.
- Budget.
- Printing requirements.
- Signage.
- Conference information packages.
- Scheduling photographer (if planned).
- Use of agency seal and conference logo.
- Handicapped requirements.
- Planning of meals and refreshments, if appropriate.

(b) Establish completion dates for each major step.

(c) Update and revise the schedule as needed.

Specification Sheet

A detailed specification sheet is necessary to:

(a) Identify essential elements of a conference which typically include, but are not limited to:

- Sleeping rooms and on-site food services. It is generally best to estimate on the low side for the number of sleeping rooms and meals to be prepared. Facilities, unless there is only limited available space, are usually prepared to increase the number of sleeping rooms and meals; however, they discourage—and in some cases penalize—you if the sleeping room and meal guarantees are not met.
- Meeting rooms.
- Exhibit facilities.
- Audio-visual equipment and support services.
- Miscellaneous support services.
- Sleeping rooms with amenities, e.g., Internet access, data ports, conference call, and voice mail.

(b) Determine costs:

- *Procurement.* Bring contracting officer into the process early. All agreements and decisions should be written and agreed to by the agency-contracting officer before being sent to the facility.
- *Government per diem rates.* The government per diem rate applies to Federal attendees. Application of it to non-Federal attendees is at the discretion of the property and conference negotiator.
- *Registration fee.* Generally, the registration fee covers all direct expenditures of agency funds for planning and organization of a conference, e.g., meeting room accommodations, meals, light refreshments (if appropriate), speaker fees, publications, and materials. Anything directly relating to the conference, except liquor, can be included in the fee. To estimate the registration fee, divide the proposed budget by the estimated number of attendees.

Budgeting

Decide how the conference expenses (other than sleeping room accommodations and individual meals) will be paid, i.e., by the attendee from a training or registration fee, or directly by the agency.

Conference Site Selection

Minimize total costs, all factors considered.

Geographic Location

In determining where to locate the conference, consider:

- Targeted audience.
- Total costs, including per diem, transportation, and other.
- Accessibility by car or air.
- Whether recreational activities are necessary.
- The expense of desired facility (significant savings can be achieved in off-season periods).

Types of Facilities

- *Federal Government.* Use Government-owned or Government-provided conference facilities to the maximum extent possible.
- *Convention centers.* Excellent for very large meetings, trade shows and exhibits; usually located near a large number of hotels.
- *Colleges and universities.* Many have good meeting facilities and can offer sleeping accommodations when school is not in session.
- *Hotels.* Commercial facilities that may be used to meet all conference needs or just the room night needs.
- *Conference centers.* Dedicated meeting facilities; good for smaller meetings when numerous breakout sessions are planned.

Date Selection

For availability and economical reasons, the best months are April, May, September, October, and November. You should book the facility as early as possible to increase the chances of getting the date you want. However, pay particular attention to commitments for September or October due to fiscal year budget considerations.

Considerations When Choosing a Site

(a) Is the facility:
- Cost effective, e.g., are Government rates honored?
- Safe, e.g., FEMA-approved?
- Is there on-site security personnel?
- Easily reached from an airport or by car?
- Clean?
- Well run, e.g., does the staff seem to be competent and responsive?
- Laid out in a functional way?
- Large enough to supply the number of sleeping rooms required?
- Set up to provide necessary conference registration equipment?
- Handicapped accessible?

(b) Parking:
- Is it adequate?
- How close to the facility is it?
- Is it secure and safe?
- Is the cost separate?

(c) Sleeping rooms:
- Will the facility make the reservations, or are you responsible for making the reservations for participants?
- What are the facility's registration rules?
- What are departure rules?

(d) Functionality of meeting rooms:
- Is appropriate space available?
- What costs are involved?
- Is needed equipment available (i.e., for conference registration, faxes, phones, computers, copiers)? Do not rent equipment unless it is absolutely unrealistic to bring your own.
- Are rooms designated for agency use for the duration of the conference?
- Are there columns that can block views?
- Are ceilings high enough for audio-video equipment?
- Are rooms suitable for both classroom and/or theatre setups?
- Are there windows? Shades?
- Are there manually-controlled thermostats?
- Are rooms handicapped accessible?
- Where are electrical outlets?
- Can the rooms be darkened?
- Would it be more economical to bring audio-visual equipment?
- Does the facility want meeting schedules and room layouts in writing in advance of the conference?
- If necessary, can the rooms be entered the evening before for an early setup?
- Will the facility arrange for room setup if given a layout?
- What set-up costs are included?
- What are departure rules?

(e) Exhibits:
- If exhibits are planned, is suitable exhibit space available?
- Are easels available at no cost?
- What are the put-up and takedown times?
- What costs are involved?
- What about pre-delivery and after-conference arrangements?
- If exhibits are shipped, know where and to whom they are to be sent.
- If you are bringing large exhibits, determine location of loading dock, appropriate entrances and elevators.
- Are there additional handling fees?
- Check hotel policy on posting, size and appearance of signs.

Food and Drink

Meals

- You can not generally use appropriated funds to pay for meals for employees at their official duty stations.
- Employees on TDY travel may be served meals but cannot be reimbursed for those provided at government expense.
- You should clarify in advance the appropriate per diem reduction(s) of meal(s) allowance(s) for TDY travel.
- You may pay, or reimburse an employee for meals as necessary expenses incident to an authorized training program (under the Government Employees Training Act (GETA) at 5 U.S.C. 4104(4)), if a determination has been made that essential training will be conducted during the meal.
- Work closely with the hotel to plan quality menus that fit within authorized per diem rates.
- Clarify and agree in advance to the number of meal guarantees.
- Ensure that gratuities and service charges are added to the cost of each meal, and determine the method of billing to be used (e.g., signed guarantee, collected meal tickets, or actual quantities consumed).
- Confirm menus.

Breaks and Refreshments

Breaks should last no longer than 30 minutes and take place between meeting sessions. The following should also be considered when planning for refreshments:
- Keep in mind that everyone does not drink coffee or tea.
- You should clarify and agree in advance that coffee and pastries, if appropriate, are purchased by the gallon and dozen.
- Try to avoid a per person charge.
- Negotiate the cost into the contract.
- Be conservative in your estimates. There are seldom 100 percent of the conference participants attending any one function.
- If coffee, soft drinks, and water are not included in the fee, are they available ''at cost'' to the attendee?

Account Reconciliation

It is important to request that the hotel bill be prepared in a logical and chronological sequence, and that backup data accompany the bill. Generally, the hotel will complete its accounting of the conference within two weeks of the conclusion.

Notification

Announcement and/or Invitations

Announcement of the planned conference should be made as early as possible, even one year in advance; invitation letters, 8 weeks in advance. They should include, but are not limited to:
- Point of contact name and telephone number.
- Registration form, card, or Internet address (include space for identifying handicapped requirements).
- Registration instructions.
- Registration deadline date.
- Detailed area map and driving instructions.
- Information on traffic patterns to avoid rush hour delays.
- Promotional brochures from the facility.
- Layout of facility including telephone numbers.
- Breakdown of costs showing any difference from travel versus training object classes, particularly meal costs, so that proper reimbursement can be made.
- Agenda with a list of speakers and topics.
- Activity schedule for spouses and guests (all charges or costs attributed to spouses or guests must be borne by the individual attendee (not reimbursable by the Government)).
- Provide a sample travel voucher.
- Notice that conference lodging allowance applies if applicable.

Confirmations

You should:
- Decide on the speaker(s) and the message you wish to be conveyed and obtain early commitment(s) in writing.
- Confirm conference dates/times/topics/arrival and departure times with speaker(s) and any other special guests at least 30 days in advance.
- Conduct a final planning committee meeting to confirm all plans.
- Confirm photographer's schedule.
- Confirm hotel plans at least one day in advance.

Facility Process

Check-In and -Out

Streamline the process:
- Will the facility need additional personnel?
- Is electronic one-stop processing available?
- Is luggage storage and shuttle service available?
- Arrange parking for any special guests.
- Provide signage.

Registration Process

Registration is generally the attendees' introduction to the conference. Give it special attention by:
- Using directional signs.
- Placing especially attractive or important exhibits nearby.
- Planning for late arrivals.
- Using state-of-the-art processing.
- Checking out the registration capabilities of using GSA's electronic SmartPay System.
- Providing for handicapped attendees.

Conference Information Package

Each registrant should be given a conference information package. Used regularly during the conference, the conference information package should be accurate, beneficial, and reflect detailed information on a daily/hourly basis. If time allows, you may want to finalize the package and send it to the printer at least 4 weeks in advance of the starting date. The program will be widely used, so you may want to print twice as many copies of the program as you have expected attendees. The information package, for example, may contain:
- A list of everything in the package.
- A ''welcome'' letter.
- A schedule.

- Workshop agendas.
- Discussion of exhibits.
- Panelists' information.
- Photos and biographies of speakers/special guests.
- Facility layout and list of services available.
- Identify designated smoking areas.
- Special events.
- Message center information.
- Area map.
- Other pertinent material.

Note: Use of agency seal and conference logo may be considered for the conference package. However, the decision to use such items is strictly the judgment of agency officials.

Miscellaneous

Suggested Room Coordination

Plan ahead to setup:
- Staff room to handle core of activities;
- Meal functions;
- Exhibit rooms, and
- Meeting rooms—

Theatre or auditorium for lectures; Facing speaker when note taking is important; Square or U-shaped style for discussion/interaction; and Banquet or roundtable for discussion.

Keeping in Touch

Plan for:
- A message center to be set up in a central location for special announcements and telephone messages.
- How to reach whomever at all times use beepers and walkie-talkies.
- Clear identification of conference staff.
- Accommodation of physically impaired attendees with sign language or other special needs.

Mementos

Appropriations are not available to purchase memento items for distribution to conference attendees as a remembrance of an event. Two notable exceptions to the memento or gift prohibition are under training and awards. Work closely with appropriate agency officials to make final determinations.

Resources

The following resources may be of assistance in planning a conference:
- An agency contracting officer;
- Travel Management Centers;
- Interagency Travel Management Committee members (a forum of agency travel policy managers—for member identification, contact your agency's administrative or financial office);
- State chambers of Commerce or Visitors Bureaus;
- Local chapters of the Society of Government Meeting Professionals; and
- Private industry conference planners.

Conclusion

Process:

- Questionnaires, which may provide invaluable feedback about the success of your conference.
- Training certificates.
- Thank you notes to participants, facility personnel, speakers, printers, photographers, and other special contributors.
- Summary to acknowledge the accomplishments, and to convey the information discussed to a wider audience, may be an excellent promotional tool.

Note to Appendix E: Use of pronouns ''we'', ''you'', and their variants throughout this appendix refers to the agency.

Dated: December 27, 1999.

David J. Barram,

Administrator of General Services.

[FR Doc. 00–440 Filed 1–7–00; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Dockets No. 98–147 and 96–98; FCC 99–355]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission

ACTION: Final rule

SUMMARY: This document adopts measures to promote the availability of competitive broadband xDSL-based services, especially to residential and small business customers. This document amends the Commission's unbundling rules to require incumbent LECs to provide unbundled access to a new network element, the high frequency portion of the local loop. This will enable competitive LECs to compete with incumbent LECs to provide to consumers xDSL-based services through telephone lines that the competitive LECs can share with incumbent LECs. In addition, the document adopts spectrum management policies and rules to facilitate the competitive deployment of advanced services. These rules will significantly benefit the rapid and efficient deployment of xDSL-based technologies.

DATES: Effective February 9, 2000.

FOR FURTHER INFORMATION CONTACT: Staci Pies, (202) 418–1580. For further information concerning the information collection contained in this document, contact Les Smith, Federal Communications Commission, Room 1A–804, 445 12th Street, S.W., Washington, D.C. 20554, or via Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Report and Order in CC Docket No. 98–147 and Fourth Report and Order in CC Docket 96–98, adopted on November 18, 1999, and released on December 9, 1999. The complete text of the order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street S.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B4000, 445 12th Street, S.W., Washington, D.C. it is also available via the Internet at the Commission's home page, http:www.fcc.gov/Common__Carrier/Orders/1999/fcc99355.doc.

Synopsis of the Third Report and Order and Fourth Report and Order

I. Introduction

1. The Commission adopts a Third Report and Order in CC Docket No. 98–147 and Fourth Report and Order in CC Docket No. 96–98, (collectively ''Third R&O'') to promote the availability of competitive broadband xDSL-based services, especially to residential and small business customers. Specifically, the Commission amends the unbundling rules to require incumbent LECs to provide unbundled access to a new network element, the high frequency portion of the local loop. This will enable competitive LECs to compete with incumbent LECs to provide to consumers xDSL-based services through telephone lines that the competitive LECs can share with incumbent LECs. The provision of xDSL-based service by a competitive LEC and voiceband service by an incumbent LEC on the same loop is frequently called ''line sharing.''

2. In addition, the Commission adopts rules in this Order that apply to spectrum compatibility and management. These rules will significantly benefit the rapid and efficient deployment of xDSL-based technologies. Specifically, the Commission seeks to encourage the voluntary development of industry standards while limiting the ability of any one class of carriers to impose unilateral and potentially anti-competitive spectrum management or compatibility rules on other xDSL providers. The spectrum policies adopted in this Order will ensure the compatibility of technologies and minimize the risk of harmful spectrum interference among transmission services. As such, these policies will ensure that American consumers will not face undue delay in receiving the benefits of technological innovation.

II. Line Sharing

3. The Third R&O concludes that the Commission has authority to require incumbent LECs to provide unbundled access to the high frequency spectrum of a local loop pursuant to our authority to identify a minimum list of network elements that must be unbundled on a nationwide basis. Section 251(c)(3) imposes a duty on all incumbent LECs to provide to competitors access to network elements on an unbundled basis. The standard for unbundling is set out in section 251(d)(2). Section 251(d)(2) provides that, in determining which network elements should be unbundled under section 251(c)(3), the Commission shall consider, ''at a minimum, whether—(A) access to such network elements as are proprietary in nature is necessary; and (B) the failure to provide access to such network element would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer.'' Based on this language the Third R&O concludes that the high frequency portion of the loop is a network element that must be unbundled pursuant to section 251(c)(3) and section 251(d)(2).

4. Line sharing generally describes the ability of two different service providers to offer two services over the same line, with each provider employing different frequencies to transport voice or data over that line. Section 3(29) of the Act defines a network element as ''a facility or equipment used in the provision of telecommunications services'' including ''features, functions, and capabilities, that are provided by means of such facility or equipment.'' The frequencies above those used for analog voice services on any loop are a capability of that loop. Therefore, those otherwise unused frequencies that can be used for xDSL or other applications meet the definition of a ''network element.''

5. Specifically, §§ 51.307(d) and 51.309(c) of the Commission's rules address the requesting carrier's right to loop access. These rules provide, respectively, that an incumbent LEC must provide competitors with ''access to the facility or functionality of a requested network element separate from access to the facility or functionality of other network elements.'' The rules also state that a requesting carrier is ''entitled to exclusive use'' of an ''unbundled network facility.'' Consequently, although the Third R&O concludes that to the extent section 251(d) is satisfied requesting carriers may access unbundled loop functionalities, such as non-voiceband transmission frequencies, separate from other loop functions, they are also ''entitled,'' at their option, to exclusive use of the entire unbundled loop facility.

6. *High Frequency Loop Spectrum.* The Third R&O concludes that access to the high frequency spectrum of a local loop meets the statutory definition of a network element and satisfies the requirements of sections 251(d)(2) and (c)(3). It is technically feasible for an incumbent LEC to provide a competitive LEC with access to the high frequency portion of the local loop as an unbundled network element. An incumbent LEC's failure to provide access impairs the ability of a competitive LEC to offer, on a competitive basis, certain forms of xDSL-based service that are capable of line sharing with voice services. The Third R&O finds that lack of access to the high frequency portion of the local loop would materially raise competitive LECs' cost of providing xDSL-based service to residential and small business users, delaying broad facilities-based market entry, and materially limiting the scope and quality of competitors' service offerings. It finds that access to the high frequency portion of the loop encourages the deployment of advanced telecommunications capability to all Americans as mandated by section 706 of the 1996 Act. Because some residential and small business markets may lack the economic characteristics that would support competitive entry in the absence of access to the high frequency spectrum of a local loop, it is clear that spectrum unbundling is crucial for the deployment of broadband services to the mass consumer market.

7. The Third R&O defines the high frequency spectrum network element to be the frequency range above the voiceband on a copper loop facility used to carry analog circuit-switched voiceband transmissions. The Third R&O does not mandate a particular technological approach to the use of a line for multiple services. Line sharing relies on rapidly evolving technology and our requirement that incumbent LECs provide the high frequency spectrum of a local loop as an unbundled network element should stimulate technological innovation. The Third R&O does not set a specific dividing line between the low frequency channel and a high frequency channel on the loop.

8. The Third R&O supports the use of any transmission technology that is presumed acceptable for shared-line deployment with analog voice service according to the criteria already identified in the First R&O 14 FR Rcd 4761 (1999), 63 FR 44220 August 18, 1998, and codified in the Third R&O.

9. The Third R&O finds that there are no proprietary concerns associated with unbundled access to the high frequency spectrum of the local loop. It finds that there are no copyright, patent, or trade secrecy implications to unbundled access to the high frequency spectrum UNE. Carriers do not generally rely upon loop spectrum to differentiate themselves from their competitors. Thus, the high frequency spectrum is not proprietary

10. The Third R&O concludes that a lack of access to high frequency spectrum of a local loop impairs a competitive carrier's ability to offer certain forms of xDSL-based service. Just as the loop itself remains a facility available only from an incumbent LEC, so too is a competitor seeking to offer certain xDSL-based services impaired if it does not have access to the high frequency spectrum of the local loop available from an incumbent LEC.

11. Section 251 requires incumbent LECs to provide unbundled access to a network element where lack of access impairs the ability of the requesting carrier to provide the services that it seeks to offer. The Third R&O finds that most xDSL lines have been deployed to residential or small business consumers, and incumbent LECs provide service on the vast majority of these lines where their xDSL-based service shares the line with their voice service. Incumbent LECs generally deploy forms of xDSL-based services that can coexist with voice service on a single line. This enables incumbent LECs to utilize the full capacity of the copper local loop to efficiently provide both voice and data service to a customer. Competitive LECs seeking to deploy xDSL-based service to customers subscribing to the incumbent LEC's voice telephone service cannot deploy their xDSL with the same efficiency or at the same cost. Incumbent LECs currently do not permit competitive LECs to access the high frequency portion of the loop to provide xDSL-based services, even though the incumbent LECs utilize the high frequency portion of the loop to deploy their own services. This situation materially diminishes the competitive LEC's ability to provide the particular type of xDSL-based service that it seeks to offer.

12. In contrast, the Third R&O finds that competitors are not impaired where they seek to deploy those versions of xDSL-based services that require a dedicated local loop, such as SDSL or HDSL, because they can procure unbundled loops to deploy such service. For larger business users, competitive

and incumbent LECs have to date maintained a degree of competitive parity, acquiring similar customer volumes. The larger business market tends to favor robust, high-capacity, symmetrical forms of xDSL, such as SDSL. These types of xDSL are not compatible with voice service provided over the same line in a line sharing arrangement, because they utilize the whole loop frequency spectrum. Thus, both incumbent and competitive LECs must deploy these forms of xDSL over dedicated loops. Comparable levels of market penetration between incumbent and competitive LECs indicates that competitive LECs are not impaired where they can procure unbundled loops to provide these services.

13. The Third R&O concludes that carriers seeking to deploy voice-compatible xDSL-based services cannot self-provision loops. The Third R&O also concludes purchasing or self-provisioning a second loop is not possible as a practical, operational or economic matter. First, second loops are not ubiquitously available. Refusing to unbundle the high frequency portion of the loop in this situation forecloses competitive access to the segment of consumers that lack additional copper pairs to their homes or small businesses. Where a customer premises is only addressed by one copper loop, or where end users have exhausted the facilities that serve them by installing multiple phone, modem, and fax lines, end users will have no additional facilities available at their premises which a competitive xDSL service provider could use to provide service. In those situations, competitive xDSL service providers are precluded from providing the services they seek to offer, and consumers are deprived of the benefits of competition. This is particularly a problem in rural areas, where spare copper facilities are less common. Without a requirement that the incumbent LEC must provide competitors with access to the high frequency portion of these loops, only the voice service provider that already controls the entire loop can provide xDSL-based service to that customer. In virtually all cases, this provider will be the incumbent LEC. Thus, lack of access to the high frequency portion of the loop reduces the efficient use of existing loop plant and diminishes the scope of potential customers to whom competitive LECs can market xDSL-based service, thereby limiting the competitive choices available to consumers for whom additional copper loops are not available. In addition, such lack of access can accelerate the depletion of copper loops in entire communities, necessitating inefficient capital expenditures that will increase costs imposed on consumers and competitors alike. Even if there are spare pairs in the ''drop'' to a home or business, there are not corresponding pairs in the feeder plant connecting the neighborhood to the central office.

14. Second, the Third R&O concludes that if competitive LECs were to purchase or self-provision a second unbundled loop to provide voice-compatible xDSL-based services, their provisioning of service would be materially more costly, and coincidentally less efficient, than purchasing the unbundled high-frequency portion of the loop. The inability of competing carriers to provide xDSL-based services over the same loop facilities that the incumbents use to provide local exchange service makes the provision of competitive xDSL-based services to customers that want a single line for both voice and data applications—typically small businesses and mass market residential consumers—not just marginally more expensive, but so prohibitively expensive that competitive LECs will not be able to provide such services on a sustained economic basis. Accordingly, a requesting carrier providing voice-compatible xDSL-based services is impaired without access to the unbundled high frequency portion of the loop.

15. Specifically, incumbent LECs refuse to permit competitive LECs to deploy xDSL-based service to their customers on the same customer loops through which incumbents provide voice services, although incumbents regularly deploy both services on the same loop. As a result, a competitive LEC providing xDSL to a customer subscribing to an incumbent LEC's voice service must provide a second customer loop for the customer's xDSL service, effectively doubling the line access charges for that customer's voice and xDSL services, and providing a distinct cost advantage to incumbent LEC-provided xDSL products. The Third R&O finds that the combined collocation and unbundled loop costs, exclusive of incremental and fixed network, equipment, and overhead costs, incurred by a competitive LEC seeking to deploy xDSL service can exceed 100% of the retail price for the comparable shared-line xDSL that the incumbent offers to the same customer that the competitor is vying for. It also finds that incumbents charge requesting carriers almost as much or more, on a monthly basis, for an unbundled, conditioned loop, as the incumbent charges its retail customers for xDSL service. This price discrepancy between what an incumbent can charge its customer for its own shared-line xDSL and what a competitor must pay to the incumbent just to gain access to that customer materially diminishes the ability of the competitive carrier to offer voice-compatible xDSL-based services in competition with incumbent LEC.

16. The Third R&O finds that it is not economical for competitive LECs to self-provision or purchase the entire loop as a second line just to obtain access to the high frequency portion of the loop. Incumbent LECs generally allocate virtually all loop costs to their voice services, then deploy a voice-compatible xDSL service such as ADSL on the same loop, allocating little or no incremental loop costs to the new resulting service. In contrast, when the competitive LEC procures a second loop, it must pay the incumbent LEC the full price of that unbundled loop as an unbundled network element. The cost of that additional loop often accounts for 30 to 50% of the competitor's total cost of providing service. Thus, the incumbent LEC's voice-compatible xDSL service enjoys substantial cost advantages over a competitive LEC's xDSL offerings.

17. Third, the Order finds that a competitive carrier faces a competitive disadvantage in providing xDSL over a second line when competing against the incumbent's single line offering. The incumbent is able to market its own service to customers as a quick and convenient add-on service, while the competitive carrier must persuade the customer to purchase a second line. In comparison, consumers that desire to obtain xDSL service from competitive LECs must encounter complications and expenses, including the need to arrange for a technician to install service, that do not arise if they procure the exact same service from the incumbent LEC. Providing competitive LECs with access to the high frequency portion of the loop would remove that additional burden from consumers that prefer to obtain xDSL service from competitors.

18. The Third R&O is not inconsistent with the Commission's decision to decline to unbundle packet switching. Self-provisioning switches is vastly easier, less expensive, less time consuming, less complicated, and less risky than self-provisioning the outside plant that constitutes the ubiquitous loop network. There can be little dispute that requesting carriers have not duplicated the incumbent LEC's ubiquitous loop plant and generally are not providing service with competitive loop facilities.

19. The Third R&O concludes that if competitive LECs were to provide voice service in addition to xDSL-based service, they would be impaired in their ability to provide the data services they seek to offer. First, concluding that competitive LECs should be able to provide voice service on the customer's first line would impose on requesting carriers all of the cost and operational issues associated with providing circuit-switched voice services. To the extent the competitive carrier invests in its own switching facilities, it would face cost and operational impairments associated with collocation and the coordinated cutover process. Competitive carriers providing voice service would also incur the costs of providing E911 service and number portability.

20. Furthermore, the Third R&O finds that requiring competitive LECs to provide voice services could require large investments in circuit switching network architectures that may have little to do with a requesting carrier's intention to offer advanced data services. Investments in circuit switched networks may only be justified by carriers that have attained sufficient scale and scope economies to justify deploying large-scale circuit switched networks. For other entrants, requiring this investment diverts financial resources and management focus away from competitive LECs' ability to offer advanced services and frustrates a requesting carrier's plan to migrate telecommunication services from circuit switched to packet switched networks. Frustrating the development of packet switched networks capable of bringing advanced telecommunications capability to all Americans is wholly inconsistent with the goals of section 706 of the 1996 Act and the deployment of efficient networks.

21. The Third R&O finds that despite its ability to purchase transmission facilities from the incumbent to provide voice service, a competitor is still impaired if it must provide analog voice service in order to enter the market for voice-compatible xDSL services. There are additional costs associated with being a provider of voice service than the cost of the circuit switches. In particular, a competitive carrier would need to develop marketing, billing, and customer care infrastructure designed to service the needs of its voice customers. In addition, competitive LECs seeking to enter the traditional voice services market must deploy sales and marketing forces, and invest in creating a recognizable brand. To compete against incumbent LECs that have a long history providing voice services, competitors must overcome the substantial goodwill, experience and market power of the incumbent LECs. These factors make it a considerable challenge for competitive LECs to motivate a consumer to adopt a new local exchange provider that offers much the same service that the consumer already receives from the incumbent LEC.

22. The Third R&O finds that competitive LECs would be impaired even if they attempted to provide multi-service offerings including voice-compatible xDSL services. In addition, it is likely that competitive market entry would take longer to accomplish because competitors would need to develop all of these additional capabilities. To be sure, competitive LECs may well decide to diversify their offerings at some point in the future. But such action should occur in response to marketplace forces, not regulatory fiat. To conclude otherwise would be to ignore the statutory directive in section 251(d)(2) that requires the Commission to consider whether a requesting carrier is impaired ''to provide the services that it seeks to offer.''

23. The Third R&O's unbundling analysis acknowledges that requesting carriers may address the impairment they face in the absence of line sharing by capturing their own efficiencies and offering integrated or innovative product offerings to customers. For example, in the absence of line sharing, requesting carriers could offer multiple services, such as voice and data, over a single loop to capture the additional revenues associated with local and long distance voice services. Alternatively, requesting carriers could offer innovative bundles of services to customers to counter an incumbent LEC who provides voice and data services on a single loop. The unbundling analysis, however, favors an analytical approach that considers the totality of the circumstances a requesting carrier will face, rather than a specific business case analysis, to determine whether lack of access to particular network elements materially diminishes a requesting carrier's ability to provide the services it seeks to offer. The Third R&O does not rely upon the presence of a particular innovative business plan as a response to whether a requesting carrier is impaired because of the variety and difficulty of predicting the success of such a plan. The Third R&O concludes that a requesting carrier's ability to spread the costs of a loop between multiple services fully addresses a requesting carrier's impairment without access to line sharing.

24. The Third R&O concludes that requesting carriers are not presently obtaining the high frequency portion of the loop from third-party sources rather than from an incumbent LEC under the section 251(c) unbundling obligation.

25. The Third R&O states that the Commission will reexamine the national list of network elements that are subject to the unbundling obligations of the Act every three years.

26. The Third R&O concludes that there are no *bona fide* issues of technical feasibility with regard to line sharing. The local loop can support transmissions on a wide range of frequencies. Analog voice service occurs on the lower ''voiceband'' frequency range, at least between 300 Hertz and 3,000 Hertz, and possibly up to 3,400 Hertz depending on equipment and facilities. Some forms of xDSL, such as ADSL use a higher frequency range, generally above 20,000 Hertz, that does not interfere with voiceband transmissions. xDSL services that do not use the voiceband frequency range can ''share'' a copper loop with voiceband services, such as POTS, without impairing the performance of either service. Therefore, the customer purchasing the xDSL service may continue to receive analog circuit-switched POTS from the incumbent LEC.

27. xDSL service can be added to a local loop that is being used for ''traditional'' voice service by deploying special equipment at each end of the subscribing customer's local loop. Specifically, passive signal filters, or ''splitters,'' are installed at each end of the customer's loop to accomplish this operation. One splitter is installed at the customer's premises, and another at the central office or remote terminal. A splitter bifurcates the digital and voiceband signals concurrently traversing the local loop, directing the voiceband signals through a pair of copper wires to the Class 5 switch, and directing the digital traffic though another pair of copper wires to a DSLAM attached to the packet-switched network.

28. The Third R&O finds that incumbents that provide their own xDSL services on the same line that they are providing analog voice service are utilizing the single copper pair in the same manner as if the incumbent's voice service shared the line with a competitive carrier's data service. Accordingly, the Third R&O requires incumbent LECs to provide access to the high frequency portion of the loop based on the criteria for presumed acceptability for deployment on shared lines. By requiring conformance with this criteria, the Third R&O ensures that competitive LECs utilize technology that

does not interfere with analog voice frequencies.

29. *Voice-Compatible Forms of xDSL.* The Third R&O requires incumbent LECs to provide unbundled access to the high frequency portion of the loop to any carrier that seeks to deploy any version of xDSL that is presumed to be acceptable for shared-line deployment in accordance with Commission rules. xDSL technologies that meet this presumption include ADSL, as well as Rate-Adaptive DSL and Multiple Virtual Lines (MVL) transmission systems, all of which reserve the voiceband frequency range for non-DSL traffic. Among these, ADSL is the most widely deployed version of xDSL that is currently presumed acceptable for deployment on a shared line. Because line sharing as contemplated in the Third R&O can occur only on lines that carry traditional analog voiceband service, lines that are not used for these services could not be shared.

30. *Incumbent Remains the Voice Carrier.* The Third R&O does not require incumbents to provide unbundled access to carriers seeking just the data portion of an otherwise unoccupied loop (often referred to as a ''dry loop.'') In the event that the customer terminates its incumbent LEC provided voice service, for whatever reason, the competitive data LEC is required to purchase the full stand-alone loop network element if it wishes to continue providing xDSL service. Similarly, incumbent carriers are not required to provide line sharing to requesting carriers that are purchasing a combination of network elements known as the platform. In that circumstance, the incumbent no longer is the voice provider to the customer.

31. *Single Requesting Carrier, One Customer Per Loop.* The Third R&O defines the unbundling obligations to permit only a single competitor to share the line with the incumbent. Moreover, the Third R&O does not establish multiple customer line sharing requirements.

32. *Control of the Loop and Splitter Functionality.* The Third R&O concludes that, subject to certain obligations, incumbent LECs may maintain control over the loop and splitter equipment and functions. Incumbent LEC seeking to maintain control of the splitter must promptly accommodate, in response to a competitive LEC request to do so, any line sharing technology that meets the deployment criteria established in this proceeding. It finds that incumbent LECs will not delay their actions to procure the necessary equipment, and will inform the requesting carrier of what action it takes, and when the equipment can be installed. It should take no longer to obtain and install such equipment in response to a competitive LEC's request than it would take the incumbent to procure and install the same equipment for itself. Any failure to make this accommodation in a reasonably prompt manner would constitute a violation of the incumbent LEC's section 251 unbundling obligations.

33. The Third R&O finds that if a state commission finds that an incumbent has unreasonably refused to accommodate the competitive LEC's preferred technology or requested equipment upgrades in a prompt fashion, the state commission may authorize the competitive LEC to purchase and collocate its own splitter, whether or not incorporated into the DSLAM. The incumbent LEC would then receive the voiceband signal by connecting to the competitive LEC's collocated splitter. Alternatively, the state commission may authorize the competitive LEC to purchase a splitter that complies with the deployment standards we adopt in this Order, and transfer that splitter to the incumbent. Where the competitive LEC obtains some degree of control over the splitter, the state commission should ensure that the integrity of the incumbent LEC's voice transmission's passing through the competitive LEC's equipment and do not interfere with the performance of the incumbent LEC's central office and network equipment.

34. *Line Sharing Does Not Impede Incumbent LECs' Ability to Manage the Loop Plant.* The findings in the Third R&O do no restrain the incumbent LEC, in the course of normal loop plant maintenance and improvement activities, from migrating customers from copper to fiber loop facilities. Where such activity takes place, however, the competitor may be required to forego access to only the high frequency portion of the loop serving that customer, and may have to obtain access to the entire unbundled copper loop or find another alternative to maintain service.

35. The Third R&O concludes that, except in specific circumstances, incumbent LECs must condition loops to enable requesting carriers to provide xDSL-based services on the same loops the incumbent is providing analog voice service, regardless of loop length. Specifically, the incumbent LEC is required to remove bridge taps, filters, range extenders, and similar devices where a competitive carrier requests unbundled access to the high frequency portion of the local loop. Incumbent LECs are required to condition loops of any length for which competing carriers have requested line sharing, unless conditioning of that loop will significantly degrade the incumbent's voice service as described below. It concludes, however, that if conditioning a particular loop for shared-line xDSL will significantly degrade that customer's analog voice service, incumbent LECs are not required to condition that loop for shared-line xDSL.

36. The Third R&O requires that the incumbent refusing a competitive carrier's request to condition a loop make an affirmative showing to the relevant state commission that conditioning the specific loop in question will significantly degrade voiceband services. The incumbent LEC must also show that there is no adjacent or alternative loop available that can be conditioned or to which the customer's service can be moved to enable line sharing.

37. The Third R&O concludes that incumbent LECs should be able to charge for conditioning loops when competitors request the high frequency portion of the loop. The conditioning charges for shared lines, however, should never exceed the charges incumbent LECs are permitted to recover for similar conditioning on stand-alone loops for xDSL services. Accordingly, the Third R&O concludes that if the incumbent LEC seeks compensation from the requesting carrier for line conditioning activities, or such activity will cause substantial loop provisioning delays, the requesting carrier has the option of refusing, in whole, or in part, to have the line conditioned. A requesting carrier refusing some or all aspects of line conditioning will not, however, lose its right of access to the high frequency portion of the loop.

38. The Third R&O concludes that incumbents must provide unbundled access to the high frequency portion of the loop at the remote terminal as well as the central office. It applies a rebuttable presumption that for carriers requesting unbundled access to the high frequency portion of the loop, the subloop can be unbundled at any accessible terminal in the outside loop plant. Where the parties are unable to forge an agreement to facilitate line sharing where the customer is served by a loop passing through a DLC, the incumbent carrier bears the burden of demonstrating to the relevant state commission, in the course of a section 252 proceeding, that it is not technically feasible to unbundle the subloop to provide access to the high frequency portion of the loop.

39. The Third R&O concludes that incumbent LECs have the capability to accommodate the provisioning of the high frequency portion of the loop as a network element. Where incumbent LECs provide shared-loop xDSL services to their voice customers, either through their own subsidiaries or in cooperation with an unaffiliated ISP, the incumbent must resolve many of the same problems that they claim stand in the way of providing competitors with access to the high frequency portion of the loop.

40. *Service Ordering.* The Third R&O concludes that the type of effort required for incumbent LECs to establish appropriate line sharing ordering practices is incremental in nature, and does not require a major development initiative. The OSS capabilities required for incumbent LEC provision of shared-line xDSL services are substantially similar to the OSS capabilities required for competitive LEC provision of shared-line xDSL services, and could be easily adapted to support unbundled access to the high frequency portion of the loop network element.

41. The record shows that while changes to the existing fields on the UNE order form/electronic order formats may appropriately involve the OBF for coordination and standardization, incumbents already have made interim modifications to accommodate their own ADSL products. Thus, we conclude that the interim arrangements that the incumbents use for themselves can be extended to competitive carriers as well.

42. A key ordering system function is establishing the records necessary for customer service, trouble management, billing, and inventory functions. The Third R&O observes that the incumbent LECs already use two circuit or service numbers to track their own shared-line xDSL services: (1) the existing telephone number to identify the voice service; and (2) a circuit number to identify the xDSL service sharing the line. It concludes that incumbent LECs can extend this practice to accommodate two-carrier shared line access to the high frequency portion of the loop network element. Specifically, incumbent LECs can identify a line shared with a competitive LEC by cross-referencing a circuit number with the POTS telephone number. Possible methods for establishing this cross-reference include embedding the telephone number in the incumbent-assigned circuit number or the customer-assigned circuit number, adding it as a cross-reference to the existing account number, making a notation in the remarks field, or by establishing a new field and field identifier (FID). An incumbent LEC could create two internal orders from a competitive LEC's order for access to the high frequency portion of the local loop submitted using the incumbent's UNE ordering process. In that case, one order would be used to establish the requesting carrier's access to the high frequency loop spectrum, and the other would be a record-type order to add line sharing indicators to the customer's analog voice service account and records. This system resembles those used for ''from'' and ''to'' orders to accommodate customers that change their address but want to retain the same telephone number, as well as the system that incumbents employ to respond to a customer's change to a competitive local service provider.

43. *Provisioning.* The Third R&O does not require incumbents to provide access to the high frequency portion of the loop for multiple competitive carriers. It finds that incumbents will use much the same inventory functionality to inventory unbundled access to the high frequency portion of the loop whether for the purposes of providing access to that network element to their competitors, or for themselves. Otherwise, incumbents would have to undertake substantial rebuilds to accommodate their own shared-line xDSL service offerings.

44. The Third R&O concludes that the capabilities already exist in the Loop Facilities and Assignment Control System (LFACS) to inventory and assign two services on one loop, and that with minor modifications, incumbent LECs can easily use existing capabilities to inventory services on a shared line. In light of the apparent availability of OSS modifications that will satisfy incumbent LEC inventory needs, there is no justification to withhold requesting carrier's access to the high frequency portion of the loop while OSS modifications are implemented to allow carriers to order line sharing through electronic interfaces. The Third R&O urges the state commissions not to permit incumbent LECs to delay the availability of access to the high frequency portion of the loop while they implement automated OSS solutions, or to attribute an unreasonable portion of incumbent LEC OSS development costs to our spectrum unbundling requirements. The Third R&O expressly makes no judgment, however, that such non-automated measures would constitute nondiscriminatory access to OSS interfaces for the purposes of section 271 of the Act. It notes that a failure to implement OSS modifications within the time frame we contemplate in this Order could be grounds for finding that a BOC is not providing nondiscriminatory access to unbundled network elements under section 271 of the Act.

45. *Billing.* The Third R&O finds that there is likely to be little, if any, billing system impact resulting from the provision of unbundled access to the high frequency portion of the loop.

46. *Maintenance, Repair, and Testing.* The Third R&O concludes that current industry methods and procedures for customer service, line maintenance, and service quality assurance can largely accommodate the demands of line sharing between competitive LECs and incumbent LECs.

47. First, the Third R&O finds that the customer must be informed that testing on one of their services will impact the other service sharing the customer's line. The Third R&O finds that either the incumbent or competitive LEC's customer service operations can provide sufficient customer education on this issue.

48. The second loop testing issue, however, is more complex. Specifically, both the incumbent and competitive LEC must have access to the shared loop facility for testing, maintenance, and repair activities. Assuming that the competitive LEC owns the DSLAM and installs it in its collocation space in the incumbent LEC end office or remote terminal, a splitter is required to isolate and direct the voice service to the incumbent LEC voice switch and the xDSL service to the competitive LEC's DSLAM. This splitter will likely be installed between the MDF and the other central office equipment. In this configuration, the incumbent LEC retains testing access to the outside part of the loop through the voice switch. The competitive LEC, however, can only access the high frequency portion of the loop at its DSLAM. This precludes the competitive LEC from engaging in certain important types of loop testing that require the competitive LEC to access the loop's whole frequency range. The ability to perform this type of loop testing is important for installation, maintenance, and repair activities in both shared and non-shared line situations.

49. The Third R&O requires that incumbent LECs must provide requesting carriers with access to the loop facility for testing, maintenance, and repair activities. We require that, at a minimum, incumbents must provide requesting carriers with loop access either through a cross-connection at the competitor's collocation space, or through a standardized interface

designed for to provide physical access for testing purposes. Such access must be provided in a reasonable and nondiscriminatory manner. An incumbent seeking to utilize an alternative physical access methodology may request approval to do so from the state commission, but must show that the proposed alternative method is reasonable, nondiscriminatory, and will not disadvantage a requesting carrier's ability to perform loop or service testing, maintenance, or repair. We stress that incumbents may not use their control over loop testing access points and mechanisms for anti-competitive or discriminatory purposes, and that we will remain attentive and ready to respond to any reported anti-competitive incidents relating to competitive LEC access to loop testing mechanisms.

50. *Customer Service, Troubleshooting, and Repair.* The Third R&O finds that maintenance, repair, and testing concerns can be handled by utilizing similar methods and procedures to those that incumbent LECs are implementing for the ordering and provisioning of other unbundled network elements. Specifically, it finds that incumbent LECs already have methods and procedures in place for the cooperative resolution of trouble and testing problems that arise with competitive LECs, and that these methods and procedures can easily be modified to include provisions for escalating shared line trouble issues in a manner that minimizes customer confusion.

51. *Resolution of Operational Issues.* The Third R&O finds that incumbent LECs have already modified their OSS systems to accommodate their own xDSL products, and that those modifications and those required for line sharing are substantially similar. Incumbent LECs can adapt expediently existing incumbent OSS systems to handle line sharing with a single requesting carrier. The Third R&O also finds that incumbent LECs can perform the incremental modifications to the existing ordering processes required to provide competitive LECs with access to the high frequency portion of the loop in an expedient manner and at modest expense. It finds that in the absence of fully automated OSS interfaces, incumbent LECs have a variety of means available with which they can accommodate competitive LEC orders for the unbundled high frequency portion of the local loop, including the use of manual overrides of their current UNE ordering methods and procedures. Accordingly, the Third R&O urges requesting carriers and incumbent LECs to engage in a collaborative process at the regional level to develop solutions to incumbent LEC provision of shared line access.

52. The Third R&O does not identify or require incumbent LECs to make specific OSS methods and procedures, or facilities changes, and it does not prejudge whether specific OSS functionalities are necessary to fulfill an incumbent LEC's nondiscrimination duty. The Third R&O finds that incumbent LECs should be able to develop and implement the majority of systems modifications necessary to provide access to the higher frequency portion of the loop 180 days from release of this order. There are alternatives, to those system modifications that can not be implemented in 180 days, and these alternatives can be deployed in six months. Thus, the Third R&O concludes that incumbent LECs should be able to implement system changes necessary to provide requesting carriers with nondiscriminatory access to the high frequency portion of the local loop within 180 days from release of the order.

53. The Third R&O finds that there are five types of direct costs that an incumbent LEC potentially could incur to provide access to line sharing: (1) loops; (2) OSS; (3) cross connects; (4) splitters; and (5) line conditioning.

54. *Local Loop.* The Third R&O concludes that in arbitrations and in setting interim prices, states may require that incumbent LECs charge no more to competitive LECs for access to shared local loops than the amount of loop costs the incumbent LEC allocated to ADSL services when it established its interstate retail rates for those services.

55. *OSS.* The Third R&O finds that incumbent LECs should recover in their line sharing charges those reasonable incremental costs of OSS modification that are caused by the obligation to provide line sharing as an unbundled network element. It also reaffirms that the states may require incumbent LECs in an arbitrated agreement to recover such nonrecurring costs such as these incremental OSS modification costs through recurring charges over a reasonable period of time; and that nonrecurring charges must be imposed in an equitable manner among entrants.

56. *Cross Connects.* The Third R&O finds it reasonable for the states to establish a presumption that, where the splitter is located within the incumbent LECs' MDF, the cost for a cross connect for entire loops and for the high frequency portions of loops should be the same. It states that the states should examine carefully any assessment of costs for cross connections for xDSL services that are in excess of the costs of connecting loops to a competitive LECs' collocated facilities where the splitter is located within the MDF. If the splitter is not located within the incumbent LEC's MDF, however, then the states should allow the incumbent LEC to adjust the charge for cross connecting the competitive LEC's xDSL equipment to the incumbent LECs' facilities to reflect any cost differences arising from the different location of the splitter, compared to the MDF.

57. *Splitters.* The Third R&O concludes that if the incumbent LEC purchases for a competitive LEC the same splitter that it uses itself for providing xDSL services, then a state may require that it only assess the competitive LEC the same amount that it itself pays for a delivered splitter. The Third R&O further concludes that a competitive LEC, at its option, should be allowed to purchase a splitter that complies with industry standards, and transfer it to the incumbent LEC, in the event that the competitive LEC can complete the transaction more expeditiously or cost effectively than the incumbent LEC. A state may also allow the incumbent LEC to include in its rate structure a charge to recover the cost of installing the splitters.

58. *Line Conditioning.* In order to prevent incumbent LECs from charging an excessive price for line conditioning, the Third R&O finds that states may require that the conditioning charges for shared lines not exceed the charges the incumbent LECs are permitted to recover for similar conditioning of stand-alone loops for xDSL services. Furthermore, if the incumbent LEC is providing, or has already provided, xDSL service over a particular shared loop, a competitive LEC should not be charged with any line conditioning costs if it wins that customer and seeks access to that shared loop for providing xDSL service. Thus, the Third R&O concludes that requiring line sharing and pricing it on the basis of TELRIC should not affect the ability of the incumbent LEC to recover costs associated with providing voice service.

59. *Effective Date of New Rules.* The rules established in the Third R&O require that the unbundling of the high frequency portion of the loop becomes effective February 9, 2000.

60. *States' Role in Fostering Local Competition Under Sections 251 and 252.* The Third R&O strongly encourages states to issue binding interim arbitration awards that would require the incumbent to begin provisioning this unbundled network element on interim arbitration terms and conditions

within 180 days of release of the Third R&O. The state interim arbitration award would remain in effect until such time as the state issues a final award. The Third R&O states that in the event that a state commission fails to take action in an arbitration proceeding within the nine months prescribed by Congress, the Commission is prepared to act promptly, pursuant to section 252(e)(5) and the Commission's implementing rules, to issue an order ''preempting the State commission's jurisdiction of that proceeding or matter'' and thereafter to bring the arbitration to an orderly, expeditious conclusion. Furthermore, noting that a few states already have taken significant steps toward requiring incumbent LECs in their jurisdiction to offer line sharing, the Third R&O emphasizes that the timetable it outlines for implementing line sharing on a nationwide basis should be viewed as a maximum period for states that have not yet taken any actions to make line sharing available, and that the intention is not to delay or constrain states that already have undertaken such initiatives.

61. The Third R&O contemplates that such interim arbitration awards would incorporate the rules adopted in the Third R&O and be sufficiently detailed to permit the incumbent LECs to begin providing this new unbundled network element immediately upon the effective date of the interim order. The interim arbitration awards, like final arbitration awards, should include the price of the high frequency portion of the loop based on the pricing guidelines set out in the Third R&O. The Third R&O encourages the states, when issuing their interim arbitration awards, to set the price for the unbundled high frequency portion of the loop at the amount that the incumbent assesses in establishing interstate rates for its own competing services.

62. In addition to arrangements reached through section 252-negotiation and arbitration procedures, Bell Operating Companies (BOCs) may prepare and file with a state commission a statement of generally available terms and conditions (SGAT) that they offer to comply with the requirements of section 251. Pursuant to section 252(i), competitive carriers will be able to obtain access to the high frequency portion of the loop at the same rates, terms, and conditions offered in any approved interconnection agreement, as well as the BOCs' SGATs.

63. *Duty to Negotiate in Good Faith.* The Third R&O concludes that as part of the incumbent LEC's duty to negotiate in good faith, upon commencement of the negotiation process the incumbent LEC immediately should make available a representative who has region-wide decision-making authority to meet with the requesting carrier and any other competitive carriers seeking shared line access in the incumbent LEC's region at issue.

64. *Guidelines for State Arbitration Awards.* The Third R&O encourages states to require, in arbitration proceedings, incumbent LECs to fulfill requests for line sharing within the same interval the incumbent provisions xDSL to its own retail or wholesale customers, regardless of whether the incumbent uses an automated or manual process. The Third R&O further urges states to adopt provisioning intervals for this unbundled network element as part of any arbitration award, whether interim or final. Because there are currently no state-required provisioning intervals for the high frequency portion of the loop network element, the Third R&O recommends that states consider a standard based on the time required to provision xDSL capable loops. Where the incumbent LEC is already providing shared line xDSL service to a particular customer, however, the provisioning interval should be significantly shorter.

65. The Third R&O strongly urges the states to adopt an implementation schedule that requires an incumbent to begin provisioning this network element to requesting carriers no later than 45 days after the issuance of an arbitration award. Finally, the Third R&O encourages states to establish penalties for failure to meet provisioning intervals as part of any arbitration award.

III. Spectrum Policy

66. *Standards-Setting Entities.* The Third R&O reiterates the Commission's general belief that industry standards bodies can, and should, create acceptable standards for deployment of xDSL-based and other advanced services. Despite the neutrality and openness principles embedded in the standards setting processes of standards body T1E1.4, however, several parties continue to express concerns that T1E1.4 is dominated by incumbent LECs and that, as a result, standards setting is delayed and deployment of certain technologies particularly favored by competitive LECs is precluded. Thus, the Third R&O concludes that the Commission is compelled to play a role in standards development, and that the standards setting process must include the involvement of a third party to advise the Commission on spectrum compatibility standards and spectrum management practices. Specifically, the charter of an existing Federal Advisory Committee, the Network Reliability and Interoperability Council (NRIC), will be amended to charge NRIC with such an advisory function.

67. NRIC V is requested to provide initial recommendations for resolution of spectrum compatibility and management issues to the Commission within 150 days from the establishment date of NRIC V. Moreover, NRIC is expected to submit reports to the Commission on standards and practices development issues as further deemed necessary by NRIC or the Commission and, in any event, promptly after NRIC has received appropriate input from industry standards bodies.

68. The Third R&O anticipates that NRIC will receive the majority of input from, and monitor most closely, the work of T1E1.4 with respect to developing spectrum compatibility standards, and with respect to fair and open practices for the deployment of advanced services technologies. The Third R&O emphasizes, however, that NRIC will be open to, and will consider submissions from, any appropriate industry standards body. Through the recommendations and reports that the Commission receives from NRIC, the Commission will evaluate whether T1E1.4 and other industry standards bodies are acting in a manner consistent with the policies that the Commission has determined should underlie spectrum compatibility standards-setting and formation of spectrum management rules and practices. Should the Commission find that certain industry standards bodies are adopting spectrum compatibility standards or spectrum management practices that continue to fail, in their underlying processes, in safeguarding principles of competitive neutrality and promoting innovation, the Commission will look to other industry standards bodies that uphold these principles, or the Commission will exercise its authority to assume the standards-setting function itself.

69. *Mechanisms for Demonstrating Spectrum Compatibility.* In the first order in this proceeding (*Advanced Services First Report and Order*, 14 FCC Rcd 4761 (1999)), the Commission sought comment on the best means to address spectrum compatibility. The Third R&O declines to adopt a federal rule mandating the use of either generic PSD masks or a calculation-based approach. Instead, it defers to the conclusions to be reached by industry standards-setting bodies on this issue.

70. Notwithstanding the Commission's abstention from adopting a federal rule governing methods for defining spectrum compatibility, the Third R&O observes that the use both of

generic PSD masks and a calculation-based approach appear to be the best means to address spectrum compatibility for purposes of spurring competition.

71. *Conditions for Acceptability of a Loop Technology for Deployment.* The *Advanced Services First Report and Order* concluded that, ''until long-term standards and practices can be established,'' a loop technology should be presumed acceptable for deployment under any one of several circumstances. These circumstances include that the technology: (1) Complies with existing industry standards; (2) is approved by an industry standards body, the Commission, or any state commission; or (3) has been successfully deployed by any carrier without ''significantly degrading'' the performance of other services. The Third R&O codifies these presumptions and clarifies certain aspects of them.

72. The Third R&O reaffirms the conclusion from the *Advanced Services First Report and Order* that ADSL, HDSL, and ISDN services are presumed acceptable for deployment on fully unbundled loops where they comply with any one of certain enumerated standards. Similarly, in accordance with the second and third criteria outlined above, the Third R&O declares SDSL to be presumed acceptable for deployment. This finding, however, is limited to presuming SDSL acceptable for deployment on a fully unbundled loop. The Third R&O does not establish a presumption that SDSL is acceptable for deployment on a shared loop.

73. The Third R&O concludes that a competing carrier's use of the calculation-based method for demonstrating spectrum compatibility, as a prelude in most cases to initial deployment of a technology, should go far towards allaying the concerns of some commenters over risks of interference to the network from the deployment of a technology that was successfully deployed elsewhere. The LEC also will be able to rebut the presumption of acceptability before a state commission if the technology proposed for deployment poses a real interference threat in a certain area.

74. Consistent with the information disclosure requirements that were applied to incumbent LECs in the *Advanced Services First Report and Order*, the Third R&O finds that competitive LECs must provide to incumbent LECs information on the type of technology that they seek to deploy. The Third R&O concludes further that competitive LECs must provide this information in notifying the incumbent LEC of any proposed change in advanced services technology that the carrier uses on the loop.

75. The Third R&O reaffirms the subjective definition of ''significantly degrade'' that was adopted in the *Advanced Services First Report and Order,* namely, ''an action that noticeably impairs a service from a user's perspective.'' The Third R&O reiterates that where a carrier claims that a deployed service is significantly degrading the performance of other advanced services or traditional voice band services, that carrier must notify the deploying carrier and allow the deploying carrier a reasonable opportunity to correct the problem. Any claims of network harm presented to the deploying entity or, if subsequently necessary, the relevant state commission, must be supported with specific and verifiable corroborating information.

76. The Third R&O confirms that an incumbent LEC need not act as the initial point of contact in all service degradation disputes. Instead, the carrier that believes its services are being significantly degraded should notify the causing carrier when the carrier experiencing degradation knows with certainty the identity of the causing carrier. The Third R&O recognizes that a carrier whose services are being degraded may not know the precise cause of the degradation and thus may not know which carrier to contact for corrective action. In this circumstance, the carrier experiencing service degradation must notify each carrier that may have caused or contributed to the degradation, including, where applicable, the incumbent LEC. Where the carrier experiencing service degradation does not know which carriers share the binder group or have deployed services in an adjacent binder group, it should request that the incumbent LEC provide it with the relevant contact information for those other carriers.

77. The Third R&O reaffirms and codifies the policy enunciated in the *Advanced Services First Report and Order* 63 FR 4420 August 18, 1998, to guide states in the resolution of interference disputes. Specifically, where a LEC demonstrates that a deployed technology is significantly degrading the performance of other advanced services or traditional voice band services, ''the carrier deploying the technology shall discontinue deployment of that technology and migrate its customers to technologies that will not significantly degrade the performance of other such services.'' The Third R&O adds an exception to this rule that the Commission believes will further safeguard competitive neutrality and deployment of new technologies. Specifically, where the only interfered-with service itself is a known disturber, that service shall not prevail against the newly deployed technology.

78. *Binder Group Management.* The Third R&O concludes that the only permissible forms of binder group management are the segregation of known disturbers and the use of the interference protection techniques described above. Currently, the only technology that the Third R&O finds causes interference with sufficient persistence to rise to the level of a known disturber is analog T1. Because the designation of a technology as a known disturber impacts various national-level rules and policies, such as those governing interference dispute resolution and binder group management, and also triggers the determination by states of how the known interfering technology will be disposed, the Commission will decide which technologies should be considered as known disturbers.

79. The Third R&O limits segregation practices to known disturbers because only the interference risks of mixing known disturbers with other technologies outweigh the risks of anticompetitive segregation practices. Because the Commission currently does not determine ADSL to be a known disturber, the Third R&O finds that SBC may not implement SFS, a form of binder group management that segregates ADSL. SBC and any other carrier currently implementing any prohibited binder group management techniques, including SFS, must discontinue and dismantle such implementations within 60 days after the release of the Third R&O.

80. The Third R&O concludes that the states should determine disposition of known interfering technologies. The Third R&O further finds that leaving disposition of known interfering technologies to the states is preferable to establishing a national sunset period for known disturbers in this proceeding.

IV. Other Issues

81. *State Authority to Enact Additional Line Sharing Requirements.* In conformance with the rule established in the Third Report and Order in CC Docket No. 96–98 (*Local Competition Third Report and Order),* the Third R&O does not permit the states to reduce the unbundling obligations established in the Third R&O. States may enact additional or modified unbundling requirements only to the same extent that they are

permitted to do so in the *Local Competition Third Report and Order.* Any state that imposes unbundling requirements in contravention of section 253(a) of the Act will be subject to possible preemption by the Commission under section 253(d) of the Act. Moreover, the Third R&O declines to exempt rural incumbent LECs from the line sharing unbundling obligation, but notes that states retain the authority pursuant to section 251(f) of the Act to exempt certain rural LECs from all section 251 obligations.

82. *Takings.* The Third R&O disagrees with US WEST's characterization that declaring the high frequency portion of the local loop to be an unbundled network element results in a physical taking. As the Commission previously has stated in the *Local Competition Third Report and Order,* dedicating a particular element to the new entrant's exclusive use does not effect a physical occupation of any incumbent LEC's property because the incumbent LEC retains physical dominion over their network elements. Requesting carriers are simply permitted to send their communications over these elements. Moreover, to the extent requiring incumbent LECs to provide access to network elements could be characterized as a regulatory or physical taking, incumbent LECs have an adequate means available to secure just compensation. Thus, the Third R&O concludes that even if requiring incumbent LECs to provide competitive LECs with access to the unbundled high frequency spectrum of the local loop constitutes a taking under the Fifth Amendment, this taking is not unconstitutional.

V. Final Regulatory Flexibility Analysis

83. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Advanced Services First Report and Order and FNPRM.* The Commission sought written public comment on the proposals in the *Advanced Services First Report and Order and FNPRM,* including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for and Objectives of This Third Report and Order and the Rules Adopted Herein

84. In this Third Report and Order (Order), the Commission takes additional, important steps toward implementing Congress' goals for deployment of advanced services by requiring incumbent LECs to unbundle the high frequency portion of the loop, and establishing spectrum compatibility and management policies.

85. First, the Commission amends our unbundling rules to require incumbent LECs to provide unbundled access to a network element, the high frequency portion of the loop. This will enable competitive LECs to provide xDSL service through telephone lines that they share with incumbent LECs, which is frequently called ''line sharing.'' In order to ensure that line sharing does not significantly degrade analog voice service, incumbents must provide unbundled access to the high frequency portion of the loop only to carriers seeking to provide xDSL services that meet one of the Commission's criteria regarding the presumption of acceptability for deployment on the same loop as analog voice service.

86. The Commission also set specific parameters for line sharing deployment in order to ensure that the analog voiceband is preserved from significant degradation. Incumbents are not required to provide unbundled access to the high frequency portion of the loop if they are not currently providing analog voice service to the customer. Moreover, incumbent carriers must provide unbundled access to the high frequency portion of the loop to only a single requesting carrier, for use at the same customer address as the analog voice service provided by the incumbent. In addition, subject to certain obligations, incumbent LECs may maintain control over the loop and splitter equipment and functions.

87. The Commission also set forth pricing methodologies for the states to use as guidelines when setting the price of this new unbundled network element. Based on the record, we find that there are five types of direct costs that an incumbent LEC potentially could incur to provide access to line sharing : (1) loops; (2) OSS; (3) cross connects; (4) splitters; and (5) line conditioning.

88. In addition to line sharing requirements, we adopt rules in this Order that apply to spectrum compatibility and management. These rules will significantly benefit the rapid and efficient deployment of xDSL technologies. Specifically, the Commission seeks to encourage the voluntary development of industry standards while limiting the ability of any one class of carriers to impose unilateral and potentially anti-competitive spectrum management or compatibility rules on other xDSL providers. We believe that spectrum policies we adopt in this Order will ensure the compatibility of technologies and minimize the risk of harmful spectrum interference among transmission services. As such, these policies will ensure that American consumers will not face undue delay in receiving the benefits of technological innovation.

89. The Commission also adopts rules that will govern when a loop technology is presumed acceptable for deployment. The circumstances include when the technology: (1) complies with existing industry standards; (2) has been approved by an industry standards body, the Commission, or any state commission; or (3) has been successfully deployed by any carrier without significantly degrading the performance of other services.

90. The Commission affirms our conclusions from the *Advanced Services First Report and Order* regarding resolution of interference disputes. In the event that a LEC demonstrates to the relevant state commission that a deployed technology is significantly degrading the performance of other advanced services or traditional voice band services, the carrier deploying the technology shall discontinue deployment of that technology and migrate its customers to technologies that will not significantly degrade the performance of other services. We now adopt an exception to this rule: where the only service experiencing interference is itself a known disturber, that service shall not prevail against the newly developed technology. We conclude that analog T1 service is a known disturber.

91. The only permissible forms of binder management are the segregation of known disturbers and the use of the spectrum compatibility (interference protection) techniques described above. The states may select one or more of several approaches towards disposition of known disturbers, including segregation or sunsetting of known disturbers.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

92. In the IRFA, the Commission stated that any rule changes would impose minimum burdens on small entities, and solicited comment on alternatives to our proposed rules that would minimize the impact they might have on small entities. The Office of Advocacy, United States Small Business Administration (SBA), commented on the issues raised in the First Report and Order and Further Notice of Proposed Rulemaking. SBA argued that the Commission should consider all comments received in response to the FNPRM, but also issue a second Further

Notice along with a revised IRFA that more accurately identifies all small businesses impacted and details the compliance burdens. Moreover, SBA is concerned that the Commission did not provide adequate notice regarding cost allocation and operational issues.

93. First, SBA argues that the *Advanced Services FNPRM* does not adequately identify all small entities affected by the line sharing and spectrum management proposals because the Commission did not identify small incumbent LECs as small entities. In fact, the Commission does include small incumbents in its RFA. While in the IRFA, the Commission stated that ''[a]lthough some affected incumbent LECs may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not 'small entities' or 'small business concerns' under the RFA,'' the Commission goes on to state that ''[o]ut of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small incumbent LECs within this analysis and use the term 'small incumbent LECs' to refer to any incumbent LECs that arguably might be defined by the SBA as 'small business concerns.' '' Moreover, as SBA is aware, the Commission continues formally to include small incumbent LECs in the RFA analysis of recent Commission items.

94. SBA also argues that the IRFA does not describe the possible reporting, recordkeeping, and other compliance requirements stemming from the proposals in the *Advanced Services FNPRM.* The Commission determined in the *Advanced Services FNPRM* that line sharing is technically feasible and requested comments on the operation issues relating to sharing a single line between two service providers. In addition, the Commission sought comment on additional measures the Commission could take to ensure that spectrum compatibility and management concerns are resolved in a fair and expeditious manner. The Commission sought comment on these two issues, and specifically identified issues such as the economic, pricing, and cost allocation implications of the line sharing proposals, as well as the burdens on the industry created by our spectrum policy proposals. As stated in the IRFA, we sought ''comments on whether the Commission should establish rules for deployment of central office equipment similar to those set forth in part 68 of our rules. We also ask[ed] commenters to address whether the Commission should be involved with the actual testing and compliance procedures or whether the industry is better suited to serve this function through the use of independent and accredited labs.'' The commenters in this proceeding addressed these specific issues in a detailed manner, including any reporting, recordkeeping, and other compliance requirements associated with the proposals, suggesting that the Commission proposals were neither vague not insufficient as alleged by SBA.

95. Third, SBA contends that the Commission's IRFA did not discuss any alternatives to the proposals made in the *Advanced Services FNPRM,* and that the Commission's claim that the proposals placed a minimum burden on small entities is unsupported by any analysis of the burdens. In the IRFA, the Commission sought ''to develop a record sufficient enough to adequately address issues related to developing long-term standards and practices for spectrum compatibility and management, and to the sharing of loops by multiple providers.'' In addressing these issues, the Commission sought to ensure that competing carriers, including small entity carriers, obtain access to inputs necessary to the provision of advanced services. We also tentatively concluded that our proposals in the *FNPRM* would impose minimal burdens on small entities. Moreover, we sought comment on these proposals and the impact they may have on small entities.''

96. Although the Commission did not describe explicitly each of the alternatives that we considered and rejected, as the proposals in the *Advanced Services FNRPM* make clear, the Commission is not considering proposals that would require small entities to engage in activities in which they are not already required to engage. These activities might require operational, accounting, billing, and legal skills that the small carriers already have. Moreover, certain proposals in the *Advanced Services FNPRM* clearly would benefit all carriers, including small carriers, by ensuring that all carriers have economic incentives to innovate and invest in new technologies. This document notes that in the text of the *Advanced Services FNPRM,* the Commission, in many instances, raised questions regarding alternatives to our proposals. These alternatives have the potential to benefit small entities. While the Commission did not reiterate each of these questions in the IRFA, we did describe our actions in the IRFA, which was attached as an Appendix to the *Advanced Services FNPRM,* and as such, we provided sufficient notice for small entities.

VI. Description and Estimate of the Number of Small Entities Affected by the Third Report and Order

97. In the RFA to the Commission's Advanced Services Order and FNPRM, we adopted the analysis and definitions set forth in determining the small entities affected by this order for purposes of this FRFA. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by rules. The RFA generally defines ''small entity'' as having the same meaning as the term ''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, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets 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 the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

98. The most reliable source of information regarding the total numbers of common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Carrier Locator* report, derived from filings made in connection with the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,604 interstate carriers. These carriers include, *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

99. The Commission has included small incumbent LECs in the present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

100. *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 or small incumbent LECs 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 small entity telephone service firms or small incumbent LECs that may be affected by the decisions and rules proposed in the Notice.

101. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more 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 SBA's definition. Consequently, the Commission estimates that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules proposed in the Notice.

102. *Local Exchange Carriers.* Neither the Commission nor SBA has developed a definition of small local exchange carriers (LECs) or competitive local exchange carriers (CLECs). The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of these carriers nationwide of which the Commission is aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, there are 1,410 LECs, 129 CLECs, and 351 resellers.

103. 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 these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,410 small entity LECs, 129 CLECs, and 351 resellers that may be affected by the decisions and rules adopted in the *Order.*

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

A. Line Sharing

104. The Commission set forth guidelines that states may use in pricing the higher frequencies of their local loops, which will be made available as an unbundled network element. The Commission determined that complying with these guidelines may require use of operational, accounting, billing, and legal skills. These are skills that the carriers already have. The Commission believes, however, that incumbent LECs will already have these skills. The burden of compliance is minimal because they use the higher frequencies of their local loops already to provide the service that will be offered to others pursuant to the unbundled network element.

105. In this *Order,* we identify the high frequency portion of the loop as an additional network element that incumbent LECs are obligated to offer to requesting carriers on an unbundled basis nationwide. The Commission believes that incumbent LECs already have the skills necessary to accomplish this with little or no additional resources because incumbents will not have to hire new staff, or provide additional training to current staff. The Commission notes that, pursuant to section 251(c) and (d) of the 1996 Act, incumbent LECs, including those that qualify as small entities, are required to provide nondiscriminatory access to unbundled network elements. The only exception to this rule apply to those carriers that qualify for and have obtained an exemption, suspension, or modification pursuant to section 251(f) of the Act.

B. Spectrum Policy

106. The Commission requires competitive LECs to provide to incumbent LECs information on the type of technology they seek to deploy, including Spectrum Class information where a competitive LEC asserts that the technology it seeks to deploy fits within a generic power spectral density (PSD) mask. Where a competitive LEC relies on a calculation-based approach to support deployment of a particular technology, it must furnish the incumbent LEC with information on the speed and power at which the technology will be transmitted. Competitive LECs must provide this information in notifying the incumbent LEC of any proposed change in advanced services technology that the carrier uses on the loop, so that the incumbent LEC can correct its records and anticipate the effect that the change may have on other services in the same or adjacent binder groups. The provision of such information is integral to a competitive LEC's claim that the technology it seeks to deploy is presumed acceptable for deployment. The Commission determined that complying with these rules may require use of engineering, technical, operational, and legal skills.

Steps Taken To Minimize Significant Economic Impact on Small Entities and Small Incumbent LECs, and Alternatives Considered

A. Line Sharing

107. The high frequency portion of the loop meets the statutory definition of a network element and must be unbundled pursuant to sections 251(d) and (c)(3). Our unbundling analysis benefits competitive carriers, including small entities, by enabling the carriers to have access to shared loops in order to serve customers who, heretofore, it has been uneconomical to serve. In order to ensure that line sharing does not significantly degrade analog voice service, incumbents must provide unbundled access to the high frequency portion of the loop only to carriers seeking to provide xDSL-based service that meets one of the Commission's criteria regarding the presumption of acceptability for deployment on the same loop as analog voice service. Incumbent carriers must provide unbundled access to the high frequency portion of the loop only to a single requesting carrier, for use at the same customer address as the analog voice service provided by the incumbent. Incumbents are not required to provide unbundled access to the high frequency portion of the loop if they are not currently providing analog voice service to the customer. Subject to certain obligations, incumbent LECs may maintain control over the loop and splitter equipment and functions. The specific parameters pursuant to which incumbent LECs have to provide access to shared lines benefit small entities, both incumbent and competitive carriers, by ensuring that carriers do not have to devote scarce resources to address line sharing arrangements, such as multiple carriers and multiple customers on the same loop, in which it is unlikely carriers seek to engage.

108. Moreover, the record shows that incumbents should be able to resolve operational issues associated with implementation of line sharing, including modifications to operations support systems, within six months. The record shows that incumbents have a number of process alternatives available and we will allow them the flexibility to choose the best and most economically feasible of them. The 180-day implementation period will benefit small incumbents who might not have the resources to make immediate changes to their OSSs.

Spectrum Policy

109. Although we reiterate our general belief that industry standards bodies should create acceptable standards for deployment of advanced services, we remain convinced, however, that the Commission is compelled to play a role in fostering timely, fair, and open development of standards for current and future technologies. We conclude that the standards setting process must include the involvement of a third party to advise the Commission on spectrum compatibility standards and spectrum management practices. Specifically, the charter of an existing Federal Advisory Committee (FAC), the Network Reliability Interoperability Council (NRIC), will be amended to charge NRIC with such advisory function.

2. Because NRIC will make recommendations to the Commission based on input and submissions from T1E1.4 and other industry standards bodies, that balanced representation within the NRIC should be able to recommend against any issues that are unduly weighted towards any one particular industry segment, we expect that NRICs involvement in these issues will help in several ways to alleviate small business concerns about incumbent LEC domination of T1E1.4, and will help safeguard competitive neutrality in, and the timeliness of xDSL standards setting for network interoperability generally.

110. Should the Commission find that certain industry standards bodies are adopting spectrum compatibility standards or spectrum management practices that continue to fail, in their underlying processes, in safeguarding principles of competitive neutrality and promoting innovation, we will look to other industry standards bodies that uphold these principles or we will exercise our authority to assume that standards-setting function ourselves.

111. The Commission finds the criterion for acceptability for deployment outlined above—successful deployment of a technology elsewhere without significantly degrading the performance of other services—to be particularly useful for assisting the deployment of new technologies without subjecting them to delays often encountered with industry standards-setting fora. As a method to achieve a presumption of acceptability for deployment that does not rely upon industry standards bodies, the successful deployment criterion provides a further antidote against concerns regarding the competitive neutrality of the industry standards-setting process. This criterion should benefit small LECs because it relieves the LEC from having to meet the potentially burdensome requirements of the industry standards setting process.

112. The LEC also will be able to rebut the presumption of acceptability before a state commission if the technology proposed for deployment poses a real interference threat in a certain area. We are confident that this represents a sufficient safeguard for network reliability. Indeed, because the power to rebut the presumption of acceptability for deployment of a technology before a state commission is an important safeguard for LECs, we decline to make the presumptions that are based on technology's standardization or other approval by an industry standards body or this Commission irrebuttable. This rebuttable presumption benefits small LECs because it gives them a vehicle to protect the network and their deployed services. Small LECs particularly benefit by the fact that we allow carriers to rebut the presumption of acceptability for deployment before the relevant state commission.

113. The Commission confirms that an incumbent LEC need not act as the initial point of contact in all service degradation disputes. This relieves small incumbent LECs from the potential responsibility for fielding all complaints; a task which could create an administrative burden and a resource drain on small incumbents.

114. The Commission reaffirms and codify the policy that we enunciated in the *Advanced Services First Report and Order* to guide states in the resolution of interference disputes. Specifically, where a LEC demonstrates that a deployed technology is significantly degrading the performance of other advanced services or traditional voice band services, ''the carrier deployning the technology shall discontinue deployment of that technology and migrate its customers to technologies that will not significantly degrade the performance of other such services. We now add an exception to this rule that we believe will further safeguard competitive neutrality and deployment of new technologies. Specifically, where the only interfered-with service itself is a known disturber, as designated by this Commission, that service shall not prevail against the newly developed technology. This exception prevents the undue protection of noisier technologies that are at or near the end of their useful life cycle, at the same time preventing the undue preclusion of new, more efficient and spectrally compatible technologies. This rule benefits incumbents, including small incumbents, by protecting the deployment of innovative services. The deployment of known disturbers is not at risk of being displaced by new

technologies that do not meet the presumption of acceptability for deployment.

115. Such an approach would designate automatic winners in the event of interference disputes. Chief among these concerns is that the guarded services approach is blatantly discriminatory, protecting technologies favored by competitive LECs. We emphasize that any criteria that favor incumbent LEC services in a manner that automatically trumps, without further consideration, innovative services offered by new entrants is neither consistent with section 706 of the 1996 Act nor with the Commission's goals as set out in the *Advanced Services First Report and Order.* The policies that we reiterate and adopt here as rules with respect to interference dispute resolution protect new technologies often deployed by small carriers against otherwise guarded technologies that tend to be deployed by incumbents who are generally larger than competitive carriers that do not favor the guarded services approach having carte blanche to be deployed after-the-fact and cause interference. These policies also provide guidance at the national level, in accordance with our finding in the *Advanced Services First Report and Order* that ''uniform spectrum management procedures are essential to the success of advanced services deployment'' where they are possible, precisely to avoid requiring competitive LECs to conform to different specifications in each state. These policies, therefore, benefit small carriers by making it administratively more efficient to deploy advanced services nationwide.

116. The Commission concludes that only permissible forms of binder group management are the segregation of known disturbers and the use of interference protection techniques. The Commission believes that the interference that known disturbers in particular are likely to cause in a multi-service environment renders it worthwhile for us to allow incumbent LECs to decide whether to segregate such disturbers as a further measure to protect against interference. This conclusion helps small incumbent LECs to the extent that they are likely to have some deployment of known disturbers (analog T1), because segregation is much less burdensome on small incumbents than forced replacement. This rule also helps small competitive carriers by prohibiting segregation of services in a discriminatory manner.

117. Numerous competitive LECs, which are often small businesses, continue to express concern that if we vest in incumbent LECs right to manage binder groups unfettered, we will provide ample opportunity for incumbent LECs to discriminate against introduction of new technologies and/or to institute binder configurations which significantly favor their own deployed technologies. The Commission is persuaded that we must limit segregation practices to known disturbers, because only the interference risks of mixing known disturbers with other technologies outweigh the risks of anticompetitive segregation practices. Because we currently do not determine ADSL to be a known disturber, we find that SBC may not implement SFS, and we do order that SBC dismantle any currently existing SFS implementation. We further stress that carriers cannot use binder group management to preclude the deployment of new technologies that are otherwise presumed to be acceptable for deployment.

118. The Commission finds leaving disposition of known interfering technologies to the states preferable to establishing a national sunset period for known disturbers in this proceeding. The Commission is concerned that a blanket sunset period may lead to unnecessary replacement of analog T1 or other otherwise known disturbers, which could lead further to unnecessary network disruption and could force carriers to undertake exorbitant replacement expenditures. In addition, as we acknowledged in the *Advanced Services First Report and Order and FNRPM*, carriers that have a substantial base of analog T1 in deployment, and in some areas it provides the only feasible high-speed transmission capability. We also recognize that transitioning customers to less interfering technologies may disrupt service for subscribers. This rule benefits incumbents, including small incumbents, by not imposing an automatic sunset period for known disturbers. Such a sunset could be expensive and have unnecessary detrimental effects on small carriers. At the same time, states are better equipped than incumbent LECs to take an objective view of the disposition of known disturbers, because of the vested interest that incumbent LECs have in their own substantial base of known disturbers such as analog T1.

Ordering Clauses

Accordingly, pursuant to the authority contained in Sections 1 through 4, 7, 10, 201 through 205, 251 through 254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151 through 154, 157, 160, 201 through 205, 251 through 254, 256, 271, and 303(r), this *Third Report and Order is adopted,*

119. Part 51 of the Commission's Rules, 47 CFR 51, is amended.

120. SBC Communications Inc. and all of its affiliated companies shall dismantle any currently existing Selective Feeder Separation (SFS) implementations, unless such implementations solely designate, segregate or reserve particular loops or binder groups for use solely by analog T1 technology. Any carrier currently implementing any binder group management technique, including SFS, which we prohibit above in Section V.B.4. of this Order and that designates, segregates or reserves particular loops or binder groups for use solely by any particular advanced services loop technology other than analog T1, shall discontinue and dismantle such implementations within 60 days after the release of this Order.

121. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public.

List of Subjects in 47 CFR Part 51

Communications common carriers, telecommunications, telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 51 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 51—INTERCONNECTION

1. The authority for part 51 continues to read as follows:

Authority: Sections 1–5, 7, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, unless otherwise noted.

2. In § 51.5, the following definitions are added in alphabetical order to read as follows:

§ 51.5 Terms and definitions.

* * * * *

Binder or *binder group.* Copper pairs bundled together, generally in groups of 25, 50 or 100.

* * * * *

Known disturber. An advanced services technology that is prone to cause significant interference with other services deployed in the network.

* * * * *

3. In § 51.319, paragraph (h) is added to read as follows:

§ 51.319 Specific unbundling requirements.

* * * * *

(h) *High frequency portion of the loop.*

(1) The high frequency portion of the loop network element is defined as the frequency range above the voiceband on a copper loop facility that is being used to carry analog circuit-switched voiceband transmissions.

(2) An incumbent LEC shall provide nondiscriminatory access in accordance with § 51.311 of these rules and section 251(c)(3) of the Act to the high frequency portion of a loop to any requesting telecommunications carrier for the provision of a telecommunications service conforming with § 51.230 of these rules.

(3) An incumbent LEC shall only provide a requesting carrier with access to the high frequency portion of the loop if the incumbent LEC is providing, and continues to provide, analog circuit-switched voiceband services on the particular loop for which the requesting carrier seeks access.

(4) *Control of the loop and splitter functionality.* In situations where a requesting carrier is obtaining access to the high frequency portion of the loop, the incumbent LEC may maintain control over the loop and splitter equipment and functions, and shall provide to requesting carriers loop and splitter functionality that is compatible with any transmission technology that the requesting carrier seeks to deploy using the high frequency portion of the loop, as defined in this subsection, provided that such transmission technology is presumed to be deployable pursuant to § 51.230.

(5) *Loop conditioning.* (i) An incumbent LEC must condition loops to enable requesting carriers to access the high frequency portion of the loop spectrum, in accordance with §§ 51.319(a)(3), and 51.319(h)(1). If the incumbent LEC seeks compensation from the requesting carrier for line conditioning, the requesting carrier has the option of refusing, in whole, or in part, to have the line conditioned, and a requesting carrier's refusal of some or all aspects of line conditioning will not diminish its right of access to the high frequency portion of the loop.

(ii) Where conditioning the loop will significantly degrade, as defined in § 51.233, the voiceband services that the incumbent LEC is currently providing over that loop, the incumbent LEC must either:

(A) Locate another loop that has been or can be conditioned, migrate the incumbent LEC's voiceband service to that loop, and provide the requesting carrier with access to the high frequency portion of the alternative loop; or

(B) Make a showing to the relevant state commission that the original loop cannot be conditioned without significantly degrading voiceband services on that loop, as defined in § 51.233, and that there is no adjacent or alternative loop available that can be conditioned or to which the customer's voiceband service can be moved to enable line sharing.

(iii) If the relevant State commission concludes that a loop cannot be conditioned without significantly degrading the voiceband service, the incumbent LEC cannot then or subsequently condition that loop to provide advanced services to its own customers without first making available to any requesting carrier the high frequency portion of the newly-conditioned loop.

(6) *Digital loop carrier systems.* Incumbent LECs must provide to requesting carriers unbundled access to the high frequency portion of the loop at the remote terminal as well as the central office, pursuant to § 51.319(a)(2) and § 51.319(h)(1).

(7) *Maintenance, repair, and testing.* (i) Incumbent LECs must provide, on a nondiscriminatory basis, physical loop test access points to requesting carriers at the splitter, through a cross-connection to the competitor's collocation space, or through a standardized interface, such as an intermediate distribution frame or a test access server, for the purposes of loop testing, maintenance, and repair activities.

(ii) An incumbent seeking to utilize an alternative physical access methodology may request approval to do so from the relevant state commission, but must show that the proposed alternative method is reasonable, nondiscriminatory, and will not disadvantage a requesting carrier's ability to perform loop or service testing, maintenance or repair.

4. Section 51.230 is added to read as follows:

§ 51.230 Presumption of acceptability for deployment of an advanced services loop technology.

(a) An advanced services loop technology is presumed acceptable for deployment under any one of the following circumstances, where the technology:

(1) Complies with existing industry standards; or

(2) Is approved by an industry standards body, the Commission, or any state commission; or

(3) Has been successfully deployed by any carrier without significantly degrading the performance of other services.

(b) An incumbent LEC may not deny a carrier's request to deploy a technology that is presumed acceptable for deployment unless the incumbent LEC demonstrates to the relevant state commission that deployment of the particular technology will significantly degrade the performance of other advanced services or traditional voiceband services.

(c) Where a carrier seeks to establish that deployment of a technology falls within the presumption of acceptability under paragraph (a)(3) of this section, the burden is on the requesting carrier to demonstrate to the state commission that its proposed deployment meets the threshold for a presumption of acceptability and will not, in fact, significantly degrade the performance of other advanced services or traditional voice band services. Upon a successful demonstration by the requesting carrier before a particular state commission, the deployed technology shall be presumed acceptable for deployment in other areas.

5. Section 51.231 is added to read as follows:

§ 51.231 Provision of information on advanced services deployment.

(a) An incumbent LEC must provide to requesting carriers that seek access to a loop or high frequency portion of the loop to provide advanced services:

(1) Uses in determining which services can be deployed; and information with respect to the spectrum management procedures and policies that the incumbent LEC.

(2) Information with respect to the rejection of the requesting carrier's provision of advanced services, together with the specific reason for the rejection; and

(3) Information with respect to the number of loops using advanced services technology within the binder and type of technology deployed on those loops.

(b) A requesting carrier that seeks access to a loop or a high frequency portion of a loop to provide advanced services must provide to the incumbent LEC information on the type of technology that the requesting carrier seeks to deploy.

(1) Where the requesting carrier asserts that the technology it seeks to deploy fits within a generic power spectral density (PSD) mask, it also

must provide Spectrum Class information for the technology.

(2) Where a requesting carrier relies on a calculation-based approach to support deployment of a particular technology, it must provide the incumbent LEC with information on the speed and power at which the signal will be transmitted.

(c) The requesting carrier also must provide the information required under paragraph (b) of this section when notifying the incumbent LEC of any proposed change in advanced services technology that the carrier uses on the loop.

6. Section 51.232 is added to read as follows:

§ 51.232 Binder group management.

(a) With the exception of loops on which a known disturber is deployed, the incumbent LEC shall be prohibited from designating, segregating or reserving particular loops or binder groups for use solely by any particular advanced services loop technology.

(b) Any party seeking designation of a technology as a known disturber should file a petition for declaratory ruling with the Commission seeking such designation, pursuant to § 1.2 of this chapter.

7. Section 51.233 is added to read as follows:

§ 51.233 Significant degradation of services caused by deployment of advanced services.

(a) Where a carrier claims that a deployed advanced service is significantly degrading the performance of other advanced services or traditional voiceband services, that carrier must notify the deploying carrier and allow the deploying carrier a reasonable opportunity to correct the problem. Where the carrier whose services are being degraded does not know the precise cause of the degradation, it must notify each carrier that may have caused or contributed to the degradation.

(b) Where the degradation asserted under paragraph (a) of this section remains unresolved by the deploying carrier(s) after a reasonable opportunity to correct the problem, the carrier whose services are being degraded must establish before the relevant state commission that a particular technology deployment is causing the significant degradation.

(c) Any claims of network harm presented to the deploying carrier(s) or, if subsequently necessary, the relevant state commission, must be supported with specific and verifiable information.

(d) Where a carrier demonstrates that a deployed technology is significantly degrading the performance of other advanced services or traditional voice band services, the carrier deploying the technology shall discontinue deployment of that technology and migrate its customers to technologies that will not significantly degrade the performance of other such services.

(e) Where the only degraded service itself is a known disturber, and the newly deployed technology satisfies at least one of the criteria for a presumption that it is acceptable for deployment under § 51.230, the degraded service shall not prevail against the newly-deployed technology.

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Proposed Rules

Federal Register
Vol. 65, No. 6
Monday, January 10, 2000

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

[Docket No. FV00–979–1 PR]

Melons Grown in South Texas; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the South Texas Melon Committee (Committee) for the 1999–2000 and subsequent fiscal periods from $0.04 to $0.05 per carton of melons handled. The Committee is responsible for local administration of the marketing order which regulates the handling of melons (cantaloupes and honeydews) grown in South Texas. Authorization to assess melon handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began October 1 and ends September 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by February 9, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698, or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Cynthia Cavazos, Marketing Assistant, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; 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 rule is issued under Marketing Agreement No. 156 and Order No. 979, both as amended (7 CFR part 979), regulating the handling of melons grown in South Texas, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas melon handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable melons beginning on October 1, 1999, and continue until amended, suspended, or terminated. 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. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 1999–2000 and subsequent fiscal periods from $0.04 to $0.05 per carton of melons handled.

The South Texas melon marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are growers and handlers of South Texas melons. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997–1998 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee, in a mail vote, unanimously recommended 1999–2000 expenses of $219,148 for personnel, office, compliance, promotion, and research expenses. These expenses were approved in September 1999. The assessment rate and specific funding for research and promotion projects were to be recommended at a later Committee meeting.

The Committee met on November 4, 1999, and unanimously recommended 1999–2000 expenditures of $265,500 and an assessment rate of $0.05 per carton of melons. In comparison, 1998–99 budgeted expenditures were $219,148. The assessment rate of $0.05 is $0.01 higher than the rate currently in

effect. The Committee voted to increase its assessment rate because the current rate would not generate the income needed to administer the marketing order and would reduce the Committee's reserve funds beyond the level acceptable to the Committee. Assessment income, along with funds from the Committee's authorized reserve, would provide the Committee with adequate funds to meet its 1999–2000 fiscal period's expenses.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include $98,800 for personnel and administrative expenses, $31,200 for compliance activities, $110,500 for research projects, and $25,000 for promotional activities. Budgeted expenses for these items in 1998–99 were $97,600, $32,400, $79,148, and $10,000, respectively.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments of South Texas melons, and the amount of funds in the Committee's operating reserve. Melon shipments for the year are estimated at 4,200,000 cartons, which should provide $210,000 in assessment income at the $0.05 per carton rate. Income derived from handler assessments, along with funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses for the 1999–2000 fiscal period. Funds in the reserve (currently $316,208) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses; § 979.44).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 1999–2000 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

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

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

There are approximately 20 growers of South Texas melons in the production area and 20 handlers subject to regulation under the marketing order. Small agricultural growers have been defined by the Small Business Administration (SBA) (13 CFR 121.601) 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.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing melons. For the 1998–99 marketing year, melons produced on 8,364 acres were shipped by the industry's 20 handlers with the average acreage being 418 acres and the median volume handled was 193,867 cartons. In terms of production value, average revenues for the 20 handlers were estimated to be $2.9 million.

The South Texas melon industry is characterized by growers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of melons. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the melon production season is complete. For this reason, typical melon growers and handlers either double-crop melons during other times of the year or produce alternate commodities, like onions.

Based on the SBA's definition of small entities, the Committee estimates that a majority of the 20 handlers regulated by the order would be considered small entities if only their spring melon revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the $5,000,000 annual receipt threshold. Of the 20 growers within the production area, few have sufficient acreage to generate sales in excess of $500,000; therefore, the majority of growers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from $0.04 to $0.05 per carton of melons. The Committee unanimously recommended 1999–2000 expenditures of $265,500 and an assessment rate of $0.05 per carton of melons. In comparison, last year's budgeted expenditures were $219,148. The proposed assessment rate of $0.05 is $0.01 higher than the rate currently in effect. At the rate of $0.05 per carton and an estimated 2000 melon production of 4,200,000 cartons, the projected income derived from handler assessments ($210,000), along with funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include $98,800 for personnel and administrative expenses, $31,200 for compliance activities, $110,500 for research projects, and $25,000 for promotional activities. Budgeted expenses for these items in 1998–1999 were $97,600, $32,400, $79,148, and $10,000, respectively.

The Committee voted to increase its assessment rate because the current rate would not generate the income needed to administer the marketing order and would reduce the Committee's reserve funds beyond the level acceptable to the Committee. Assessment income, along with funds from the Committee's authorized reserve, would provide the Committee with adequate funds to meet its 1999–2000 fiscal period's expenses.

The Committee reviewed and unanimously recommended 1999–2000 expenditures of $265,500, which included increases in personnel, promotion, and research projects. Prior to arriving at this budget, the Committee considered information from various sources, including the Research and Post Harvest Subcommittees. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the melon industry. The assessment rate of $0.05 per carton of assessable melons was then determined by considering the total recommended budget, the quantity of assessable melons, estimated at 4,200,000 million cartons for the 1999–2000 fiscal period,

and amount of funds in the Committee's operating reserve. The recommended rate will generate $210,000, which is $55,500 below the anticipated expenses. The Committee found this acceptable because reserve funds will be used to make up the deficit.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 1999–2000 marketing season could range between $9.00 and $12.00 per carton of cantaloupes and between $6.00 and $9.00 per carton of honeydew melons. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period as a percentage of total grower revenue could range between .55 and .42 percent for cantaloupes and between .83 and .55 percent for honeydew melons.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the South Texas melon industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 4, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large South Texas melon handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty 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.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 1999–2000 fiscal period began on October 1, 1999, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable melons handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 979 is proposed to be amended as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 979 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 979.219 is revised to read as follows:

§ 979.219 Assessment rate.

On and after October 1, 1999, an assessment rate of $0.05 per carton is established for South Texas melons.

Dated: January 4, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–507 Filed 1–7–00; 8:45 am]

BILLING CODE 3410–02–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Liquidation of Collateral

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: SBA proposes to amend its regulation regarding the liquidation and sale of loans. As part of a government-wide initiative, federal credit agencies are being directed by the Office of Management and Budget (OMB) to sell their loan portfolios. Previously, SBA amended its regulations to permit the sale of direct and purchased loans made under the authorities of the 7(a) and 501, 502, 503, and 504 programs (64 FR 44109). SBA now proposes to sell its physical disaster home loans, physical disaster business loans and economic injury disaster loans (collectively referred to as Disaster Assistance Loans). This will include sales of both secured and unsecured Disaster Assistance Loans in performing and non-performing status. The Disaster Assistance Loans will be sold to qualified bidders by means of competitive procedures at publicly advertised sales. Bidder qualifications will be set for each sale in accordance with the terms and conditions of each sale.

DATES: Submit comments on or before February 9, 2000.

ADDRESSES: Comments should be mailed to Arnold S. Rosenthal, Assistant Administrator for Portfolio Management, Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Richard Blewett, 202–205–4202.

SUPPLEMENTARY INFORMATION: 13 CFR 120.540 sets forth SBA's policy for the liquidation of collateral and the sale of commercial loans. SBA now proposes to amend and expand this rule to include the sale of Disaster Assistance Loans in asset sales.

Public Law 104–134, the ''Debt Collection Improvement Act of 1996,'' enacted on April 26, 1996, provides that, ''the head of an executive * * * agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any non-tax debt owed to the United States that is delinquent for more than 90 days.'' 31 U.S.C. 3711(i)(1).

The Small Business Act, 15 U.S.C. 634(b)(2), provides that ''(The Administrator) may sell at public or private sale . . . in (her) discretion * * * any evidence of debt * * * personal property, or security. * * *'' It further provides in 15 U.S.C. 634(b)(7) that the Administrator may ''take any and all actions * * * when (she) determines such actions are necessary or desirable in * * * liquidating or otherwise dealing with or realizing on loans. * * *'' Pursuant to this statutory authority, SBA is establishing an Asset Sales Program to sell portions of its direct and participation loan portfolios.

Compliance With Executive Orders 13132, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35).

This proposed rule is not a significant rule within the meaning of Executive

Order 12866, since it is not likely to have an annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the U.S. economy.

SBA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

This regulation concerns the ability of SBA to sell disaster loans as part of SBA's Asset Sales Programs. There will be no economic impact upon the small businesses that received those loans because the loans that will be sold are merely changing ownership, so no new funding is involved. The purchaser of the loans will be bound by the terms of the loan documents in the same manner as SBA. The Agency does not anticipate that any additional costs will placed upon small entities. Therefore, SBA believes that there will be no economic impact on small businesses.

Nevertheless, even if it is assumed that there is an economic impact, this rule would still only have a minimal effect on an insubstantial number of small businesses. This is because SBA's total disaster business loan portfolio at the end of FY 1999 was 64,832 loans, as contrasted with an estimated total of 24 million small businesses in the United States (as estimated by SBA's Office of Advocacy).

SBA certifies that this proposed rule does not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., chapter 35.

For purposes of Executive Order 13132, SBA certifies that this proposed rule has no federalism implications warranting preparation of a Federalism Assessment.

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

List of Subjects in 13 CFR Part 120

Loan programs—business.

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

PART 120–BUSINESS LOANS

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

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

2. Revise the section heading in § 120.540 and amend the first sentence of paragraph (b)(4) as follows:

§ 120.540 What are SBA's policies concerning the liquidation of collateral and the sale of business loans and physical disaster assistance loans, physical disaster business loans and economic injury disaster loans?

* * * * *

(b) * * *

(4) Sell direct and purchased 7(a) and 501, 502, 503 and 504 loans and physical disaster home loans, physical disaster business loans and economic injury disaster loans in asset sales. * * *

* * * * * *

Dated: December 23, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 00–426 Filed 1–7–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–349–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, A321, A330, and A340 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 Airbus Model A319, A320, A321, A330, and A340 series airplanes. This proposal would require revising the Airplane Flight Manual to provide the flight crew with certain instructions associated with the Global Positioning System (GPS). This proposal also would require modification of the Global Positioning System Signal Unit (GPSSU) of the satellite navigational system. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent position and altitude errors due to bad oscillator warm-up characteristics of the GPSSU, which could result in navigational errors that may exceed 0.5 nautical mile.

DATES: Comments must be received by February 9, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–349–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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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:

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–349–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–349–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A319, A320, A321, A330, and A340 series airplanes. The DGAC advises that the navigational satellite signals of the Global Positioning System (GPS) (located in the cockpit) may be incorrectly measured by the Global Positioning System Signal Unit (GPSSU) (located in the fuselage) due to bad oscillator warm-up characteristics of the GPSSU. In the event that only one GPS in the cockpit is operative, the erroneous GPS position computation may not be detected. This condition, if not corrected, could result in navigational errors that may exceed 0.5 nautical mile.

Explanation of Relevant Service Information

The manufacturer has issued Airbus Service Bulletins A320–34–1191, dated July 12, 1999, and A320–34–1196, dated July 15, 1999 (for Model A319, A320 and A321 series airplanes); A330–34–3082, Revision 01, dated September 28, 1999, and A330–34–3086, Revision 01, dated September 28, 1999 (for Model A330 series airplanes); and A340–34–4089, Revision 01, dated September 28, 1999, and A340–34–4092, Revision 01, dated September 28, 1999 (for Model A340 series airplanes). These service bulletins describe procedures for modification of the GPSSU of the satellite navigational system. The modification involves modifying the hardware and software in order to minimize synchronization conditions, accommodate an automatic reset and the GPS week number rollover, and provide failure recording capabilities in the non-volatile memory.

In addition, these service bulletins identify related service bulletins that must be accomplished prior to or concurrent with the applicable service bulletin. These additional service bulletins are as follows:

- A320–34–1119
- A330–34–3015
- A340–34–4022
- A340–34–4078

The Airbus service bulletins described previously also reference LITTON Service Bulletin 2001–34–13, dated July 8, 1999, and 2001–34–14, dated July 5, 1999, as additional sources of service information for modification of the GPSSU the satellite navigational system.

Accomplishment of the actions specified in the Airbus service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these Airbus service bulletins as mandatory and issued French airworthiness directives 1999–361–138(B), dated September 8, 1999 (for Models A319, A320, and A321 series airplanes); 1999–354–101(B), dated September 8, 1999 (for Model A330 series airplanes); and 1999–355–123(B), dated September 8, 1999 (for Model A340 series airplanes); in order to assure the continued airworthiness of these airplanes in France.

The French airworthiness directives also require revising the applicable Airplane Flight Manual (AFM) to provide the flight crew with certain instructions regarding deselecting the GPS navigational system.

FAA's Conclusions

These airplane models are manufactured in France and are 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 DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, 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 Proposed 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, the proposed AD would require accomplishment of the actions specified in the Airbus service bulletins described previously. The proposed AD also requires revising the FAA-approved AFM to provide the flight crew with certain instructions associated with the GPS.

Cost Impact

The FAA estimates that 1 airplane of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed Airplane Flight Manual (AFM) revision, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AFM revision proposed by this AD on U.S. operators is estimated to be $60, or $60 per airplane.

It would take approximately 1 work hour per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $60, or $60 per airplane.

It would take between 3 to 14 work hours per airplane to accomplish the proposed additional modifications required to be accomplished prior to or concurrent with the proposed modification, at an average labor rate of $60 per work. Required parts would be provided by the vendor or manufacturer at no cost to the operators. Based on these figures, the cost impact of the additional modifications proposed by this AD on U.S. operators is estimated to be between $180 to $840 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:

Airbus Industrie: Docket 99–NM–349–AD.

Applicability: Model A319, A320, A321, A330, and A340 series airplanes, certificated in any category, as follows:

• Model A319, A320, and A321 series airplanes on which Airbus Modification 28578 (Airbus Service Bulletin A320–34–1191, dated July 12, 1999), or Airbus Modification 28579 (Airbus Service Bulletin A320–34–1196, dated July 15) has not been accomplished; equipped with a LITTON Global Positioning Satellite Signal Unit (GPSSU) having Part Number (P/N) 465205–0302–0303 installed in accordance with Airbus Service Bulletin A320–34–1119 (Airbus Modification 23885).

• Model A330 series airplanes on which Airbus Modification 46961 (Airbus Service Bulletin A330–34–3082, Revision 01, dated September 28, 1999), or Airbus Modification 47327 (Airbus Service Bulletin A330–34–3086, Revision 01, dated September 28, 1999) has not been accomplished; equipped with a LITTON GPSSU having P/N 465205–0302–0302 or 465205–0302–0303.

• Model A340 series airplanes on which Airbus Modification 46961 (Airbus Service Bulletin A340–34–4089, Revision 01, dated September 28, 1999), or Airbus Modification 47327 (Airbus Service Bulletin A340–34–4092, Revision 01, dated September 28, 1999) has not been accomplished; equipped with a LITTON GPSSU having P/N 465205–0302–0302 or 465205–0302–0303.

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 prevent position and altitude errors due to bad oscillator warm-up characteristics of the GPSSU, which could result in navigational errors that may exceed 0.5 nautical mile, accomplish the following:

AFM Revision

(a) Within 10 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following procedures. This may be accomplished by inserting a copy of this AD in the AFM.

''Operation:

—GPS Stand-alone and GPS overlay non-precision approaches are not allowed.

—The GPS must be deselected before non-precision approach.

—The GPS must be deselected for the remainder of the flight if 'NAV FM/GPS POS DISAGREE' ECAM warning is triggered (in all phases of flight)

Dispatch:

—If one GPS is inoperative, GPS must be deselected.''

Note 2: The AFM revision may be accomplished by inserting a copy of Airbus Temporary Revision (TR) 2.05.00/40 (for Model A319, A320, and A321 series airplanes); TR 2.05.00/38 (for Model A330 series airplanes); or TR2.05.00/47 (for A340 series airplanes); into the applicable AFM.

Modification

(b) Within 2 months after the effective date of this AD, modify the GPSSU of the satellite navigational system, in accordance with (b)(1), (b)(2), or (b)(3) of this AD, as applicable. After accomplishment of the modification, the AFM revision required by paragraph (a) of this AD may be removed from the AFM.

(1) For Model A319, A320, and A321 series airplanes: Modify the GPSSU in accordance with either Airbus Service Bulletin A320–34–1191, dated July 12, 1999, or Airbus Service Bulletin A320–34–1196, dated July 15, 1999.

(i) If modification of the GPSSU is accomplished in accordance with Airbus Service Bulletin A320–34–1191, prior to or concurrent with accomplishment of the modification, accomplish either Airbus Service Bulletin A320–34–1119, Revision 02, dated April 30, 1997, or A320–34–1196, dated July 15, 1999.

(ii) If modification of the GPSSU is accomplished in accordance with Airbus Service Bulletin A320–34–1196, prior to or concurrent with accomplishment of the modification, accomplish Airbus Service Bulletin A320–34–1119, Revision 02, dated April 30, 1997.

(2) For Model A330 series airplanes: Modify the GPSSU in accordance with either Airbus Service Bulletin A330–34–3082, Revision 01, dated September 28, 1999, or Airbus Service Bulletin A330–34–3086, Revision 01, dated September 28, 1999.

(i) If modification of the GPSSU is accomplished in accordance with Airbus Service Bulletin A330–34–3082, Revision 01, prior to or concurrent with accomplishment of the modification, accomplish either Airbus Service Bulletin A330–34–3015, dated April 3, 1995, or Airbus Service Bulletin A330–34–3086, Revision 01, dated September 28, 1999.

(ii) If modification of the GPSSU is accomplished in accordance with Airbus Service Bulletin A330–34–3086, Revision 01, prior to or concurrent with accomplishment of the modification, accomplish Airbus Service Bulletin A330–34–3015, dated April 3, 1995.

(3) For Model A340 series airplanes: Modify the GPSSU in accordance with either Airbus Service Bulletin A30–34–4089, Revision 01, dated September 28, 1999, or Airbus Service Bulletin A330–34–4092, Revision 01, dated September 28, 1999.

(i) If modification of the GPSSU is accomplished in accordance with Airbus Service Bulletin A330–34–4089, Revision 01, prior to or concurrent with accomplishment of the modification, accomplish either Airbus Service Bulletin A330–34–4022, dated April 3, 1995, or Airbus Service Bulletin A330–34–4092, Revision 01, dated September 28, 1999.

(ii) If modification of the GPSSU is accomplished in accordance with Airbus Service Bulletin A330–34–4092, Revision 01, prior to or concurrent with accomplishment of the modification, accomplish either Airbus Service Bulletin A330–34–4022, dated April 3, 1995, or Airbus Service Bulletin A340–34–4078, Revision 01, dated November 26, 1999, including Appendix 01, dated November 26, 1999.

Note 3: The Airbus service bulletins reference LITTON Service Bulletin 2001–34–13, dated July 8, 1999, and LITTON Service Bulletin 2001–34–14, dated July 5, 1999, as additional sources of service information for modifying the GPSSU.

(c) As of the effective date of this AD, no person shall install on any airplane a GPSSU having P/N 465205–0302–0302 or 465205–0302–0303.

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 and Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: 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.

Note 5: The subject of this AD is addressed in French airworthiness directives 1999–361–138(B), dated September 8, 1999; 1999–354–101(B), dated September 8, 1999; and 1999–355–123(B), dated September 8, 1999; in order to assure the continued airworthiness of these airplanes in France.

Issued in Renton, Washington, on January 4, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–503 Filed 1–7–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–14–AD]

Airworthiness Directives; Eurocopter France Model SA–366G1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) applicable to Eurocopter France Model SA–366G1 helicopters. This proposal would require replacing certain electrical modules with airworthy electrical modules. This proposal is prompted by the discovery of several defective electrical modules. The actions specified by the proposed AD are intended to prevent loss of electrical continuity, which could cause loss of critical systems and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before March 10, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–14–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert McCallister, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5121, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–14–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–14–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, has notified the FAA that an unsafe condition may exist on Eurocopter France Model SA–366G1 helicopters. The DGAC advises of the discovery of malfunctions due to faulty ''CONNECTRAL'' modules on electrical circuits of a Super Puma AS332 helicopter. Model AS332 and SA–366G1 helicopters use the same type of ''CONNECTRAL'' modules.

Eurocopter France has issued Eurocopter Service Bulletin No. 01.25, dated May 28, 1998, (SB) for Model SA–366G1 helicopters. The SB specifies inspecting and replacing each ''CONNECTRAL'' green electrical module manufactured between week 95/16 through 96/21. The manufacturing codes identify the year and week of module production. Only green electrical modules without a white dot on the face need to be replaced. The DGAC classified this SB as mandatory and issued AD 98–251–022(A), dated July 1, 1998, to ensure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, 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.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model SA–366G1 helicopters of the same type design registered in the United States, the proposed AD would require replacing each ''CONNECTRAL'' green electrical module that does not have a white dot on the face and that has a manufacturing code of 95/16 through 96/21 with an airworthy electrical module. Those manufacturing codes identify modules manufactured between the beginning of the 16th week of 1995 and the end of the 21st week of 1996. Replacing the electrical modules with a white dot on the face is not required because the manufacturer has verified the proper functioning of these units.

The FAA estimates that 94 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 100 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $2,969 for the maximum number of modules replaced per helicopter, but the helicopter manufacturer has stated that the parts will be provided at no cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $564,000.

The regulations proposed herein would not have substantial direct effect 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, it is determined that this proposal would not have federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Eurocopter France: Docket No. 99–SW–14–AD.

Applicability: Model SA–366G1 helicopters, certificated in any category.

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

Compliance: Required within 400 hours time-in-service or within 6 calendar months, whichever occurs first, unless accomplished previously.

To prevent loss of electrical continuity, which could cause loss of required systems and subsequent loss of control of the helicopter, accomplish the following:

(a) Replace each ''CONNECTRAL'' green electrical module that does not have a white dot on the face and that has a manufacturing code of 95/16 through 96/21 with an airworthy electrical module. Those manufacturing codes identify modules manufactured between the beginning of the 16th week of 1995 and the end of the 21st week of 1996.

Note 2: Eurocopter France Service Bulletin No. 01.25, dated May 28, 1998, pertains to the subject of this AD.

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

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

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

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile AD 98–251–022(A), dated July 1, 1998.

Issued in Fort Worth, Texas, on January 3, 2000.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–504 Filed 1–7–00; 8:45 am]

BILLING CODE 4910–13–U

Notices

Federal Register
Vol. 65, No. 6
Monday, January 10, 2000

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

DEPARTMENT OF AGRICULTURE

Farm Service Agency

National Drought Policy Commission

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of Commission public hearing.

SUMMARY: The National Drought Policy Commission (Commission) shall conduct a thorough study and submit a report to the President and Congress on national drought policy. This notice announces a public hearing to be held on January 25, 2000, in Austin, Texas, and seeks comments on issues that the Commission should address and recommendations that the Commission should consider as part of its report. The public hearing is open to the public.

DATES: The Commission will conduct a public hearing on January 25, 2000, from 9 a.m. to 4 p.m. (Central Standard Time) at the Texas State Capitol, Capitol Extension, Hearing Room E1.012, 1400 Congress Avenue, Austin, Texas.

Anyone wishing to make an oral presentation to the Commission at the public hearing, must contact the Executive Director, Leona Dittus, in writing (by letter, fax or internet) no later than COB, January 18, 2000, in order to be included on the agenda. Presenters will be approved on a first-come, first-served basis. The request should identify the name and affiliation of the individual who will make the presentation and an outline of the issues to be addressed. Thirty-five copies of any written presentation material shall be given to the Executive Director by all presenters no later than the time of the presentation for distribution to the Commission and the interested public. Those wishing to testify, but who are unable to notify the Commission office by January 18, 2000, will be able to sign up as a presenter the day of the hearing (January 25, 2000) between 8 a.m. and 10 a.m. (Central Standard Time). These presenters will testify on a first-come, first-served basis and comments will be limited based on the time available and the number of presenters. Written statements will be accepted at the meeting, or may be mailed or faxed to the Commission office.

Persons with disabilities who require accommodations to attend or participate in this meeting should contact Leona Dittus, on 202–720–3168, or Federal Relay Service at 1–800–877–8339, and leona.dittus@usda.gov, by COB January 18, 2000.

COMMENTS: The public is invited to respond and/or to submit additional comments, concerns, and issues for consideration by the Commission.

ADDRESSES: Comments and statements should be sent to Leona Dittus, Executive Director, National Drought Policy Commission, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Room 6701–S, STOP 0501, Washington, D.C. 20250–0501.

FOR FURTHER INFORMATION CONTACT: Leona Dittus (202) 720–3168; FAX (202) 720–9688; Internet: leona.dittus@usda.gov.

SUPPLEMENTARY INFORMATION: The purpose of the Commission is to provide advice and recommendations to the President and Congress on the creation of an integrated, coordinated Federal policy, designed to prepare for and respond to serious drought emergencies. Tasks for the Commission include developing recommendations that will (a) better integrate Federal laws and programs with ongoing State, local, and tribal programs, (b) improve public awareness of the need for drought mitigation, prevention, and response and (c) determine whether all Federal drought preparation and response programs should be consolidated under one existing Federal agency, and, if so, identify the agency.

Below is a draft vision statement and set of principles to guide the Commission. Draft Vision Statement: Our vision is of a well-informed, involved U. S. citizenry and its governments prepared for and capable of lessening the impacts of drought—consistently and timely—in the new millennium.

This vision is based on the following principles:

Consideration of all affected entities and related issues, including legal, economic, geographic, climate, religious, and cultural differences; fairness and equity; and environmental concerns;

Comprehensive, long-term strategies that emphasize drought planning and measures to reduce the impacts of drought;

Federal role focused on appropriate coordination, technical assistance, education, and incentives while at all times respecting the rights and responsibilities of Federal, State, and local governments, and tribal sovereignty;

Self-reliance and self-determination;

Lessons learned from past drought experiences;

Shared drought-related expertise and knowledge across international borders.

In addition to your own views and thoughts regarding a national drought policy, as you review the draft vision and guiding principles, the Commission would be interested in your thoughts regarding the following questions:

1. What is the best means for informing the public of Federal assistance for drought planning and mitigation?

2. What type of information do you need for responding to the drought?

3. What needs do you or your organization presently have with respect to addressing drought conditions?

4. What do you see as the Federal role with respect to drought preparedness? Drought response? Should Federal emergency assistance be contingent on advance preparedness?

5. Are there any ways you feel that the Federal government could better coordinate with State, regional, tribal, and local governments in mitigating or responding to droughts?

6. What lessons have you or your organization learned from past drought experiences that would be beneficial in the creation of a national drought policy?

Signed at Washington, D.C., on January 5, 2000.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 00–576 Filed 1–6–00; 12:35 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Hua Ko Electronics Co. Ltd.; Order

In the Matter of: Hua Ko Electronics Co. Ltd., 9 Dai Shun Street, Tai Po Ind. Estate, Tai Po, New Territories, Hong Kong, Respondent.

On November 29, 1989, the then-Under Secretary for Export Administration, Dennis E. Koske, entered an Order (hereinafter ''the 1989 Order'') affirming the Administrative Law Judge's (ALJ) October 30, 1989 Recommended Decision and Order entered against Hua Ko Electronics Co., Ltd. (Hua Ko).[1] The ALJ found that Hua Ko had violated the Export Administration Regulations and recommended that Hua Ko's export privileges be denied for a period of 15 years, to run concurrently with an Order entered on July 29, 1988,[2] until the full 15-year period expired. The denial imposed against Hua Ko will expire, by its own terms, on November 28, 2004.

On November 4, 1999, BXA and Hua Ko entered into a Settlement Agreement to settle allegations that it violated the terms of the 1989 Order. In reaching that agreement, BXA agreed that certain portions of the sanctions agreed to would be suspended. BXA agreed to the suspension because of (1) Hua Ko's significant cooperation in a range of investigatory matters, including the transactions covered by the Settlement Agreement; (2) Significant changes in Hua Ko's senior management; (3) Hua Ko's implementation of an export compliance program, including its commitment to comply with U.S. and Hong Kong export control laws; and (4) The relatively low-level of the classification of the U.S.-origin goods obtained by Hua Ko, coupled with the types of consumer goods produced by Hua Ko. BXA also agreed to move that I suspend the remaining denial period of the 1989 Order, which would thereafter be waived, provided that Hua Ko has committed no violation of the Act or any regulations, order or license issued thereunder. BXA has moved that I so modify the 1989 Order.

Based on the factors enumerated by BXA, I hereby determine that it is appropriate to modify the 1989 Order and therefore grant BXA's motion.

Accordingly, it is therefore ordered,

First, that, as authorized by Section 766.17(c) of the Regulations, I hereby modify the 1989 Order affirming the ALJ's Recommended Decision and Order entered against Hua Ko by suspending the remaining period of denial imposed pursuant to that Order until November 28, 2004. The suspended denial period shall, thereafter be waived, provided that, during the period of suspension, Hua Ko has committed no violation of the Act or any regulation, order or license issued thereunder. This suspension shall take effect on the date that this Order is signed.

Second, that this Order shall be served on Hua Ko and on BXA, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Dated: December 21, 1999.

William A. Reinsch,

Under Secretary for Export Administration.

[FR Doc. 00–517 Filed 1–7–00; 8:45 am]

BILLING CODE 3510–DT–M

[1] The 1989 Order was entered affirming the ALJ's Recommended Decisions and Orders entered against Hua Ko and Ji Wai Sun on October 30, 1989. At the time of the 1989 Order was issued, the Regulations were found in the 1989 version of the Code of Federal Regulations (15 CFR parts 768–799 (1989)).

[2] The July 29, 1988 Order was entered by the then-Under Secretary for Export Administration, Paul Freedenberg, affirming the ALJ's June 30, 1988 Recommended Decision and Order against various parties including Hua Ko.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–847]

Persulfates From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 10, 2000.

FOR FURTHER INFORMATION CONTACT: Sunkyu Kim or James Nunno, AD/CVD Enforcement Group I, Office II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2613 or (202) 482–0783, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations at 19 CFR part 351 (April 1998).

Amendment to Final Results

In accordance with section 751(a) of the Act, on December 13, 1999, the Department published the final results of the 1996–1998 administrative review of the antidumping order on persulfates from the People's Republic of China (PRC), in which we determined that sales of persulfates from the PRC were made at less than normal value. *See Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 64 FR 69494 (December 13, 1999). On December 14, 1999, we received an allegation, timely filed pursuant to 19 CFR 351.224(c)(2), from FMC Corporation (the petitioner) that the Department made a ministerial error in its final results. We did not receive comments from the respondents: Shanghai Ai Jian Import & Export Corporation (Ai Jian), and Sinochem Jiangsu Wuxi Import & Export Corporation (Wuxi).

After analyzing the submission, we have determined, in accordance with 19 CFR 351.224, that a ministerial error was made in our final margin calculations for Ai Jian and Wuxi. Specifically, we found that in calculating the surrogate value ratios for factory overhead and selling, general, and administrative expenses, we incorrectly allocated certain depreciation expenses between the two cost categories. For a detailed discussion of the ministerial error allegation and the Department's analysis, see the memorandum to Louis Apple, Office Director, from the Team, dated December 27, 1999.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final results of the 1996–1998 antidumping duty administrative review on persulfates from the PRC.

The revised weight-averaged dumping margins are as follows:

Manufacturer/exporter	Original final margin percentage	Revised final margin percentage
Shanghai Ai Jian I/E Corp.	5.41	5.54
Sinochem Jiangsu Wuxi I/E Corp.	7.18	7.37

Scope of Review

The products covered by this review are persulfates, including ammonium, potassium, and sodium persulfates. The

chemical formula for these persulfates are, respectively, (NH sub4) sub2 S sub2 O sub8, K sub2 S sub2 O sub8, and Na sub2 S sub2 O sub8. Ammonium and potassium persulfates are currently classified under subheading 2833.40.60 of the Harmonized Tariff Schedule of the United States (HTSUS). Sodium persulfate is classified under HTSUS subheading 2833.40.20. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 4, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–530 Filed 1–7–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Opportunity To Apply for Membership on the U.S.-Korea Committee on Business Cooperation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce is currently seeking applications for membership on the U.S. side of the U.S.-Korea Committee on Business Cooperation (CBC). The initial term of the CBC expired on October 1, 1999, but was reauthorized on December 17, 1999, and will expire on January 1, 2001. The purpose of the CBC is to make recommendations to the governments of the United States and South Korea on ways to facilitate stronger commercial ties between the U.S. and South Korea. This is accomplished by undertaking work programs, reporting on the results, and presenting written recommendations to the two governments. The CBC is co-chaired by the U.S. Secretary of Commerce and the South Korean Minister of Commerce, Industry and Energy. Its activities are undertaken by an equal number of private sector representatives from the United States and South Korea.

Membership Opportunity

The CBC will expire January 1, 2001, but may be renewed upon the mutual agreement of the U.S. and Korea. Applications are now being sought for U.S. private sector members to serve beginning immediately and until January 1, 2001. Private sector members will serve at the discretion of the Secretary of Commerce. They are expected to participate fully in defining and implementing CBC work programs, reporting on the results, and presenting written recommendations to the two governments. It is expected that private sector individuals chosen for the CBC will attend at least 75% of CBC meetings, which are held alternately in the U.S. and South Korea. It is expected that the next meeting will take place in Washington, DC.

It is further expected that the U.S. private sector members will provide a secretariat to support the activities of the U.S. side of the CBC. The tasks of the Secretariat shall include, but not be limited to, the following:

A. Maintain the membership list;

B. Perform organizational matters in connection with the meetings of the CBC and its working groups, if such are formed, including but not limited to, logistics, agendas and reports;

C. Perform other administrative duties that might arise between meetings; and

D. Prepare the written report to the Co-Chairs making recommendations on ways to enhance bilateral commercial relations.

Private sector members are fully responsible for travel, living and personal expenses associated with their participation in the CBC, and may be responsible for a pro rata share of administrative and communications costs relating to the CBC, including, as appropriate, the costs of a secretariat to manage administrative and logistical matters relating to the operation of the CBC. The private sector members will serve in a representative capacity presenting the views and interests of the particular business sector in which they operate, not those of their individual firms. Private sector members are not special government employees.

Objectives

The objectives of the CBC are as follows:

A. Identifying commercial opportunities, impediments, and issues of concern to the business communities in the U.S. and Korea;

B. Improving the dissemination of appropriate commercial information on both markets; and

C. Adopting sectoral approaches to addressing specific problems, and making recommendations to decision-makers.

Membership Criteria

An applicant must be:

- a U.S. citizen residing in the United States; and
- not a registered foreign agent under the Foreign Agents Registration Act of 1938 (FARA).

In reviewing eligible applicants, the Department of Commerce will consider:

- Experience in doing business in South Korea;
- Readiness to initiate and be responsible for activities in which the CBC will be active; and
- Contribution to CBC diversity (*i.e.*, company size, type, location, demographics and/or traditional under-representation in business).

The Department of Commerce will also give preference to primary companies involved in manufacturing and services.

To be considered for membership, please provide the following: (1) Name and title of the individual requesting consideration; (2) name and address of the company or organization sponsoring each individual; (3) company's product or service line; (4) size of the company; (5) export experience and major markets; (6) a brief statement of why each candidate should be considered for membership on the CBC; (7) the particular segment of the business community each candidate would represent; (8) a personal resume; and (9) a statement signed by the applicant that he or she is a U.S. citizen residing in the United States and not a registered foreign agent under FARA. Up to two applicants from the same organization can be considered.

DEADLINE: In order to receive full consideration, requests must be received no later than February 18, 2000.

ADDRESSES: Please send your requests for consideration to Philip R. Agress, Director, Office of Korea and Southeast Asia, U.S. Department of Commerce, Room 2036, 14th St. and Constitution Ave., NW, Washington, DC 20230, fax (202) 482–4760.

FOR FURTHER INFORMATION CONTACT: Linda Droker, Director, Korea and Taiwan Affairs, U.S. Department of Commerce, Room 2323, 14th St. and Constitution Ave., NW, Washington, DC 20230, telephone (202) 482–3876, fax (202) 482–3316.

Authority: 15 U.S.C. 1512.

Dated: January 3, 2000.

Philip R. Agress,

Acting Deputy Assistant Secretary for Asia and the Pacific.

[FR Doc. 00–456 Filed 1–7–00; 8:45 am]

BILLING CODE 3510–DA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 122799B]

Pacific Fishery Management Council; Public Meetings and Hearings

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

ACTION: Notice of availability of reports; public meetings and hearings.

SUMMARY: The Pacific Fishery Management Council (Council) has begun its annual preseason management process for the 2000 ocean salmon fisheries. This document announces the availability of Council documents as well as the dates and locations of Council meetings and public hearings that comprise the Council's complete schedule of events for determining the annual proposed and final modifications to ocean salmon management measures. The agendas for the March and April Council meetings will be published in subsequent **Federal Register** documents prior to the actual meetings.

DATES: Written comments on the season options will be accepted until March 29, 2000, at 12:00 noon Pacific Time.

ADDRESSES: Documents will be available from and comments should be sent to Jim Lone, Chairman, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, Oregon, 97201; phone: 503–326–6831 or fax: 503–326–6831. Comments will not be accepted if submitted via e-mail or Internet. For specific meeting and hearing locations, see SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: John Coon, Salmon Management Coordinator, at 503–326–6352.

SUPPLEMENTARY INFORMATION:

Schedule For Document Completion and Availability

February 29, 2000: ''Review of 1999 Ocean Salmon Fisheries and Preseason Report I-Stock Abundance Analysis for 2000 Ocean Salmon Fisheries'' will be available to the public from the Council office.

March 21, 2000: ''Preseason Report II'' and public hearing schedule will be mailed to the public. The report will include options, rationale, and summary of biological and economic impacts.

April 14, 2000: Newsletter describing adopted ocean salmon fishing management measures will be mailed to the public.

April 14, 2000: Salmon Technical Team (STT) will complete ''Preseason Report III-Analysis of Council Adopted Regulatory Measures for 2000 Ocean Salmon Fisheries.''

Dates, Times, and Location for Meetings and Hearings

January 18–21, 2000: STT will meet at the Council office in a public work session to draft ''Review of 1999 Ocean Salmon Fisheries'' and to consider any other estimation or methodology issues pertinent to the 2000 ocean salmon fisheries.

February 15–18, 2000: STT will meet at the Council office in a public work session to draft ''Preseason Report I-Stock Abundance Analysis for 2000 Ocean Salmon Fisheries'' and to consider any other estimation or methodology issues pertinent to the 2000 ocean salmon fisheries.

March 6–10, 2000: Council and advisory entities will meet at the Red Lion Hotel Sacramento, Sacramento, CA, to adopt 2000 management options for public review.

March 27–28, 2000: Public hearings will be held to receive comments on the proposed ocean salmon fishery management options adopted by the Council. All public hearings will begin at 7:00 p.m. on the dates and at the locations specified here.

March 27, 2000: Chateau Westport, 710 W Hancock, Westport, WA.

March 27, 2000: Pony Village Motor Lodge, Virginia Avenue, North Bend, OR.

March 27, 2000: Flamingo Resort Hotel and Conference Center, 2777 4th Street, Santa Rosa, CA.

March 28, 2000: Shilo Inn, 2535 N. Main, Tillamook, OR.

March 28, 2000: Red Lion Hotel Eureka, 1929 Fourth Street, Eureka, CA.

April 3–7, 2000: Council and advisory entities will meet at the Doubletree Hotel - Columbia River, 1401 North Hayden Island Drive, Portland, OR, to adopt 2000 management options for public review.

April 4, 2000: Testimony on the management options will be taken during the Council meeting at the Doubletree Hotel - Columbia River, 1401 North Hayden Island Drive, Portland, OR.

May 1, 2000: Federal regulations will be implemented and ''Preseason Report III'' will be available for distribution to the public.

Although non-emergency issues not contained in the STT meeting agendas may come before the STT for discussion, those issues may not be the subject of formal STT action during these meetings. STT action will be restricted to those issues specifically listed in this document and to any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the STT's intent to take final action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at 503–326–352 (voice), or 503–326–6831 (fax), at least 5 days prior to the meeting date.

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

Dated: January 5, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–529 Filed 1–7–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111899D]

Marine Mammals; Scientific Research Permit (PHF# 522–1527–00)

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. Randall S. Wells, Mote Marine Laboratory, 1600 Ken Thompson Parkway, Sarasota, FL 34236, has been issued a permit to take bottlenose dolphins (*Tursiops truncatus*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southeast Region, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813/570–5312)

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On September 23, 1999, notice was published in the **Federal Register** (64 FR 51519) that a request for a scientific research permit to harass up to 100 Atlantic bottlenose dolphins (*Tursiops truncatus*) annually in Florida waters during the conduct of photo-identification and biopsy sampling activities, over a five year period, had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 29, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–484 Filed 1–7–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Army

ARMS Initiative Implementation; Meeting

AGENCY: U.S. Army, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the Armament Retooling and Manufacturing Support (ARMS) Executive Advisory Committee (EAC). The EAC charters the development of new and innovative methods to optimize the asset value of the Government-Owned, Contractor-Operated ammunition industrial base for peacetime and national emergency requirements, while ensuring—economical and efficient processes at minimal operating costs, matching critical skills, balancing community economic benefits, and becoming a ''model'' for defense conversion. This meeting will update the EAC and public on the status of ongoing actions, new items of interest, and suggested future direction/actions. Topics for this meeting will include—Logistic Support Facility (LSF) Award using ARMS facility contract model; Office of Installation/Environmental and Pendulum Management Company LLC Team—Leasing Comparison presentation; tenant transition process at ''excessed'' facilities; the Industrial Operations Command Strategic Plan; procedures for competition of facilities; EAC nominations; tenant proposal evaluation; facility requirements due to threatcon level ''A'' or higher security requirements; and PricewaterhouseCoopers ''Best of Breed'' presentation. This meeting is open to the public.

DATE OF MEETING: February 8–9, 2000.

PLACE OF MEETING: Xerox Document University (XDU), Routes 7 and 659, Leesburg, Virginia 20176.

TIME OF MEETING: 8 AM–5 PM on February 8 and 8 AM–2 PM on February 9.

FOR FURTHER INFORMATION CONTACT: Mr. Elwood H. Weber, ARMS Task Force, HQ Army Materiel Command, 5001 Eisenhower Avenue, Alexandria Virginia 22333; Phone (703) 617–9788.

SUPPLEMENTARY INFORMATION: To assist in the EAC Meeting administrative support requirements, request that *all* attendees provide their desired overnight accommodations (2, 1 or 0 nights) to Mr. Elwood Weber, telephone (703) 617–9788/email eweber@hqamc.army.mil alternatively, Ms. Susan Alten, telephone (703) 617–4718/email susan.alten@hqda.army.mil. XDU is a multifunctional and secure campus type atmosphere, which requires attendees advance notification. To insure your immediate accessibility and expeditious registration, we request your attendance confirmation with this office by January 19, 2000. After January 19, accommodations must be made directly with XDU, but grouping with ARMS EAC (aka PPTF) meeting attendees may not be available. Corporate casual is meeting attire.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–520 Filed 1–7–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare an Environmental Impact Statement (EIS) for the Proposed Rueter-Hess Reservoir, Parker, Colorado

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (COE) is preparing an Environmental Impact Statement (EIS) to analyze the direct, indirect and cumulative effects of constructing and operating the proposed Rueter-Hess Reservoir. The basic purpose of the proposed action is to provide a safe, adequate and sustainable municipal water supply to Parker Water and Sanitation District, Parker, CO, which is capable of meeting the peak demands for the District's service area for the next 50 years. The construction of the proposed project would result in temporary and permanent impacts to wetlands and other waters of the United States, requiring a section 404 permit. To familiarize the public and interested organizations with the project and potential environmental issues that may be involved, the COE has prepared a scoping document for the project. This document includes a project description, preliminary list of alternatives and various environmental/resource issues that will be addressed in the EIS. Copies of the scoping document will be available at the public scoping meetings or can be requested by mail. The EIS will be prepared according to the COE's procedures for implementing the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4332(2)(C), and consistent with the COE's policy to facilitate public understanding and review of agency proposals.

FOR FURTHER INFORMATION CONTACT: Questions regarding the proposed action and EIS can be addressed to Rodney Schwartz, EIS Project Manager, U.S. Army Corps of Engineers, 215 North 17th Street, Omaha, NE 68102–4978 or at 402–221–4143.

SUPPLEMENTARY INFORMATION: Parker Water and Sanitation District proposes to construct and operate Rueter-Hess Reservoir and the associated water delivery system in order to provide a safe, adequate and sustainable municipal water supply, which is capable of meeting the peak demands for the District's service area for the next 50 years. The proposed reservoir is located in Douglas County, Colorado approximately 12 miles southeast of Denver and 3 miles southwest of the town of Parker. The construction of the 120-foot high, 2,600-foot long dam would impound 15,000 acre-feet of water and inundate approximately 385 acres in and around Newlin Gulch, an intermittent tributary to Cherry Creek.

The water supply system would be designed to be capable of capturing, reusing and storing seasonal high flows in nearby Cherry Creek and also capable of capturing and reusing Advanced Wastewater Treatment (AWT) return flows currently discharged into Cherry Creek. The water system would provide

adequate storage to ensure it has the capability to meet peak seasonal demands and help conserve ground water by maximum utilization of surface and AWT return flows in Cherry Creek. The current projected buildout for the water distribution and supply system is for 23,840 taps or approximately 85,000 residents within the next 50 years.

Scoping meetings will be held at two locations:

1. February 2, 2000 at 7 p.m. at the Parker Mainstreet Center, 19650 E. Mainstreet, Parker, CO.

2. February 3, 2000 at 7 p.m. at the Embassy Suites Southeast Hotel, 7525 E. Hampden Avenue, Denver, CO.

These scoping meetings will be held to describe the proposed project, preliminary alternatives, the NEPA compliance process and to solicit input on the issues and alternatives to be evaluated and other related matters. Written comments will also be requested.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–496 Filed 1–7–00; 8:45 am]

BILLING CODE 3710–62–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 9, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: January 4, 2000.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.

Title: School Survey on Crime and Safety.

Frequency: Intended to be biennial; clearance is being sought for year 2000 only.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 3,104.

Burden Hours: 3,104.

Abstract: This survey of 3,000 public elementary and secondary schools is intended to be the first of a biennial series. It collects data on the frequency of crime and disciplinary problems, the characteristics of school policies and programs to prevent or reduce crime, and school disciplinary actions.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO IMG Issues@ed.gov or should be faxed to 202–708–9346.

Questions regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (703) 426–9692 or via her internet address Kathy Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–438 Filed 1–7–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Educational Research Policy and Priorities Board; Quarterly Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming quarterly meeting of the National Education Research Policy and Priorities Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the open portions of the meeting.

DATE: January 20–21, 2000.

TIME: January 20, 9 a.m. to 2 p.m., open; 2 p.m. (approximately) to 5 p.m., closed. January 21, 9 a.m. to 3 p.m., open.

LOCATION: Room 100, 80 F St., NW, Washington, DC 20208–7564.

FOR FURTHER INFORMATION CONTACT: Thelma Leenhouts, Designated Federal Official, National Educational Research Policy and Priorities Board, Washington, DC 20208–7564. Tel.: (202) 219–2065; fax: (202) 219–1528; e-mail: Thelma Leenhouts@ed.gov, or nerppb@ed.gov. The main telephone number for the Board is (202) 208–0692.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement (OERI) to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office.

On January 20 from 9 a.m. to 2 p.m., the Board will conduct outstanding business in open session and hear reports on the interim evaluation of the regional educational laboratories and discuss recommendations regarding future lab evaluations. The Board will also discuss progress on its commissioned study on the application of standards for the selection of exemplary and promising programs. The meeting will be closed to the public

from approximately 2 p.m. to 5 p.m. under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) and under exemption 9(B) of Section 552b of Title 5 U.S.C. The Board will discuss plans for future requests for proposals for OERI's national educational research and development centers and other information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action.

On January 21 the Board will hear reports from the Assistant Secretary for OERI and from the chair and executive director. The Program Committee will report on plans for a conference on middle schools, tentatively scheduled for July 2000. A final agenda will be available from the Board office on January 12, and will be posted on the Board's web site, *http://www.ed.gov/offices/OERI/NERPPB/*.

A summary of the activities at the closed session 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 14 days of the meeting.

Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, Suite 100, 80 F St., NW, Washington, DC 20208–7564.

Dated: January 4, 2000.

Eve M. Bither,

Executive Director.

[FR Doc. 00–428 Filed 1–7–00; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–034]

Columbia Gas Transmission Corporation; Notice of Filing

January 4, 2000.

Take notice that on December 22, 1999, Columbia Gas Transmission Corporation (Columbia Gas) filed to report on the flow-back to customers of funds received from insurance carriers for environmental costs attributable to Columbia Gas' Docket No. RP91–161 settlement period.

Columbia Gas states that it allocated such recoveries among customers based on their fixed cost responsibility for services on the Columbia Gas system during the period December 1, 1991 through January 31, 1996, the period of the Docket No. RP91–161 settlement.

Columbia Gas states further that it provided a copy of the report to all customers who received a share of the environmental insurance recoveries and all state commissions whose jurisdiction includes the location of any such receipt.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 11, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–462 Filed 1–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91–160–025]

Columbia Gulf Transmission Company; Notice of Filing

January 4, 2000.

Take notice that on December 22, 1999, Columbia Gulf Transmission Company (Columbia Gulf) filed to report on the flow-back to customers of funds received from insurance carriers for environmental costs pursuant to Article I(A)(2)(d) of its Docket No. RP91–160 settlement.

Columbia Gulf states that it allocated such recoveries among customers based on their fixed cost responsibility for services rendered on the Columbia Gulf system during the period December 1, 1991 through October 31, 1994, the period of the Docket No. RP91–160 settlement.

Columbia Gulf states further that it provided a copy of the December 22, 1999 report to all customers who received a share of the environmental insurance recoveries and all state commissions whose jurisdiction includes the location of any such recipient.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 11, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–464 Filed 1–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–028]

Koch Gateway Pipeline Company; Notice of Negotiated Filing

January 4, 2000.

Take notice that on December 22, 1999, Koch Gateway Pipeline Company (Koch) filed with the Federal Energy Regulatory Commission (Commission) two contracts for disclosure of recently negotiated rate transactions. As shown on the contracts, Koch requests an effective date of January 1, 2000.

Special Negotiated Rate Between Koch and Koch Energy Trading

Koch states that it has served copies of this filing upon each to all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 11, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://

www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–463 Filed 1–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–149–000]

Sea Robin Pipeline Company; Notice of Flowthrough Crediting Report

January 4, 2000.

Take notice that on December 23, 1999, Sea Robin Pipeline Company (Sea Robin) submitted its Annual flowthrough Crediting Mechanism Filing. Sea Robin states that this filing was made pursuant to Section 27 of the General Terms and Conditions of Sea Robin's FERC Gas Tariff which requires the crediting of certain amounts received as a result of resolving monthly imbalances between its gas and liquefiables shippers and under its operational balancing agreements, and imposing scheduling penalties during the 12 month period ending October 31, 1999.

Sea Robin reports that the shippers paid $72,008.48 in excess of amounts received from Sea Robin. This amount will be credited to the shippers pursuant to the terms of Section 27.

Sea Robin states that copies of Sea Robin's filing will be served upon all of Sea Robin's shippers, interested commissions and interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before January 11, 2000. 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–465 Filed 1–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–61–000, et al.]

Lakefield Junction LLP, et al.; Electric Rate and Corporate Regulation Filings

January 3, 2000.

Take notice that the following filings have been made with the Commission:

1. Lakefield Junction LLP

[Docket No. EG00–61–000]

Take notice that on December 29, 1999, Lakefield Junction LLP filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA). The applicant is a limited liability partnership organized under the laws of the State of Delaware that will be engaged directly and exclusively in developing, owning, and operating a nominal 550 MW gas-fired generating facility (Facility) and selling electric energy at wholesale. The Facility is located near Trimont, Minnesota.

Comment date: January 24, 2000, 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. San Joaquin CoGen Limited

[Docket No. EG00–63–000]

Take notice that on December 27, 1999, San Joaquin CoGen Limited, 1000 Louisiana, Suite 5800, Houston, Texas 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.

San Joaquin CoGen Limited is a limited liability partnership, organized under the laws of the State of Texas, and engaged directly and exclusively in owning and operating the San Joaquin CoGen Limited electric generating facility (the Facility) located in San Joaquin, California, and selling electric energy at wholesale from the Facility. The Facility is a topping-cycle cogeneration facility consisting of one combustion turbine generator with a net electric power production capacity of 47,360 kW and one heat recovery steam generator, as well as associated transmission interconnection components.

Comment date: January 24, 2000, 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. Killingholme Generation Limited

[Docket No. EG00–64–000]

Take notice that on December 29, 1999, Killingholme Generation Limited (Applicant), with its principal office at Bennet House, 54 St. James' Street, London, England, 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.

Applicant states that it will acquire, own and operate a 650 megawatt natural gas-fired electric generating facility located in Lincolnshire, England (the Facility). Electric energy produced by the Facility will be sold at wholesale to the Power Pool of England and Wales. In no event will any electric energy be sold to consumers in the United States.

Comment date: January 24, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Indiana & Michigan Municipal Distributors Association and City of Auburn, Indiana v. Indiana Michigan Power Company; Indiana Michigan Power Company

[Docket Nos. EL88–1–007, ER88–31–006, and ER88–32–006]

Take notice that, on December 23, 1999, Indiana Michigan Power Company, d/b/a American Electric Power (I&M), tendered a compliance filing, pursuant to the Commission's June 3, 1992, Opinion and Order on Initial Decision, in the above-referenced dockets, which addressed, among other things, the appropriateness of periodic reviews of nuclear decommissioning costs and funding.

I&M states that copies of the filing were served upon its current jurisdictional customers, the Indiana Utility Regulatory Commission, and the Michigan Public Service Commission. I&M's submittal proposes no changes in I&M's present rates.

Comment date: February 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. New York Independent System Operator, Inc.

[Docket Nos. ER97–1523–021, OA97–470–020, and ER97–4234–018]

Take notice that on December 23, 1999, the New York Independent System Operator, Inc. (NYISO), pursuant to the Commission's Order Accepting for Filing in Part and Rejecting in Part Market Monitoring and Mitigation Plan, Subject to Modifications, issued November 23, 1999, tendered for filing revised Market Mitigation Measures. The NYISO requests an effective date of December 23,1999, and waiver of the Commission's notice requirements and of any applicable filing requirements not otherwise satisfied.

A copy of this filing has been served upon all persons on the Commission's official service lists in Docket Nos. ER97–1523–000, OA97–470–000 and ER97–4324–000 (not consolidated), and the respective electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Comment date: January 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Columbia Energy

[Docket No. ER97–3667–008]

Take notice that on December 8, 1999, Columbia Energy filed their quarterly report that ended September 30, 1999, for information only.

7. Eastern Pacific Energy and Northeast Energy Services, Inc.

[Docket Nos. ER98–1829–007 and ER97–4347–008]

Take notice that on December 23, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

8. Illinois Power Corporation

[Docket Nos. ER99–4415–002, ER99–4530–002 and EL00–7–002]

Take notice that on December 23, 1999, Illinois Power Corporation (Illinois Power) tendered for filing a compliance filing under which Illinois Power modified certain provisions of its Open Access Transmission Tariff (OATT).

Comment date: February 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Allegheny Energy Supply Company, LLC

[Docket No. ER00–868–000]

Take notice that on December 21, 1999, Allegheny Energy Supply Company, LLC filed their quarterly report for the quarter that ended September 30, 1999.

Comment date: January 24, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. PEI Power Corporation

[Docket No. ER00–915–000]

Take notice that on December 27, 1999, PEI Power Corp. filed their quarterly report for the quarter that ended September 30, 1999.

Comment date: January 24, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. New York Independent System Operator, Inc.

[Docket No. ER97–1523–022]

Take notice that on December 27, 1999, the members of the Transmission Owners Committee of the Energy Association of the State of New York, formerly the Member Systems of the New York Power Pool (Member Systems) submitted a revised Attachment L and an Attachment L–1 to the New York Independent System Operator's (NYISO) Open Access Transmission Tariff (OATT). Attachments L and L–1 were filed to comply with the provisions of the settlement agreement between the Member Systems and the MEUA Members and is limited in its scope to the changes resulting from the settlement agreement. The Member Systems request an effective date of November 18, 1999 only in the event a revised Attachment L filed by the NYISO the same day does not become effective.

Copies of this filing were served on the Commission's Service List in Docket Nos. ER97–1523–000 et al., on the parties to the Service Agreements under the NYISO OATT and on the respective electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Comment date: January 14, 2000, in accordance with Standard Paragraph E at the end of this notice.

STANDARD PARAGRAPH

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. 00–437 Filed 1–7–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

January 5, 2000.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: January 12, 2000, 10 am.

PLACE: Room 2C, 888 First Street, NE, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro; 732nd Meeting—January 12, 2000; Regular Meeting (10 a.m.)

CAH–1.
OMITTED
CAH–2.
DOCKET# P–13, 010, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
OTHER#S P–2047, 006, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2060, 007, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2084, 022, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.

P–2318, 006, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2320, 017, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2330, 036, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2474, 008, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2482, 024, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2539, 010, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2554, 007, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2569, 047, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2616, 012, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2641, 004, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2645, 080, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2696, 013, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2701, 032, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2713, 045, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–2837, 008, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–3452, 008, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–5984, 028, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–7320, 012, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–7321, 009, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–7387, 008, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–7518, 003, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–9222, 018, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–10461, 005, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–10462, 005, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.
P–11408, 022, NIAGARA MOHAWK POWER CORPORATION AND ERIE BOULEVARD HYDROPOWER, L.P.

CAH–3.
DOCKET# P–2232, 401, DUKE ENERGY CORPORATION

CAH–4.
OMITTED

Consent Agenda—Electric

CAE–1.
DOCKET# ER00–606, 000, AMERICAN ELECTRIC POWER SERVICE CORPORATION

CAE–2.
DOCKET# ER00–604, 000, CENTRAL MAINE POWER COMPANY
OTHER#S ER00–26, 000, CENTRAL MAINE POWER COMPANY

CAE–3.
DOCKET# ER00–500, 000, SIERRA PACIFIC ENERGY COMPANY
OTHER#S ER00–644, 000, CALPINE CORPORATION

CAE–4.
DOCKET# ER00–611, 000, WELLS RURAL ELECTRIC COMPANY
OTHER#S EL00–19, 000, WELLS RURAL ELECTRIC COMPANY

CAE–5.
DOCKET# ER00–612, 000, AMEREN SERVICES COMPANY

CAE–6.
DOCKET# ER00–619, 000, NEW ENGLAND POWER POOL

CAE–7.
DOCKET# ER00–618, 000, CALIFORNIA POWER EXCHANGE CORPORATION

CAE–8.
DOCKET# ER97–1523, 018, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
OTHER# ER97–1523, 011, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
OA97–470, 010, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
ER97–4234, 008, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
OA97–470, 017, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
ER97–4234, 015, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
ER97–1523, 019, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
OA97–470, 018, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
ER97–4234, 016, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION

CAE–9.
DOCKET# ER99–3435, 000, ARIZONA PUBLIC SERVICE COMPANY
OTHER#S EL99–55, 000, ARIZONA PUBLIC SERVICE COMPANY
ER99–2143, 000, ARIZONA PUBLIC SERVICE COMPANY

CAE–10.
OMITTED

CAE–11.
DOCKET# ER00–550, 000, NEW YORK INDEPENDENT SYSTEM OPERATOR, INC., CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
OTHER#S ER00–556, 000, NEW YORK INDEPENDENT SYSTEM OPERATOR, INC., CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK

STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
CAE–12.
DOCKET# ER00–658, 000, PACIFIC GAS & ELECTRIC COMPANY
CAE–13.
OMITTED
CAE–14.
DOCKET# ER97–1523, 013, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
OTHER#S OA97–470, 012, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
OA97–470, 013, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
ER97–1523, 014, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
ER97–4234, 010, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
ER97–4234, 011, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC & GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC. AND ROCHESTER GAS AND ELECTRIC CORPORATION
CAE–15.
DOCKET# ER99–397, 001, ALLEGHENY POWER SERVICE CORPORATION
CAE–16.
DOCKET# ER99–3301, 003, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
CAE–17.
DOCKET# ER98–495, 007, PACIFIC GAS AND ELECTRIC COMPANY
CAE–18.
OMITTED
CAE–19.
DOCKET# EC99–101, 000, NORTHERN STATES POWER COMPANY (MINNESOTA) AND NEW CENTURY ENERGIES, INC.
OTHER#S ER99–3914, 000, NORTHERN STATES POWER COMPANY (MINNESOTA), NORTHERN STATES POWER COMPANY (WISCONSIN), PUBLIC SERVICE COMPANY OF COLORADO, CHEYENNE LIGHT, FUEL AND POWER COMPANY, SOUTHWESTERN PUBLIC SERVICE COMPANY AND NEW CENTURY SERVICES, INC.
ER99–3916, 000, CHEYENNE LIGHT, FUEL & POWER COMPANY, NORTHERN STATES POWER COMPANY (MINNESOTA), NORTHERN STATES POWER COMPANY (WISCONSIN), PUBLIC SERVICE COMPANY OF COLORADO AND SOUTHWESTERN PUBLIC SERVICE COMPANY
CAE–20.
DOCKET# ER98–2843, 008, AES REDONDO BEACH, L.L.C.
OTHER#S ER98–2844, 008, AES HUNTINGTON BEACH, L.L.C.
ER98–2883, 008, AES ALAMITOS, L.L.C.
ER98–2971, 009, EL SEGUNDO POWER, L.L.C.
ER98–2972, 008, LONG BEACH GENERATION, L.L.C.
ER98–2977, 007, OCEAN VISTA POWER GENERATION, L.L.C., MOUNTAIN VISTA POWER GENERATION, L.L.C., ALTA POWER GENERATION, L.L.C., OESTE POWER GENERATION, L.L.C. AND ORMOND BEACH POWER GENERATION, L.L.C.
ER98–3106, 005, WILLIAMS ENERGY SERVICES COMPANY
ER98–3416, 007, DUKE ENERGY OAKLAND, L.L.C.
ER98–3417, 007, DUKE ENERGY MORRO BAY, L.L.C.
ER98–3418, 007, DUKE ENERGY MOSS LANDING, L.L.C.
ER98–4497, 003, SEMPRA ENERGY TRADING CORPORATION
ER98–4498, 003, SAN DIEGO GAS & ELECTRIC COMPANY
ER99–1971, 001, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
ER99–1971, 002, CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
CAE–21.
DOCKET# ER93–150, 015, BOSTON EDISON COMPANY
OTHER# ER93–150, 014, BOSTON EDISON COMPANY
EL93–10, 008, BOSTON EDISON COMPANY
EL93–10, 009, BOSTON EDISON COMPANY
CAE–22.
DOCKET# ER99–4400, 001, SOUTHERN COMPANY SERVICES, INC.
OTHER#S ER99–4450, 000, GEORGIA POWER COMPANY
EL00–31, 000, SOUTHERN COMPANY SERVICES, INC.
CAE–23.
OMITTED
CAE–24.
DOCKET# EL99–82, 000, AMERICAN ELECTRIC POWER SERVICE CORPORATION
CAE–25.
DOCKET# EL97–57, 000, DESERET GENERATION & TRANSMISSION COOPERATIVE
CAE–26.
OMITTED
CAE–27.
OMITTED
CAE–28.
DOCKET# EL99–95, 000, SOUTHWEST POWER POOL
CAE–29.
DOCKET# OA97–97, 005, ATLANTIC CITY ELECTRIC COMPANY
OTHER# OA97–467, 005, DELMARVA POWER & LIGHT COMPANY
CAE–30.
DOCKET# ER98–495, 008, PACIFIC GAS AND ELECTRIC COMPANY
OTHER# ER98–1614, 005, PACIFIC GAS AND ELECTRIC COMPANY
ER98–2145, 005, PACIFIC GAS AND ELECTRIC COMPANY
CAE–31.
DOCKET# ER97–1523, 016, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC., ROCHESTER GAS AND ELECTRIC CORPORATION AND NEW YORK POWER POOL
OA97–470, 015, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC., ROCHESTER GAS AND ELECTRIC CORPORATION AND NEW YORK POWER POOL
ER97–4234, 013, CENTRAL HUDSON GAS & ELECTRIC CORPORATION, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., NEW YORK STATE ELECTRIC AND GAS CORPORATION, NIAGARA MOHAWK POWER CORPORATION, ORANGE AND ROCKLAND UTILITIES, INC., ROCHESTER GAS AND ELECTRIC CORPORATION AND NEW YORK POWER POOL

Consent Agenda—Gas and Oil

CAG–1.
DOCKET# RP00–83, 000, TEXAS GAS TRANSMISSION CORPORATION
CAG–2.

DOCKET# RP00–138, 000, TRUNKLINE GAS COMPANY
CAG–3.
DOCKET# RP00–137, 000, PANHANDLE EASTERN PIPE LINE COMPANY
CAG–4.
OMITTED
CAG–5.
DOCKET# RP96–320, 028, KOCH GATEWAY PIPELINE COMPANY
CAG–6.
OMITTED
CAG–7.
DOCKET# PR99–19, 000, ONEOK GAS STORAGE, L.L.C. AND ONEOK SAYRE STORAGE COMPANY
CAG–8.
DOCKET# RP99–504, 000, WILLIAMS GAS PIPELINES CENTRAL, INC.
CAG–9.
DOCKET# RP99–106, 004, TRANSCOLORADO GAS TRANSMISSION CORPORATION
OTHER#S RP99–106, 000, TRANSCOLORADO GAS TRANSMISSION CORPORATION
CAG–10.
DOCKET# RP00–30, 001, ANR PIPELINE COMPANY
CAG–11.
OMITTED
CAG–12.
DOCKET# RP99–456, 002, TRANSWESTERN PIPELINE COMPANY
CAG–13.
DOCKET# RM96–14, 003, SECONDARY MARKET TRANSACTIONS ON INTERSTATE NATURAL GAS PIPELINES
OTHER#S RM94–10, 000, PETITION OF UNITED DISTRIBUTION COMPANIES FOR RULEMAKING REGARDING THE SECONDARY MARKET
RM96–7, 000, REGULATION OF NEGOTIATED TRANSPORTATION SERVICES OF NATURAL GAS PIPELINES
RP96–352, 002, TRANSWESTERN PIPELINE COMPANY, PACIFIC GAS AND ELECTRIC COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY
RP96–353, 001, NATIONAL FUEL GAS DISTRIBUTION COMPANY
RP96–355, 001, COLUMBIA GULF TRANSMISSION CORPORATION
RP96–356, 001, COLUMBIA GAS TRANSMISSION COMPANY
RP96–360, 001, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
RP96–368, 001, WASHINGTON GAS LIGHT COMPANY
RP96–369, 001, BROOKLYN UNION GAS COMPANY
RP96–370, 001, KERN RIVER GAS TRANSMISSION COMPANY
RP96–371, 001, CENTRAL HUDSON GAS & ELECTRIC CORPORATION
RP96–372, 001, MOUNTAINEER GAS COMPANY
RP96–373, 001, BOSTON GAS COMPANY
RP96–379, 001, ARIZONA PUBLIC SERVICE COMPANY
RP96–382, 001, ORANGE AND ROCKLAND UTILITIES, INC.
RM98–11, 000, RATE DESIGN FOR INTERSTATE NATURAL GAS PIPELINES
CAG–14.
DOCKET# GT99–68, 002, TENNESSEE GAS PIPELINE COMPANY
CAG–15.
DOCKET# RP99–513, 002, QUESTAR PIPELINE COMPANY
CAG–16.
DOCKET# RP00–22, 001, MISSISSIPPI RIVER TRANSMISSION CORPORATION
CAG–17.
OMITTED
CAG–18.
DOCKET# CP99–522, 000, TRANSWESTERN PIPELINE COMPANY
CAG–19.
DOCKET# CP99–161, 001, NATURAL GAS PIPELINE COMPANY OF AMERICA
CAG–20.
DOCKET# PL99–3, 001, CERTIFICATION OF NEW INTERSTATE NATURAL GAS PIPELINE FACILITIES
CAG–21.
OMITTED
CAG–22.
OMITTED
CAG–23.
DOCKET# CP99–539, 000, EARLE AND JULIE SMITH V. PORTLAND NATURAL GAS TRANSMISSION SYSTEM

Hydro Agenda

H–1.
RESERVED

Electric Agenda

E–1.
RESERVED

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
DOCKET# RM98–10, 000, REGULATION OF SHORT-TERM NATURAL GAS TRANSPORTATION SERVICES
OTHER#S RM98–12, 000, REGULATION OF INTERSTATE NATURAL GAS TRANSPORTATION SERVICES

Final Rule

PR–2.
DOCKET# RP96–129, 000, TRUNKLINE GAS COMPANY

Order on Initial Decision.

II. Pipeline Certificate Matters

PC–1.
RESERVED

David P. Boergers,

Secretary.

[FR Doc. 00–569 Filed 1–6–00; 11:29 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00284; FRL–6484–6]

PCBs Consolidated Reporting and Recordkeeping Requirements; Request for Comment on Renewal of Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), EPA is seeking public comment and information on the following Information Collection Request (ICR): PCBs: Consolidated Reporting and Recordkeeping Requirements (EPA ICR No. 1446.07, OMB No. 2070–0112). This ICR involves a collection activity that is currently approved and scheduled to expire on October 31, 2001, but also consolidates six other existing ICRs. The information collected under this ICR will help EPA prevent the improper handling and disposal of polychlorinated biphenyls (PCBs) and to minimize the exposure of human beings or the environment to PCBs. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number OPPTS–00284 and administrative record number AR–220, must be received on or before March 10, 2000.

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–00284 and administrative record number AR–220 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Joe Carra, Deputy Director, Office of Pollution Prevention and Toxics (7401), 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: Peggy Reynolds, National Program

Chemicals Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (202) 260–3965; fax number: (202) 260–1724; e-mail address: reynolds.peggy@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you currently possess PCB items, PCB-contaminated equipment, or other PCB waste. Potentially affected categories and entities may include, but are not limited to:

Type of business	SIC codes
Manufacturing	20–39
Oil and gas producers	1311
Electric utility industry	4911
Line-haul railroads	4011
Telecommunications	4810
Refuse systems	4953
Trucking and warehousing	4200
Sanitary services	4950
Steam suppliers	4960
Hospitals	8062

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 under ''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 items 4073, 4074, 4075, 4076, and 4077 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPPTS–00284 and administrative record number AR–220. 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 Mall 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 Action?

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–00284 and administrative record number AR–220 on the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (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 Office (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. 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 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–00284 and administrative record number AR–220. 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 under ''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 and administrative record 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 the 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: PCBs: Consolidated Reporting and Recordkeeping Requirements.

ICR numbers: EPA ICR No. 1446.07, OMB No. 2070–0112.

ICR status: This specific ICR is currently scheduled to expire on October 31, 2001; note, however, that this ICR is a consolidation of six separate existing ICRs that are scheduled to expire between February 28, 2000 and October 31, 2001. These ICRs are identified and discussed in the supporting statement for the subject information collection. 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 information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: Section 6(e)(1) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e), directs EPA to regulate the marking and disposal of PCBs. Section 6(e)(2) bans the manufacturing, processing, distribution in commerce, and use of PCBs in other than a totally enclosed manner. Section 6(e)(3) establishes a process for obtaining exemptions from the prohibitions on the manufacture, processing, and distribution in commerce of PCBs. Since 1978, EPA has promulgated numerous rules addressing all aspects of the life cycle of PCBs as required by the statute. The regulations are intended to prevent the improper handling and disposal of PCBs and to minimize the exposure of human beings or the environment to PCBs. These regulations have been codified in the various subparts of 40 CFR part 761. There are approximately 100 specific reporting, third-party reporting, and recordkeeping requirements covered by 40 CFR part 761.

To meet its statutory obligations to regulate PCBs, EPA must obtain sufficient information to conclude that specified activities do not result in an unreasonable risk of injury to health or the environment. EPA uses the information collected under the 40 CFR part 761 requirements to ensure that PCBs are managed in an environmentally safe manner and that activities are being conducted in compliance with the PCB regulations. The information collected by these requirements will update the Agency's knowledge of ongoing PCB activities, ensure that individuals using or disposing of PCBs are held accountable for their activities, and demonstrate compliance with the PCB regulations. Specific uses of the information collected include determining the efficacy of a disposal technology; evaluating exemption requests and exclusion notices; targeting compliance inspections; and ensuring adequate storage capacity for PCB waste.

This ICR consolidates six separate existing ICRs that address PCB reporting and recordkeeping requirements, and includes additional or revised requirements resulting from a final rule amending requirements addressing the manufacture, processing, distribution in commerce, use, cleanup, storage and disposal of PCBs, published June 29, 1998 (63 FR 35383) (FRL–5726–1). Detailed discussions of the existing ICRs and how their associated reporting and/or recordkeeping burdens have changed as a result of the final rule are found in the supporting statement for the information collection that is the subject of this notice.

Responses to the collection of information are mandatory (see 40 CFR part 761). 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 0.57 hours per response. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Persons who currently possess PCB items, PCB-contaminated equipment, or other PCB waste.

Estimated total number of potential respondents: 1,300,240.

Frequency of response: On occasion.

Estimated total/average number of responses for each respondent: 1.

Estimated total annual burden hours: 741,261.

Estimated total annual burden costs:: $24,789,115.

VI. Are There Changes in the Estimates from the Last Approval?

This ICR consolidates six separate existing ICRs that address PCB reporting and recordkeeping requirements, and includes additional or revised requirements resulting from a final rule amending requirements addressing the manufacture, processing, distribution in commerce, use, cleanup, storage and disposal of PCBs, published June 29, 1998 (63 FR 35383). Therefore any change in estimated burden is more meaningfully expressed as the difference between the current combined burden of the six existing ICRs compared with the estimated burden identified in the information collection that is the subject of this notice, rather than the difference

between the current and estimated burden of the subject information collection only.

The combined burden of the six existing ICRs totals 2,007,618 hours, while the burden for this consolidated ICR, as noted above, is estimated to be 741,261 hours, a net burden reduction of 1,266,357 hours. This reduction reflects numerous factors, including program changes and adjustments to the burdens of specific existing reporting or recordkeeping requirements, revised estimates regarding the total number of respondents resulting from new data gathered in preparing the consolidated ICR effort, updated Agency analyses, and estimate adjustments that were made for consistency with more recent Agency reports, plus the addition of burden estimates associated with requirements that were overlooked in the various existing ICRs and burden associated with new reporting and recordkeeping requirements contained within the final rule. Identification and detailed discussions of the existing ICRs and how their associated reporting and/or recordkeeping burdens have changed as a result of the final rule are found in section 6(e), Reasons for Change in Burden, of the supporting statement for the subject 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 under ''FOR FURTHER INFORMATION CONTACT.''

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: December 29, 1999.

Susan H. Wayland,

Deputy Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 00–493 Filed 1–7–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6520–8]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Pacific Coast Building Products, Inc., Apex, Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to State operating permit.

SUMMARY: Pursuant to Clean Air Act section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator is hereby denying a petition to object to a State operating permit issued by the Clark County Health District to Pacific Coast Building Products, Inc. (''PABCO''), Apex, Nevada. This order constitutes final action on the petition submitted by Robert W. Hall. Pursuant to section 505(b)(2) of the Clean Air Act (''Act''), petitioner may seek judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of this decision under section 307 of the Act.

ADDRESSES: Copies of the final order, the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region IX, Air Division, 75 Hawthorne Street, San Francisco, CA 94105. The final order is also available electronically at the following address: http://www.epa.gov/ttn/oarpg/t5sn.html.

FOR FURTHER INFORMATION CONTACT: Steve Branoff, Air Division, EPA Region IX, telephone (415) 744–1290, e-mail branoff.steve@epa.gov. Interested parties may also contact the Clark County Health District, Air Pollution Control Division, 625 Shadow Lane, Las Vegas, Nevada 89127.

SUPPLEMENTARY INFORMATION: The Clean Air Act affords EPA the opportunity for a 45-day period to review, and object to, as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Robert W. Hall submitted a petition to the Administrator on June 6, 1999, seeking EPA's objection to the operating permit issued to PABCO. The petitioner maintains that PABCO operating permit is inconsistent with the Act because in issuing the permit, the Clark County Health District failed to: (1) Cite and issue the part 70 permit according to the applicable State Implementation Plan (''SIP''); (2) require implementation of appropriate pollution control technology; (3) require PABCO to conduct post-construction ambient monitoring as required by the SIP and a previously-issued permit; (4) comply with the compliance schedule requirements of section 10 of the SIP; and (5) maintain an EPA-approved part 70 program. The order denying this petition explains the reasons behind EPA's conclusion that petitioner has failed to demonstrate that the PABCO permit does not assure compliance with the Clean Air Act on the grounds raised.

Dated: December 30, 1999.

John Wise,

Acting Regional Administrator, Region IX.

[FR Doc. 00–485 Filed 1–7–00; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6520–5]

National Advisory Committee to the U.S. Representative to the Commission for Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463), the U.S. Environmental Protection Agency (EPA) gives notice of a meeting of the National Advisory Committee (NAC) to the U.S. Government Representative to the Commission for Environmental Cooperation (CEC).

The Committee is established within the U.S. Environmental Protection Agency (EPA) to advise the Administrator of the EPA in her capacity as the U.S. Representative to the CEC. The Committee is authorized under Article 17 of the North American Agreement on Environmental Cooperation, and the North American Free Trade Agreement Implementation Act (NAFTA), Public Law 103–182. Federal government responsibilities relating to the committee are set forth in

Executive Order 12915, entitled ''Federal Implementation of the North American Agreement on Environmental Cooperation.'' The Committee is responsible for providing advice to the U.S. Representative on implementation and further elaboration of the agreement.

The Committee consists of 12 independent representatives drawn from among environmental groups, business and industry, public policy organizations and educational institutions.

DATES: The Committee will meet on Thursday, January 27, 2000 from 9 a.m. until 5:30 p.m., and on Friday, January 28, 2000 from 8:30 a.m. to 3 p.m.

ADDRESSES: The Riverwalk Plaza Hotel, 100 Villita Street, San Antonio, Texas. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Joyce, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, at (202) 564–9802.

Dated: December 20, 1999.

Sonia Altieri,

Acting Designated Federal Officer National Advisory Committee.

[FR Doc. 00–357 Filed 1–7–00; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6520–6]

Governmental Advisory Committee to the U.S. Representative to the Commission for Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463), the U.S. Environmental Protection Agency (EPA) gives notice of a meeting of the Governmental Advisory Committee (NAC) to the U.S. Government Representative to the Commission for Environmental Cooperation (CEC).

The Committee is established within the U.S. Environmental Protection Agency (EPA) to advise the Administrator of the EPA in her capacity as the U.S. Representative to the CEC. The Committee is authorized under Article 18 of the North American Agreement on Environmental Cooperation, and the North American Free Trade Agreement Implementation Act (NAFTA), Public Law 103–182. Federal government responsibilities relating to the committee are set forth in Executive Order 12915, entitled ''Federal Implementation of the North American Agreement on Environmental Cooperation.'' The Committee is responsible for providing advice to the U.S. Representative on implementation and further elaboration of the agreement.

The Committee consists of 12 independent representatives drawn from state, local and tribal governments.

DATES: The Committee will meet on Thursday, January 27, 2000 from 9 a.m. until 5:30 p.m., and on Friday, January 28, 2000 from 8:30 a.m. to 3 p.m.

ADDRESSES: The Riverwalk Plaza Hotel, 100 Villita Street, San Antonio, Texas. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Ms. Sonia Altieri, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental management, at (202) 564–9788.

Dated: December 20, 1999.

Sonia Altieri,

Designated Federal Officer, Governmental Advisory Committee.

[FR Doc. 00–358 Filed 1–7–00; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–902; FRL–6394–6]

Notice of Filing Pesticide Petitions to Establish Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–901, must be received on or before February 9, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–901 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number/e-mail address	Address	Petition number(s)
James A. Tompkins (PM 25).	Rm. 239, CM #2, 703–305–5697, e-mail: tompkins.james@epamail.epa.gov.	1921 Jefferson Davis Hwy. Arlington, VA	PP 8F4973, 9F5096, 9F6007, and 0F6071
Joe Travano (PM 10)	Rm. 214, CM #2, 703–305–6411, e-mail: travano.joe@epamail.epa.gov.	Do.	PP 9F6033 and 9F6062

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing 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 the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *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/. To access this document, 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/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–901. 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 Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit 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 PF–901 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: ''*opp-docket@epa.gov* ,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–901. Electronic comments may also be filed online at many Federal Depository Libraries.

D. 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 person identified under ''FOR FURTHER INFORMATION CONTACT.''

E. What Should I Consider as 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. Make sure to submit your comments by the deadline in this notice.

7. 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.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 3, 1999.

Peter Caulkins, Acting

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

The petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petitions summaries verbatim without editing them in any way. The petition summary

announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Monsanto Company

PP 8F4973, 9F5096, 9F6007, and 0F6071

EPA has received pesticide petitions (8F4973, 9F5096, 9F6007, and 0F6071) from Monsanto Company, 600 13th Street NW., Suite 660, Washington, DC 20005 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of glyphosate (N-(phosphonomethyl)glycine) in or on the raw agricultural commodities (RACs) corn, field, forage at 3.0 parts per million (ppm); (8F4973); alfalfa, hay at 400 ppm and alfalfa, forage at 175 ppm (9F5906); and stover and straw of cereal grains group at 100 ppm (9F6007). Monsanto proposes deletion of currently established tolerances on alfalfa at 200 ppm, alfalfa, fresh 0.2 ppm (9F5906); corn, field, stover at 100 ppm; sorghum, grain, stover at 40 ppm, and wheat straw at 85 ppm (9F6007). The proposed deletions are either no longer needed or are superceded by the proposed crop group tolerance.

Under PP 0F6071, Monsanto proposes that 40 CFR 180.364(a) header be amended to read as follows:

General. Tolerances are established for residues of glyphosate (N-(phosphonomethyl)glycine) per se resulting from the application of the isopropylamine salt of glyphosate, the ethanolamine salt of glyphosate, and the ammonium salt of glyphosate in or on the following RAC.

Monsanto also proposes that 40 CFR 180.364(a) be amended so that the headers for paragraphs (a)(2) and (a)(3) are deleted and the commodity tolerances listed in paragraphs (a)(2) and (a)(3) are reorganized into section (a) in alphabetical order under the header amended above.

Monsanto proposes that 40 CFR 180.364(d) be amended to read as follows:

Indirect or inadvertent residues. Tolerances are established for residues of glyphosate (N-(phosphonomethyl)glycine) per se resulting from the use of irrigation water containing residues of 0.5 ppm following applications on around aquatic sites at 0.1 ppm on the crop groupings citrus, cucurbits, forage grasses, forage legumes, fruiting vegetables, grain crops, leafy vegetables, nuts, pome fruits, root crop vegetables, seed and pod vegetables, stone fruits, and the individual commodities cottonseed, hops, and avocados. Where tolerances are established at higher levels from other uses of glyphosate in or on the subject crops, the higher tolerance should also apply to residues from the aquatic uses cited in this paragraph.

EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petitions. Additional data may be needed before EPA rules on these petitions.

A. Residue Chemistry

1. *Plant metabolism.* The qualitative nature of the residue in plants is adequately understood. Studies with a variety of plants including corn, cotton, soybeans, and wheat indicate that the uptake of glyphosate or its metabolite, aminomethylphosphonic acid (AMPA), from soil is limited. The material which is taken up is readily translocated. Foliarly applied glyphosate is absorbed and translocated throughout the trees or vines to the fruit of apples, coffee, dwarf citrus (calamondin), pears, and grapes. Metabolism via N-methylation yields N-methylated glycines and phosphonic acids. For the most part, the ratio of glyphosate to AMPA is 9 to 1 but can approach 1 to 1 in a few cases (e.g., soybeans and carrots). Much of the residue data for crops reflect a detectable residue of parent (0.05 - 0.15 ppm) along with residues below the level of detection (< 0.05 ppm) of AMPA. Only glyphosate parent is regulated in plant and animal commodities since the metabolite AMPA is not of toxicological concern.

2. *Analytical method.* Adequate enforcement methods are available for analysis of residues of glyphosate in or on plant commodities. These methods include gas liquid chromatography (GLC) (Method I in Pesticides Analytical Manual (PAM) II; the limit of detection is 0.05 ppm) and high performance liquid chromatography (HPLC) with fluorometric detection. The HPLC procedure has undergone successful Agency validation and was recommended for inclusion in PAM II. A gas chromatography/mass spectrometry (GC/MS) method for glyphosate in crops has also been validated by EPA's Analytical Chemistry Laboratory (ACL). The proposed revision in the tolerance regulation does not change the residue to be analyzed, which remains as glyphosate *per se*.

Adequate analytical methods are available for residue data collection and enforcement of proposed tolerances of glyphosate in or on alfalfa, hay; alfalfa, forage; corn, field, forage; and the stover and straw of cereal grains group.

3. *Magnitude of residues.* Adequate data concerning glyphosate residues on RAC have previously been submitted to the Agency. Accordingly, the available residue data for glyphosate support the proposed revision of the tolerance expression for glyphosate. As noted above, the proposed revision will permit glyphosate residues from the application of glyphosate in the form of its ethanolamine salt. In addition, any secondary residues occurring in liver, or kidney of cattle, goats, horses, and sheep, and liver and kidney of poultry will be covered by existing tolerances.

The submitted residue data adequately support the proposed tolerance on corn, field, forage at 3.0 ppm. The available crop residue data support the establishment of tolerances on alfalfa, hay at 400 ppm and alfalfa, forage at 175 ppm. The available data also support deletion of the current entries for alfalfa at 200 ppm and alfalfa, fresh at 0.2 ppm. The available crop field trial data support the establishment of tolerances in stover and straw of cereal grains group at 100 ppm. This tolerance is based on data from the three indicator crops corn, field, stover, wheat straw, and sorghum, stover that have previously been reviewed. Any secondary residues occurring in liver and kidney of cattle, goats, hogs, horses, and sheep, and liver and kidney of poultry will be covered by existing tolerances and the available data indicate that residues of glyphosate are not anticipated to occur in any other livestock commodities as a result of this action.

B. Toxicological Profile

EPA has previously evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by glyphosate are summarized below:

1. *Acute toxicity.* Several acute toxicology studies placing technical-grade glyphosate in Toxicity Category III and Toxicity Category IV. Technical glyphosate is not a dermal sensitizer.

2. A 21-day dermal toxicity study rabbits were exposed to glyphosate at levels of 0, 10, 1,000, or 5,000 milligrams/kilograms/day (mg/kg/day). The systemic no observed adverse effect level (NOAEL) was 1,000 mg/kg/day

and the lowest observed adverse effect level (LOAEL) was 5,000 mg/kg/day based on decreased food consumption in males. Although serum lactate dehydrogenase was decreased in both sexes at the high dose, this finding was not considered to be toxicologically significant.

3. *Genotoxicity*. Mutagenicity data included chromosomal aberration *in vitro* (no aberrations in Chinese hamster ovary (CHO) cells were caused with and without S9 activation); DNA repair in rat hepatocyte; *in vivo* bone marrow cytogenetic test in rats; rec-assay with *B. subtilis*; reverse mutation test with *S. typhimurium*; Ames test with *S. typhimurium*; and dominant-lethal mutagenicity test in mice. These genotoxicity studies are all negative.

4. *Reproductive and developmental toxicity*. Developmental toxicity studies were conducted with glyphosate in the rat and rabbit. In the rat study, test animals were given oral doses of 0, 300, 1,000, and 3,500 mg/kg/day with a developmental (fetal) NOAEL of 1,000 mg/kg/day based on an increase in number of litters and fetuses with delayed maturation of sternebrae and reduced body weight at 3,500 mg/kg/day, and a maternal NOAEL of 1,000 mg/kg/day based on clinical signs of toxicity and mortality at 3,500 mg/kg/day highest dose tested (HDT).

In the rabbit study, test animals were orally given doses of 0, 75, 175 and, 350 mg/kg/day of glyphosate. The maternal NOAEL is 175 mg/kg/day based on clinical signs of toxicity and mortality and the fetal NOAEL is 350 mg/kg/day HDT based on no developmental toxicity at any dose tested.

Two studies evaluating the reproductive effects of glyphosate were conducted in the rat. In a 3–generation study, rats were fed dosage levels of 0, 3, 10, and 30 mg/kg/day of glyphosate. The NOAEL for systemic and reproductive/developmental parameters is 30 mg/kg/day based on no-adverse effects noted at any dose level.

In a 2–generation reproduction study, rats were fed dosage levels of 0,100, 500, and 1,500 mg/kg/day of glyphosate. The NOAEL for systemic and developmental parameters is 500 mg/kg/day based on body weight effects, clinical signs of toxicity in adult males and decreased pup body weights and a reproductive NOAEL of 1,500 mg/kg/day HDT.

5. *Subchronic toxicity*. Subchronic (90–day) feeding studies were conducted with the rat, mouse, and dog. In the rat study, the test animals were fed dosage levels of 0, 1,000, 5,000, and 20,000 ppm of glyphosate. The NOAEL is 20,000 ppm based on no-effects at the HDT. In the mouse study, the test animals were fed dosage levels of 0, 5,000, 10,000, and 50,000 ppm of glyphosate. The NOAEL is 10,000 ppm based on body weight effects at the HDT.

In the dog study, the test animals were given glyphosate, via capsule, at doses of 0, 200, 600, and 2,000 mg/kg/day. The NOAEL is 2,000 mg/kg/day based on no-effects at the HDT.

6. *Chronic toxicity*. In a 12–month oral study, dogs were given glyphosate, via capsule, at doses of 0, 20, 100, and 500 mg/kg/day. The NOAEL is 500 mg/kg/day based on no-adverse effects at any dose level.

In a 26–month chronic feeding/oncogenicity study, rats were fed glyphosate at dosage levels of 0, 3, 10, and 31 mg/kg/day (males) and 0, 3, 11, and 34 mg/kg/day (females). The NOAEL is 31 mg/kg/day (males) and 34 mg/kg/day (females) based on no carcinogenic or other adverse effects at any dose level. Because a maximum tolerated dose (MTD) was not reached, this study was classified as supplemental for carcinogenicity.

In a 24–month chronic feeding/oncogenicity study, rats were fed glyphosate at dosage levels of 0, 89, 362, and 940 mg/kg/day (males) and 0, 113, 457, and 1,183 mg/kg/day (females). The systemic NOAEL is 362 mg/kg/day based on body weight effects in the female and eye effects in males. There was no carcinogenic response at any dose level.

In a mouse oncogenicity study, mice were fed glyphosate at dosage levels of 0, 150, 750, and 4,500 mg/kg/day with a NOAEL of 750 mg/kg/day based on body weight effects and microscopic liver changes at the HDT. There was no carcinogenic effect at the HDT of 4,500 mg/kg/day. Glyphosate is classified as a Group E (evidence of non-carcinogenicity for humans). This classification is based on the following findings:

i. There were no treatment related tumor findings in three state-of-the-art long-term bioassays.

ii. Glyphosate was tested up to the limit dose in the rat and up to levels higher than the limit dose in mice.

iii. There is no evidence of genotoxicity for glyphosate.

7. *Animal metabolism*. The qualitative nature of the residue in animals is adequately understood. Studies with lactating goats and laying hens fed a mixture of glyphosate and AMPA indicate that the primary route of elimination was by excretion (urine and feces). These results are consistent with metabolism studies in rats, rabbits, and cows. The terminal residues in eggs, milk, and animal tissues are glyphosate and its metabolite AMPA; there was no evidence of further metabolism. The terminal residue to be regulated in livestock is glyphosate *per se*.

8. *Metabolite toxicology*. Only glyphosate parent is to be regulated in plant and animal commodities since the metabolite AMPA is not of toxicological concern in food.

9. *Endocrine disruption*. The toxicity studies required by EPA for the registration of pesticides measure numerous endpoints with sufficient sensitivity to detect potential endocrine-modulating activity. No effects have been identified in subchronic, chronic, or developmental toxicity studies to indicate any endocrine-modulating activity by glyphosate. In addition, negative results were obtained when glyphosate was tested in a dominant-lethal mutation assay. While this assay was designed as a genetic toxicity test, agents that can affect male reproduction function will also cause effects in this assay. More importantly, the multi-generation reproduction study in rodents is a complex study design which measures a broad range of endpoints in the reproductive system and in developing offspring that are sensitive to alterations by chemical agents. Glyphosate has been tested in two separate multi-generation studies and each time the results demonstrated that glyphosate is not a reproductive toxin.

C. Aggregate Exposure

1. *Dietary exposure*. Tolerances have been established (40 CFR 180.364) for the residues of (n-(phosphonomethyl)glycine resulting from the application of the isopropylamine salt of glyphosate and/or the monoammonium salt of glyphosate, in or on a variety of plant and animal RACs including kidney of cattle, goats, hogs, horses, and sheep at 4.0 ppm; liver of cattle, goats, hogs, horses, and sheep at 0.5 ppm; and liver and kidney of poultry at 0.5 ppm based on animal feeding studies and worst-case livestock diets. The RAC corn, field, forage is not consumed by humans. Thus, the only possible exposure from this increased tolerance would be secondary residues in animal commodities which may occur from this use through the feeding of corn forage to livestock.

The petition proposes to expand this residue definition to include application of the ethanolamine salt of glyphosate. Risk assessments were conducted by EPA to assess dietary exposures from glyphosate as follows:

i. *Food—Acute exposure and risk*. Acute dietary risk assessments are

performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. An acute dietary risk assessment was not performed because no endpoints attributable to single dose were identified in the oral studies including rat and rabbit developmental studies. There are no data requirements for acute and subchronic neurotoxicity studies and no evidence of neurotoxicity in any of the toxicity studies at very high doses. The Agency has concluded with reasonable certainty that glyphosate dose not elicit an acute toxicological response, and that an acute dietary risk assessment is not needed.

ii. *Chronic exposure and risk*. The chronic dietary exposure analysis was conduced using the reference dose (RfD) of 2.0 mg/kg/day based on the maternal NOAEL of 175 mg/kg/day from a developmental study and an uncertainty factor of 100 (applicable to all population groups) the Dietary Exposure Evaluation Model (DEEM) analysis assumed tolerance levels residues and 100% of the crop treated. These assumptions resulted in the following theoretical maximum residue contributions (TMRC) and percentage RfDs for certain population subgroups. The TMRC for the U.S. population (48 contiguous States) was 0.029960 or 1.5% of the RfD, 0.026051 or 1.3% of the RfD for nursing infants (less than on 1 year old), 0.065430 or 3.3% of the RfD for non-nursing infants less than 1 year old; 0.064388 or 3.2% of the RfD for children (1–6 years old); 0.043017 or 2.2% of the RfD for children (7–12 years old); 0.030928 or 1.5% of the RfD for females (13+/nursing); 0.030241 or 1.5% of the RfD for non-Hispanic whites; and 0.030206 or 1.5% of the RfD for non-Hispanic blacks. These exposure levels will be unaffected by the proposed amendment to the tolerance regulation.

iii. *Chronic risk-carcinogenic*. Glyphosate has been classified as a *Group E* chemical evidence of carcinogenicity in two acceptable animal species.

iv. *Drinking water*. Generic Expected Environmental Concentration (GENEEC) and Screening Concentration and Ground Water (SCI-GROW) models were run by EPA to produce maximum estimates of glyphosate concentrations in surface and ground water, respectively. The drinking water exposure for glyphosate from the ground water screening model, SCI-GROW, yields a peak and chronic Estimated Environmental Concentration (EEC) of 0.0011 parts per billion (ppb) in ground water. The GENEEC values represent upper-bound estimates of the concentrations that might be found in surface water due to glyphosate use. Thus, the GENEEC model predicts that glyphosate surface water concentrations range from a peak of 1.64 ppb to a 56–day average of 0.19 ppb. The model estimates are compared directly to drinking water level of comparison (DWLOC) (chronic). The DWLOC (chronic) is the theoretical concentration of glyphosate in drinking water so that the aggregate chronic exposure (food + water + residential) will occupy no more than 100% of the RfD. This assessment does not take into account expected reductions in any glyphosate concentrations in water arising from water treatment of surface water prior to releasing it for drinking purposes. The Agency's default body weights and consumption values used to calculate DWLOCs are as follows: 70 kg/2L (adult male), 60 kg/2L (adult female), and 10 kg/1L (child).

v. *Acute exposure and risk*. An acute dietary endpoint and dose was not identified in the toxicology data base. Adequate rat and rabbit developmental studies did not provide a dose or endpoint that could be used for acute dietary risk purposes. Additionally, there were no data requirements for acute or subchronic rat neurotoxicity studies since there was no evidence of neurotoxicity in any of the toxicology studies at very high doses.

vi. *Chronic exposure and risk*. The DWLOC (chronic, non-cancer) risk is calculated by multiplying the allowed chronic water exposure (mg/kg/day) x body weight (kg) divided by the consumption (L) x 103 µg/mg. The DWLOCs are 69,000 µg/L for the U.S. population in 48 contiguous States, males (13+), non-Hispanic whites, and non-Hispanic blacks; and 19,000 for non-nursing infants (less than 1 year old) and children (1–6 years). Although the GENEEC and SCI-GROW models are known to produce worst-case estimates, the resulting average concentrations of glyphosate in the surface and ground water are more than 10,000-fold less than the DWLOC (chronic). Therefore, taking into account present uses and uses proposed in this action, Monsanto concludes with reasonable certainty that no harm will result from chronic aggregate exposure to glyphosate.

2. *Non-dietary exposure*. Glyphosate is currently registered for use on the following residential non-food sites: Around ornamentals, shade trees, shrubs, walk, driveways, flower beds, and home lawns. Based on the registered uses of glyphosate, the potential for residential exposures exists. However, based on the low acute toxicity and lack of other toxicological concerns, glyphosate does not meet the Agency's criteria for residential data requirements and a residential exposure assessment is not required since there are no toxicological endpoints selected for either dermal or inhalation exposure. Exposures from residential uses are not expected to pose undue risks or harm to public health.

i. *Acute exposure and risk*. There are no acute toxicological concerns for glyphosate. Glyphosate has been the subject of numerous incident reports, primarily for eye and skin irritation injuries, in California. Some glyphosate end-use products are in Toxicity Categories I and II for eye and dermal irritation. The Reregistration Eligibility Decision Document for Glyphosate (September 1993) indicated that the Agency is not adding additional personal protective equipment (PPE) requirements to labels of end-use products, but that it continues to recommend the PPE and precautionary statements required for end-use products in Toxicity Categories I and II.

ii. *Chronic exposure and risk*. Although there are registered residential uses for glyphosate, glyphosate does not meet the Agency's criteria for residential data requirements, due to the lack of toxicological concerns. Incidental acute and/or chronic dietary exposures from residential uses of glyphosate are not expected to pose undue risks to the general population, including infants and children.

iii. *Short- and intermediate-term exposure and risk*. EPA identified no toxicological concerns for short-intermediate- and long-term dermal or inhalation routes of exposures for glyphosate. The Agency has concluded that exposures from residential uses of glyphosate are not expected to pose undue risks.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information''concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether glyphosate has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, glyphosate does not produce a toxic metabolite that is also produced by other substances. For the purposes of

this tolerance action, therefore, EPA should assume that glyphosate does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances November 26, 1997, (62 FR 62961) (FRL–5754–7).

E. Safety Determination

1. *U.S. population*—i. *Acute risk*. There was no acute dietary endpoint identified, therefore, there are no acute toxicological concerns for glyphosate.

ii. *Chronic risk*. Using the TMRC exposure assumptions described in this unit, EPA has concluded that aggregate exposure to glyphosate from food will utilize 1.5% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non- nursing infants (less than 1 year) and children (1–6 years old) as discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to glyphosate in drinking water and from non-dietary, non-occupational exposure, the aggregate exposure will not exceed 100% of the RfD. EPA has previously concluded that there is a reasonable certainty that no harm will result from aggregate exposure to glyphosate residues at this level. The safety determination is unaffected by the proposed change in the tolerance regulation.

iii. *Short- and intermediate-term risk*. Short-and intermediate-term dermal and inhalation risk is not a concern due to the lack of significant toxicological effects observed with glyphosate under these exposure scenarios. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

iv. *Aggregate cancer risk for U.S. population*. Glyphosate has been classified as a Group E chemical, with no evidence of carcinogenicity for humans in two acceptable animal studies.

v. *Determination of safety*. Based on these risk assessments, Monsanto concludes that there is a reasonable certainty that no harm will result from aggregate exposure to glyphosate residues.

2. *Infants and children*. In general, when assessing the potential for additional sensitivity of infants and children to residues of glyphosate, EPA considers data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined interspecies and intraspecies variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

i. *Prenatal and postnatal sensitivity*. The oral prenatal and prenatal data demonstrated no indication of increased sensitivity of rats or rabbits to *in utero* and postnatal exposure to glyphosate.

ii. *Conclusion*. There is a complete toxicity data base for glyphosate and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Based on these data, there is no indication that the developing fetus or neonate is more sensitive than adult animals. No developmental neurotoxicity studies have been required at this time. A developmental neurotoxicity data requirement is an upper tier study and is required only if effects observed in the acute and 90–day neurotoxicity studies indicate concerns for frank neuropathy or alterations seen in fetal nervous system in the developmental or reproductive toxicology studies. The Agency has concluded that reliable data support the use of the standard 100-fold uncertainty factor for glyphosate, and that a tenfold (10x) uncertainty factor is not needed to protect the safety of infants and children.

iii. *Acute risk*. There are no acute toxicological endpoints for glyphosate. The Agency has concluded that establishment of the proposed tolerances would not pose an unacceptable aggregate risk.

3. *Chronic risk*. Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to glyphosate from food utilizing present tolerances will utilize 3.0% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. These dietary exposure levels are unaffected by the proposed tolerances on alfalfa, hay and alfalfa, forage, because these commodities are only consumed by livestock, and the existing tolerances in liver and kidney fractions of cattle, goats, horses, sheep, and poultry are considered sufficient to account for any additional dietary burden these animals may encounter. Although there is a low likelihood potential exposure to glyphosate in drinking water and from non-dietary, non-occupational exposure, EPA has previously concluded that the aggregate exposure is not expected to exceed 100% of the RfD. The safety determination is unaffected by the proposed change in the tolerance regulation.

4. *Short- or intermediate-term risk*. Short-term and intermediate- term dermal and inhalation risk is not a concern due to the lack of significant toxicological effects observed with glyphosate under these exposure scenarios.

5. *Determination of safety*. Based on these risk assessments, EPA has previously concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to glyphosate residues at these levels.

F. International Tolerances

No Codex Maximum Residue Levels (MRLs) exist for alfalfa, hay, alfalfa, forage; or corn, field, forage. A MRL exists for straw and fodder (dry) of cereal grains (Code as 0091) at 100 ppm. Therefore, the proposed tolerance for stover and straw of cereal grains group at 100 ppm will harmonize to United States regulations with those in place internationally. Codex MRLs have been established in or on many RACs. These petitions propose no additional numerical changes; therefore, the

agreement between United States tolerances and Codex MRLs are not affected by other proposals in this action.

2. Rohm and Haas Company

9F6033

EPA has received a pesticide petition (9F6033) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of methoxyfenozide benzoic acid, 3-methoxy-2-methyl-,2-(3,5-dimethylbenzoyl)-2-(1,1- dimethylethyl) hydrazide in or on the RACs grapes, raisins, and fruiting vegetables (except cucurbits) at 1.0, 1.5, and 2.0 ppm respectively. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of methoxyfenozide in plants (grapes, apples, cotton, and rice) is adequately understood for the purposes of these tolerances. The metabolism of methoxyfenozide in all crops was similar and involves cleavage of the methoxyl side chain to the free phenol, RH-117236 or oxidation of the alkyl substituents of the aromatic rings primarily at the benzylic positions. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage.

2. *Analytical method*. A high performance liquid chromatographic (HPLC) analytical method using ultraviolet (UV) or mass selective (MS) detection has been validated for grapes, raisins, grape juice, wine, peppers, tomatoes, and tomato processed fractions (juice, puree, paste). The method involves extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using basic alumina column chromatography and solid phase extraction. The LOQ is 0.02 ppm for all matrices.

3. *Magnitude of residues*—i. *Grapes*. Residue studies showed a range of residues in grapes from 0.20–0.86 ppm, and support a tolerance of 1.0 ppm in grapes and 1.5 ppm in raisins. Residues did not concentrate in red and white wine or in clarified and unclarified juice.

ii. *Fruiting vegetables*. Residue studies showed a range of residues in peppers from 0.032–1.03 ppm and in tomatoes (cherry and non-cherry) from 0.05–1.86, supporting a tolerance of 2.0 ppm for the crop group. No concentration of residues was seen in the tomato processed fractions juice, puree or paste.

B. Toxicological Profile

1. *Acute toxicity*. Methoxyfenozide has low acute toxicity. Methoxyfenozide was practically non-toxic by ingestion of a single oral dose in rats and mice (LD_{50} > 5,000 mg/kg) and was practically non-toxic by dermal application (LD_{50} > 5,000 mg/kg). Methoxyfenozide was not significantly toxic to rats after a 4–hour inhalation exposure with an LC_{50} value of > 4.3 milligrams per liter (mg/L) (highest attainable concentration), is not considered to be a primary eye irritant or a skin, irritant, and is not a dermal sensitizer. An acute neurotoxicity study in rats did not produce any neurotoxic or neuropathologic effects with a NOAEL > 2,000 mg/kg.

2. *Genotoxicty*. Methoxyfenozide tested negative (non-mutagenic, non-genotoxic) in a battery of *in vitro* and *in vivo* assays, which included an Ames assay with and without metabolic activation, a CHO/HGPRT assay, an *in vitro* chromosome aberration assay in CHO cells with and without a metabolic activation, an *in vivo* micronucleus assay in mouse bone marrow cells.

3. *Reproductive and developmental toxicity*—i. NOAELs for developmental and maternal toxicity to methoxyfenozide were established at 1,000 mg/kg/day HDT in both the rat and rabbit. No signs of developmental toxicity were exhibited.

ii. In a 2–generation reproduction study in the rat, the reproductive/developmental toxicity NOAELs of 1,552 mg/kg/day was 100-fold higher than the parental (systemic) toxicity NOAEL of 200 ppm (15.5 mg/kg/day).

4. *Subchronic toxicity*—i. The NOAEL in a 90–day rat feeding study was 1,000 ppm (69.3 mg/kg/day for males, 72.4 mg/kg/day for females). The LOAEL was 5,000 ppm (353 mg/kg/day for males, 379 mg/kg/day for females). Increased liver weight and liver histopathology were observed at the LOAEL of 5,000 ppm. Methoxyfenozide did not produce neurotoxic or neuropathologic effects when administered in the diets of rats for 3 months at concentrations up to and including the limit dose of 20,000 ppm (NOAEL = 1,318 mg/kg/day for males, 1,577 mg/kg/day for females).

ii. In a 90–day feeding study with mice, the NOAEL was 2,500 ppm (428 and 589 mg/kg/day for males and females, respectively). The LOAEL was 7,000 ppm (1,149 and 1,742 mg/kg/day for males and females, respectively). Decreases in body weight gain were noted in both sexes of mice at the LOAEL of 7,000 ppm.

iii. A 90–day dog feeding study gave a NOAEL of 3,000 ppm, the HDT (198 and 209 mg/kg/day for males and females, respectively). Extension of treatment of the low dose animals for 6 weeks at 15,000 ppm (422 and 460 mg/kg/day for males and females, respectively) produced no signs of systemic toxicity.

Methoxyfenozide did not produce toxicity in the rat when administered dermally for 4 weeks at doses up to and including the limit dose of 1,000 mg/kg/day. These findings correlate with the low dermal penetration observed with ^{14}C-methoxyfenozide, formulated as the wettable powder (i.e., after 24 hours 1–3% of the administered dose was systemically absorbed).

5. *Chronic toxicity*—i. The NOAEL in a 1 year feeding study in dogs was 300 ppm (9.8 and 12.6 mg/kg/day for male and females, respectively). The LOAEL was 3,000 ppm (106 and 111 mg/kg/day for male and females, respectively) based on minimal hematological effects.

ii. An 18–month mouse carcinogenicity study showed no signs of carcinogenicity at dosage levels up to and including 7,000 ppm (1,020 and 1,354 mg/kg/day for male and females, respectively), the HDT.

iii. In a combined rat chronic/oncogenicity study, the NOAEL for chronic toxicity was 200 ppm (10.2 and 11.9 mg/kg/day for males and females, respectively) and the LOAEL was 8,000 ppm (411 and 491 mg/kg/day for males and females, respectively). No carcinogenicity was observed at the dosage levels up to 20,000 ppm (1,045 and 1,248 mg/kg/day for males and females, respectively).

6. *Animal metabolism*. In toxicokinetic and metabolism studies in the rat, methoxyfenozide was rapidly absorbed following oral exposure with peak plasma levels occurring within 0.5 hours of administration. Methoxyfenozide does not bioaccumulate in that the compound is rapidly and almost completely eliminated within 24 hours. Methoxyfenozide was extensively metabolized in rats. Including parent compound, 32 metabolites, of which 26 were identified, were isolated from the rat urine and feces. The primary pathway of methoxyfenozide metabolism involves demethylation of the A-ring methoxyl moiety to form the corresponding A-ring phenol, RH-

117,236, which is readily conjugated with glucuronic acid to RH-1518. Hydroxylation on the B-ring methyl moieties is also an important metabolic pathway.

7. *Metabolite toxicology*. Common metabolic pathways for methoxyfenozide have been identified in both plants (grape, apple, rice, and cotton) and animals (rat, goat, hen). Extensive degradation and elimination of polar metabolites occurs in animals such that residues are unlikely to accumulate in humans or animals exposed to these residues through the diet. The rapid metabolism and excretion of methoxyfenozide in part accounts for the compound's overall low toxicity profile in animals.2 The main metabolite of methoxyfenozide in plants and animals, the A-ring phenol, RH-117,236, produced no toxicity in mice (LD_{50} > 5,000 mg/kg) and was negative when tested in the Ames mutagenic assay. Other metabolites of methoxyfenozide (e.g., glucuronides) would be expected to produce minimal to no toxicity given structure activity considerations.

8. *Endocrine disruption*. Based on structure-activity information as well as the lack of developmental and reproductive toxicity, methoxyfenozide is unlikely to exhibit estrogenic activity. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Methoxyfenozide is within a class of chemistry (diacylhydrazines) that is not known to bind to mammalian steroid receptors. Overall, the weight of evidence provides no indication that methoxyfenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure*. Tolerances are proposed for the residues of methoxyfenozide in or grapes, raisins, and fruiting vegetables. Risk assessments were conducted by Rohm and Haas to assess dietary exposures and risks from methoxyfenozide as follows:

i. *Food—a. Acute exposure and risk*. No acute endpoint of concern was identified for methoxyfenozide and no acute risk assessment is required.

b. *Chronic exposure and risk*. For chronic dietary risk assessment, the proposed tolerance values and anticipated (average) residues are used and the assumption that 100% of all grapes and fruiting vegetables (in addition to cotton, and pome fruit) will contain residues of methoxyfenozide at the tolerance or anticipated residue levels. The RfD used for the chronic dietary analysis is 0.1 mg/kg/day based on the NOAEL of 9.8-10.0 mg/kg/day from the rat and dogs chronic studies. Potential chronic exposures were estimated using NOVIGEN'S (DEEM Version 6.74) which uses USDA food consumption data from the 1994-1996 survey. With the proposed tolerances and anticipated residue levels for methoxyfenozide, the percentage of the RfD utilized is as follows:

Groups	Tolerance Levels, Total %RfD	Anticipated Residues, Total %RfD
U.S. Population - 48 contiguous States	6.8	0.6
Hispanics	7.5	0.6
Non-Hispanic/non-white/non-black	6.9	0.7
Nursing Infants > 1 year old	5.2	0.8
Non-Nursing Infants > 1 year old	14.7	2.0
Children 1–6 years old	20.2	1.9
Children 7-12 years old	9.3	0.8

The chronic dietary risks from these uses do not exceed EPA's level of concern.

ii. *Drinking water*. Submitted environmental fate studies suggest that methoxyfenozide is moderately persistent and mobile, and could potentially leach to ground water and runoff to surface water under certain environmental conditions. However, in terrestrial field dissipation and orchard dissipation studies, residues of methoxyfenozide showed minimal mobility and remained associated with the upper layers of soil. Foliar interception (up to 70% of the total dosage applied) by target crops reduces the ground level residues of methoxyfenozide.

Acute and chronic exposures to methoxyfenozide in drinking water were estimated using the GEENEC V1.2 and SCI-GROW models, as directed in OPP's Interim Approach for Addressing Drinking Water Exposure. GEENEC is a highly conservative model used to estimate residue concentrations in surface water. SCI-GROW is an equally conservative model used to estimate residue concentrations in shallow, highly vulnerable ground water (i.e., sites with sandy soils and depth to ground water of 10 to 20 feet). As indicated in EPA's drinking water exposure guidance, a very small percentage of people in the United States would derive their drinking water from such sources. GEENEC (56–day average) and SCI-GROW water exposure values for methoxyfenozide utilize 1% or less of the RfD for adults and children.

There is no established Maximum Concentration Level (MCL) for residues of methoxyfenozide in drinking water. No drinking water health advisory levels have been established for methoxyfenozide. There is no entry for methoxyfenozide in the ''Pesticides in Groundwater Database'' (EPA 734-12-92-001, September 1992).

iii. *Chronic exposure and risk*. There are insufficient water-related exposure data to complete a comprehensive drinking water assessment for methoxyfenozide at this time. However, in order to mitigate the potential for methoxyfenozide to leach into ground water or runoff to surface water, precautionary language has been incorporated into the proposed product label. Also, to the best of our knowledge, previous experience at EPA with more persistent and mobile pesticides for which there were available data to perform quantitative risk assessments demonstrated that drinking water exposure was typically a small percentage of the total dietary exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established MCLs. Considering the precautionary language on the label and our knowledge of previous experience with persistent chemicals, no risk from residues of methoxyfenozide in drinking water is anticipated.

2. *Non-dietary exposure*. Methoxyfenozide is not currently registered for any indoor or outdoor residential uses; therefore, no non-

dietary residential exposure is anticipated.

D. Cumulative Effects

The methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way are not available at this time. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decision on specific classes of chemicals will be heavily dependent on chemical-specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides for which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

At this time, no data are available to determine whether methoxyfenozide benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl)hydrazide has a common mechanism of toxicity with other substances. Thus, it is not appropriate to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, methoxyfenozide benzoic acid, 3-methoxy-2-methyl-,2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide does not produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, methoxyfenozide benzoic acid, 3-methoxy-2-methyl-,2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide is assumed not to have a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population*—i. *Acute exposure and risk*. Since no acute endpoint of concern has been identified for methoxyfenozide, no acute risk assessment is required.

ii. *Chronic exposure and risk*. Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the percentage of the RfD that will be utilized by dietary (food only) exposure to residues of methoxyfenozide from the proposed tolerances is 6.8% (tolerance levels) and 0.6% (anticipated residues) for the U.S. population. Aggregate exposure (food and water) are not expected to exceed 100%. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to methoxyfenozide residues to the U.S. population.

2. *Infants and children*—i. *Children*. The potential for additional sensitivity of infants and children to residues of methoxyfenozide are assessed using data from developmental toxicity studies in the rat and rabbit and 2-generation reproduction studies in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

ii. *Developmental toxicity studies*—a. *Rats*. In a developmental toxicity study in rats, the maternal (systemic) NOAEL was 1,000 mg/kg/day HDT. The developmental (pup) NOAEL was > 1,000 mg/kg/day HDT

b. *Rabbits*. In a developmental toxicity study in rats, the maternal (systemic) NOAEL was 1,000 mg/kg/day HDT. The developmental (pup) NOAEL was > 1,000 mg/kg/day HDT.

iii. *Reproductive toxicity study—Rats*. In a multi–generation reproductive toxicity study in rats, the parental (systemic) NOAEL was 15.5 mg/kg/day, based on liver effects at the LOAEL of 153 mg/kg/day. The reproductive (pup) NOAEL was 1,552 mg/kg/day HDT. No adverse reproductive effects were observed.

iv. *Prenatal and postnatal sensitivity*—a. *Prenatal sensitivity*. The developmental NOAELs of > 1,000 mg/kg/day HDT from the developmental toxicity studies in rats and rabbits demonstrate that there is no developmental (prenatal) toxicity present for methoxyfenozide. Additionally, these developmental NOAELs are greater than 100-fold higher than the NOAEL of 9.8–10.0 mg/kg/day from the rat and dogs chronic studies which are the basis of the RfD.

b. *Postnatal sensitivity*. In the reproductive toxicity study in rats, the reproductive NOAEL (1,552 mg/kg/day) is about 100-fold higher than the parental NOAEL (15.5 mg/kg/day). These developmental and reproductive studies indicate that methoxyfenozide does not have additional prenatal and postnatal sensitivity for infants and children in comparison to other exposed groups.

v. *Acute exposure and risk*. No acute endpoint was identified for methoxyfenozide, and therefore, no acute risk assessment is required.

vi. *Chronic exposure and risk*. For chronic dietary risk assessment, tolerances and anticipated residue values are used and the assumption that 100% of all grapes and fruiting vegetables (in addition to cotton and pome fruit) will contain residues at the tolerance or anticipated residue levels. The percentage RfD utilized from the proposed tolerances and anticipated residues is calculated using the DEEM (Version 6.74, licensed by Novigen Sciences Inc.) which uses USDA food consumption data from the 1994-1996 survey.

With the proposed tolerances and anticipated residues for methoxyfenozide, the percentage of the RfD that will be utilized by dietary (food only) exposure to residues of methoxyfenozide is 20.2% (tolerance levels) and 1.9% (anticipated residues) for children 1-6 years old. Aggregate exposure (food and water) are not expected to exceed 100%. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to methoxyfenozide residues to non-nursing infants.

F. International Tolerances

There are currently no CODEX, Canadian or Mexican MRLs established for methoxyfenozide in grapes, raisins, or fruiting vegetables, so no harmonization issues are required for this action.

3. Rohm and Haas Company

9F6062

EPA has received a pesticide petition (9F6062) from Rohm and Haas

Company, 100 Independence Mall West, Philadelphia, PA, proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of methoxyfenozide benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide in or on the RACs, leafy green vegetables, leaf petioles, head and stem brassica, and leafy brassica greens at 25.0, 10.0, 6.5, and 20.0 ppm respectively. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of methoxyfenozide in plants (grapes, apples, cotton, and rice) is adequately understood for the purposes of these tolerances. The metabolism of methoxyfenozide in all crops was similar and involves cleavage of the methoxyl side chain to the free phenol, RH-117236, or oxidation of the alkyl substituents of the aromatic rings. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage.

2. *Analytical method*. A high performance liquid chromatographic (HPLC) analytical method using ultraviolet (UV) or mass selective (MS) detection has been validated for vegetable crops. The method involves extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using basic alumina column chromatography and solid phase extraction. The LOQ is 0.02 ppm for all matrices.

3. *Magnitude of residues*. The crop field trial data submitted with the petition support the proposed tolerances for residues of methoxyfenozide in leafy and cole crop vegetables.

B. Toxicological Profile

1. *Acute toxicity*. Methoxyfenozide has low acute toxicity. Methoxyfenozide was practically non-toxic by ingestion of a single oral dose in rats and mice (LD_{50} > 5,000 mg/kg) and was practically non-toxic by dermal application (LD_{50} > 5,000 mg/kg). Methoxyfenozide was not significantly toxic to rats after a 4–hour inhalation exposure with an LC_{50} value of > 4.3 mg/L (highest attainable concentration), is not considered to be a primary eye irritant or a skin irritant, and is not a dermal sensitizer. An acute neurotoxicity study in rats did not produce any neurotoxic or neuropathologic effects with a NOAEL > 2,000 mg/kg.

2. *Genotoxicty*. Methoxyfenozide tested negative (non-mutagenic, non-genotoxic) in a battery of *in vitro* and *in vivo* assays, which included an Ames assay with and without metabolic activation, a CHO/HGPRT assay, an *in vitro* chromosome aberration assay in CHO cells with and without a metabolic activation, an *in vivo* micronucleus assay in mouse bone marrow cells.

3. *Reproductive and developmental toxicity*—i. NOAELs for developmental and maternal toxicity to methoxyfenozide were established at 1,000 mg/kg/day HDT in both the rat and rabbit. No signs of developmental toxicity were exhibited.

ii. In a 2-generation reproduction study in the rat, the reproductive/developmental toxicity NOAEL of 1,552 mg/kg/day was 100-fold higher than the parental (systemic) toxicity NOAEL of 200 ppm (15.5 mg/kg/day).

4. *Subchronic toxicity*—i. The NOAEL in a 90–day rat feeding study was 1,000 ppm (69.3 mg/kg/day for males, 72.4 mg/kg/day for females). The LOAEL was 5,000 ppm (353 mg/kg/day for males, 379 mg/kg/day for females). Increased liver weight and liver histopathology were observed at the LOAEL of 5,000 ppm. Methoxyfenozide did not produce neurotoxic or neuropathologic effects when administered in the diets of rats for 3 months at concentrations up to and including the limit dose of 20,000 ppm (NOAEL = 1,318 mg/kg/day for males, 1,577 mg/kg/day for females).

ii. In a 90–day feeding study with mice, the NOAEL was 2,500 ppm (428 and 589 mg/kg/day for males and females, respectively). The LOAEL was 7,000 ppm (1,149 and 1,742 mg/kg/day for males and females, respectively). Decreases in body weight gain were noted in both sexes of mice at the LOAEL of 7,000 ppm.

iii. A 90–day dog feeding study gave a NOAEL of 3,000 ppm, the HDT (198 and 209 mg/kg/day for males and females, respectively). Extension of treatment of the low dose animals for 6 weeks at 15,000 ppm (422 and 460 mg/kg/day for males and females, respectively) produced no signs of systemic toxicity.

Methoxyfenozide did not produce toxicity in the rat when administered dermally for 4 weeks at doses up to and including the limit dose of 1,000 mg/kg/day. These findings correlate with the low dermal penetration observed with ^{14}C-methoxyfenozide, formulated as the wettable powder (i.e., after 24 hours 1–3% of the administered dose was systemically absorbed).

5. *Chronic toxicity*—i. The NOAEL in a 1 year feeding study in dogs was 300 ppm (9.8 and 12.6 mg/kg/day for male and females, respectively). The LOAEL was 3,000 ppm (106 and 111 mg/kg/day for male and females, respectively) based on minimal hematological effects.

ii. An 18–month mouse carcinogenicity study showed no signs of carcinogenicity at dosage levels up to and including 7,000 ppm (1,020 and 1,354 mg/kg/day for male and females, respectively), the HDT.

iii. In a combined rat chronic/oncogenicity study, the NOAEL for chronic toxicity was 200 ppm (10.2 and 11.9 mg/kg/day for males and females, respectively) and the LOAEL was 8,000 ppm (411 and 491 mg/kg/day for males and females, respectively). No carcinogenicity was observed at the dosage levels up to 20,000 ppm (1,045 and 1,248 mg/kg/day for males and females, respectively).

6. *Animal metabolism*. In toxicokinetic and metabolism studies in the rat, methoxyfenozide was rapidly absorbed following oral exposure with peak plasma levels occurring within 0.5 hour of administration. Methoxyfenozide does not bioaccumulate in that the compound is rapidly and almost completely eliminated within 24 hours. Methoxyfenozide was extensively metabolized in rats. Including parent compound, 32 metabolites, of which 26 were identified, were isolated from the rat urine and feces. The primary pathway of methoxyfenozide metabolism involves demethylation of the A-ring methoxyl moiety to form the corresponding A-ring phenol, RH-117,236, which is readily conjugated with glucuronic acid to RH-1518. Hydroxylation on the B-ring methyl moieties is also an important metabolic pathway.

7. *Metabolite toxicology*. Common metabolic pathways for methoxyfenozide have been identified in both plants (grape, apple, rice, and cotton) and animals (rat, goat, hen). Extensive degradation and elimination of polar metabolites occurs in animals such that residues are unlikely to accumulate in humans or animals exposed to these residues through the diet. The rapid metabolism and excretion of methoxyfenozide in part accounts for the compound's overall low toxicity profile in animals. The main metabolite of methoxyfenozide in plants and animals, the A-ring phenol, RH-117,236, produced no toxicity in mice (LD_{50} > 5,000 mg/kg) and was

negative when tested in the Ames mutagenic assay. Other metabolites of methoxyfenozide (e.g., glucuronides) would be expected to produce minimal to no toxicity given structure activity considerations.

8. *Endocrine disruption*. Based on structure-activity information as well as the lack of developmental and reproductive toxicity, methoxyfenozide is unlikely to exhibit estrogenic activity. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Methoxyfenozide is within a class of chemistry (diacylhydrazines) that is not known to bind to mammalian steroid receptors. Overall, the weight of evidence provides no indication that methoxyfenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure*. Tolerances are proposed for the residues of methoxyfenozide in or grapes, raisins, and fruiting vegetables. Risk assessments were conducted by Rohm and Haas to assess dietary exposures and risks from methoxyfenozide as follows:

i. *Food—a. Acute exposure and risk*. No acute endpoint of concern was identified for methoxyfenozide and no acute risk assessment is required.

b. *Chronic exposure and risk*. For chronic dietary risk assessment, the proposed tolerance values and anticipated (average) residues are used and the assumption that 100% of all leafy and cole crop vegetable crops (in addition to cotton, pome fruit, grapes, and fruiting vegetables) will contain residues of methoxyfenozide at the tolerance levels. The RfD used for the chronic dietary analysis is 0.1 mg/kg/day based on the NOAEL of 9.8–10.0 mg/kg/day from the rat and dogs chronic studies. Potential chronic exposures were estimated using NOVIGEN'S (DEEM Version 6.74) which uses USDA food consumption data from the 1994-1996 survey. With the proposed tolerances for methoxyfenozide, the percentage of the RfD utilized is as follows:

Population Subgroup	Tolerance Levels, Total %RfD
U.S. Population - 48 contiguous States	16.4
Non-Hispanic/non-white/non-black	22.4
Nursing Infants < 1 year old	5.4
Non-Nursing Infants < 1 year old	23.1
Children 1–6 years old	29.9
Children 7–12 years old	18.1
Females 13+ (nursing)	16.7

The chronic dietary risks from these uses do not exceed EPA's level of concern.

ii. *Drinking water*. Submitted environmental fate studies suggest that methoxyfenozide is moderately persistent and mobile, and could potentially leach to ground water and runoff to surface water under certain environmental conditions. However, in terrestrial field dissipation and orchard dissipation studies, residues of methoxyfenozide showed minimal mobility and remained associated with the upper layers of soil. Foliar interception (up to 70% of the total dosage applied) by target crops reduces the ground level residues of methoxyfenozide.

Acute and chronic exposures to methoxyfenozide in drinking water were estimated using the GEENEC V1.2 and SCI-GROW models, as directed in OPP's Interim Approach for Addressing Drinking Water Exposure. GEENEC is a highly conservative model used to estimate residue concentrations in surface water. SCI-GROW is an equally conservative model used to estimate residue concentrations in shallow, highly vulnerable ground water (i.e., sites with sandy soils and depth to ground water of 10 to 20 feet). As indicated in EPA's drinking water exposure guidance, a very small percentage of people in the United States would derive their drinking water from such sources. GEENEC (56–day average) and SCI-GROW water exposure values for methoxyfenozide utilize 1% or less of the RfD for adults and children.

There is no established Maximum Concentration Level (MCL) for residues of methoxyfenozide in drinking water. No drinking water health advisory levels have been established for methoxyfenozide. There is no entry for methoxyfenozide in the ''Pesticides in Groundwater Database'' (EPA 734-12-92-001, September 1992).

iii. *Chronic exposure and risk*. There are insufficient water-related exposure data to complete a comprehensive drinking water assessment for methoxyfenozide at this time. However, in order to mitigate the potential for methoxyfenozide to leach into ground water or runoff to surface water, precautionary language has been incorporated into the proposed product label. Also, to the best of our knowledge, previous experience at EPA with more persistent and mobile pesticides for which there were available data to perform quantitative risk assessments demonstrated that drinking water exposure was typically a small percentage of the total dietary exposure. This observation holds even for pesticides detected in wells and drinking water at levels nearing or exceeding established MCLs. Considering the precautionary language on the label and our knowledge of previous experience with persistent chemicals, no risk from residues of methoxyfenozide in drinking water is anticipated.

2. *Non-dietary exposure*. Methoxyfenozide is not currently registered for any indoor or outdoor residential uses; therefore, no non-dietary residential exposure is anticipated.

D. Cumulative Effects

The methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way are not available at this time. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on

chemical-specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides for which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

At this time, no data are available to determine whether methoxyfenozide benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide has a common mechanism of toxicity with other substances. Thus, it is not appropriate to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, methoxyfenozide benzoic acid, 3-methoxy-2-methyl-,2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide does not produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, methoxyfenozide benzoic acid, 3-methoxy-2-methyl-,2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide is assumed not to have a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population*—i. *Acute exposure and risk*. Since no acute endpoint of concern has been identified for methoxyfenozide, no acute risk assessment is required.

ii. *Chronic exposure and risk*. Using the conservative exposure assumptions described above and taking into account the completeness and reliability of the toxicity data, the percentage of the RfD that will be utilized by dietary (food only) exposure to residues of methoxyfenozide from the proposed tolerances is 16.4% for the U.S. population. Aggregate exposure (food and water) are not expected to exceed 100%. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to methoxyfenozide residues to the U.S. population.

2. *Infants and children*—i. *In general*. The potential for additional sensitivity of infants and children to residues of methoxyfenozide are assessed using data from developmental toxicity studies in the rat and rabbit and 2-generation reproduction studies in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

ii. *Developmental toxicity studies*—a. *Rats*. In a developmental toxicity study in rats, the maternal (systemic) NOAEL was 1,000 mg/kg/day HDT. The developmental (pup) NOAEL was > 1,000 mg/kg/day HDT.

b. *Rabbits*. In a developmental toxicity study in rats, the maternal (systemic) NOAEL was 1,000 mg/kg/day HDT. The developmental (pup) NOAEL was > 1,000 mg/kg/day.

iii. *Reproductive toxicity study rats*. In a multigeneration reproductive toxicity study in rats, the parental (systemic) NOAEL was 15.5 mg/kg/day, based on liver effects at the LOAEL of 153 mg/kg/day. The reproductive (pup) NOAEL was 1,552 mg/kg/day HDT. No adverse reproductive effects were observed.

iv. Prenatal and postnatal sensitivity—a. *Prenatal sensitivity*. The developmental NOAELs of > 1,000 mg/kg/day HDT from the developmental toxicity studies in rats and rabbits demonstrate that there is no developmental (prenatal) toxicity present for methoxyfenozide. Additionally, these developmental NOAELs are greater than 100-fold higher than the NOAEL of 9.8-10.0 mg/kg/day from the rat and dogs chronic studies which are the basis of the RfD.

b. *Postnatal sensitivity*. In the reproductive toxicity study in rats, the reproductive NOAEL (1,552 mg/kg/day) is about 100-fold higher than the parental NOAEL (15.5 mg/kg/day). These developmental and reproductive studies indicate that methoxyfenozide does not have additional prenatal and postnatal sensitivity for infants and children in comparison to other exposed groups.

3. *Acute exposure and risk*. No acute endpoint was identified for methoxyfenozide, and therefore, no acute risk assessment is required.

4. *Chronic exposure and risk*. For chronic dietary risk assessment, tolerances and anticipated residue values are used and the assumption that 100% of all leafy and cole crop vegetables (in addition to cotton, pome fruit, grapes, and fruiting vegetables) will contain residues at the tolerance levels. The percentage RfD utilized from the proposed tolerances is calculated using the DEEM (Version 6.74, licensed by Novigen Sciences Inc.) which uses USDA food consumption data from the 1994-1996 survey.

With the proposed tolerances for methoxyfenozide, the percentage of the RfD that will be utilized by dietary (food only) exposure to residues of methoxyfenozide is 29.9% for children 1–6 years old. Aggregate exposure (food and water) are not expected to exceed 100%. Rohm and Haas concludes that there is a reasonable certainty that no harm will result from aggregate exposure to methoxyfenozide residues to non-nursing infants.

F. International Tolerances

There are currently no CODEX, Canadian or Mexican maximum residue levels (MRLs) established for methoxyfenozide in leafy or cole crop vegetables so no harmonization issues are required for this action.

[FR Doc. 00–492 Filed 1–7–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6512–7]

Announcement and Publication of a Standard Letter To Be Sent to Parties Requesting a Prospective Purchaser Agreement (PPA); a Checklist of Information Generally Required Before a PPA Can Be Negotiated; and a Revised Model PPA Announced by EPA on October 1, 1999

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: To further promote the reuse of CERCLA sites, EPA is streamlining the process for evaluating and negotiating Prospective Purchaser Agreements (PPAs). On October 1, 1999, EPA issued a standard letter to be sent to parties requesting PPAs (Attachment A); a proposed checklist of information needed by EPA to evaluate requests (Attachment B); and a revised Model PPA (Attachment C).

The full text of these three documents follow.

FOR FURTHER INFORMATION CONTACT: For information on the letter and checklist, contact David Gordon in the Office of

Site Remediation Enforcement, Policy and Program Evaluation Division at 202–564–5147; and for information on the Model PPA contact Helen Keplinger in the Office of Site Remediation Enforcement, Regional Support Division at 202–564–4221.

SUPPLEMENTARY INFORMATION: In 1995, EPA published the Guidance on Agreements with Prospective Purchasers of Contaminated Property (60 FR 34792, July 3, 1995). This document and other PPA materials can be found on the Office of Site Remediation Enforcement's web page at http://es.epa.gov/oeca/osre/ (Open the links to Policy and Guidance Documents and then CERCLA, Liability).

Dated: December 23, 1999.

Barry Breen,

Director, Office of Site Remediation Enforcement.

Attachment A

Dear [insert requester's name]:

The United States Environmental Protection Agency (EPA), Region [ ] has received your [insert date] request for a covenant not to sue for potential Superfund liability relating to [certain real property] that you intend to acquire. EPA will evaluate your request for a covenant not to sue in accordance with EPA's Guidance on Settlements with Prospective Purchasers of Contaminated Property. This guidance and a model Prospective Purchaser Agreement (PPA) may be found on EPA's web page at http://es.epa.gov/oeca/osre/. (Open the links to Policy and Guidance Documents and then CERCLA, Liability.) Alternatively, I would be happy to provide you with copies of the guidance and model upon your request.

Attached to this letter is a checklist of information EPA may need in order to evaluate your request in a timely manner. After receiving this information, EPA will determine whether a PPA may be appropriate, or EPA may seek additional information from you in order to complete this evaluation. Where EPA determines that a PPA may be appropriate, EPA will inform the United States Department of Justice (DOJ) of the request and draft a PPA which will be mailed to you or your counsel. In order for the PPA to become effective, DOJ approval is required. In addition, as noted in the guidance, EPA will notify and solicit input from the public on a PPA whenever feasible.

I look forward to the receipt of the requested information so that EPA can begin its evaluation process. Please do not hesitate to contact me if you have any questions about the requested information, the PPA process, or the guidance referenced above. I can be reached at [phone number].

Enclosure (check list)

Sincerely yours,

[Title]

Attachment B—Checklist of Documents for PPA Evaluation

In order to evaluate your request that the United States enter into a Prospective Purchaser Agreement (PPA), EPA requests the following information:

1. Provide your name, address, telephone number, and, if represented, counsel's contact information.

2. Describe the real property to be acquired and state whether it is the same property that has been, is being, or will be addressed by the Superfund response, or a smaller (or larger) parcel. (If known, please provide the CERCLIS database identification number for the site.)

3. Include copies of any environmental studies done on the property.*

4. Describe the proposed use for the property including whether there will be a new use or continuation of the present use. If wastes containing hazardous substances will be generated by the new or continued use, please describe what those wastes are, how they will be managed on site, and how such wastes will be ultimately disposed.

5. Describe how the proposed use of the property may benefit the surrounding community through, for example, abating environmental concerns, creating jobs, and increasing the local tax base.

6. Indicate whether you plan to purchase or lease the property from the current owner, and summarize the terms of the agreement. Include the proposed purchase or lease price, and identify who will receive the proceeds of the sale or lease.

7. If you plan to purchase the property and then lease it to another party, provide the name, contact information, and proposed use of the property by the anticipated lessee. Also, describe any plans to resell the property, and if known, the name, contact information, and proposed use of the property by the subsequent purchaser.

8. Describe any affiliations with the current or previous owner(s) and activities you have conducted at the site.

9. Indicate the value of the property after the anticipated cleanup is complete and include appropriate documentation such as an appraisal report.

10. Describe any encumbrances on the property such as tax liens, mortgages, etc.

11. Indicate the proposed date of property transfer and the date by which a PPA is needed.

12. Provide any additional information or documentation that the requester believes may be useful to EPA in evaluating your request.

Please Note: EPA may request additional financial or other information at later date.

Attachment C—[Model PPA/Revised 9–30–99] United States Environmental Protection Agency Region

In the Matter of: [name of Superfund Site]. Under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq., as amended. [state law, if appropriate] [Docket Number]

Agreement and Covenant Not To Sue [Insert Settling Respondent's Name]

I. Introduction

This Agreement and Covenant Not to Sue (''Agreement'') is made and entered into by and between the United States on behalf of the Environmental Protection Agency (''EPA'') [state of] and [insert name of Settling Respondent] (collectively the ''Parties'').

This Agreement is entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9601, *et seq.* [If the state is a party, insert ''The State of , enters into this Agreement pursuant to [cite relevant state authority.]'' and make appropriate reference to state with respect to affected provisions, including payment or work to be performed] and the authority of the Attorney General of the United States to compromise and settle claims of the United States.

[Provide introductory information, consistent with Definitions and Statement of Facts, about the party purchasing the contaminated property including, name (''Settling Respondent''), address, corporate status if applicable and include proposed use of the property by prospective purchaser. Provide name, location and description of Site.]

* Regions may omit the request for copies of studies when they have sufficient information on the property's environmental condition.

The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Sections VII, VIII, IX, and X [If this Agreement contains a separate section for Settling Respondent's reservations, add section number], the potential liability of the Settling Respondent for the Existing Contamination at the Property which would otherwise result from Settling Respondent becoming the owner of the Property.

The Parties agree that the Settling Respondent's entry into this Agreement, and the actions undertaken by the Settling Respondent in accordance with the Agreement, do not constitute an admission of any liability by the Settling Respondent.

The resolution of this potential liability, in exchange for provision by the Settling Respondent to EPA [and the state] of a substantial benefit, is in the public interest.

II. Definitions

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations, including any amendments thereto.

1. ''EPA'' shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

2. ''Existing Contamination'' shall mean any hazardous substances, pollutants or contaminants, present or existing on or under the Site as of the effective date of this Agreement. [When defining ''Existing Contamination,'' determine if the difference in size between ''Site'' and ''Property'' is such, with Property much smaller than Site, that the Covenant Not to Sue should be appropriately limited to the ''Property.'' If so, substitute the following language. ''Existing Contamination'' shall mean:

a. any hazardous substances, pollutants or contaminants present or existing on or under the Property as of the effective date of this Agreement;

b. any hazardous substances, pollutants or contaminants that migrated from the Property prior to the effective date of this Agreement; and

c. any hazardous substances, pollutants or contaminants presently at the Site that migrate onto or under or from the Property after the effective date of this Agreement.]

3. ''Institutional Controls'' shall mean [when Institutional Controls are part of the consideration for the Agreement, it may be appropriate to use language from the Model CD for RD/RA to ensure enforceable institutional controls provisions. It may be necessary to use a separate agreement for the specific Institutional Controls being required. The Access/Notice provisions in Section V have also been changed pursuant to recommendation of the Institutional Controls Workgroup.]

4. ''Parties'' shall mean the United States on behalf of EPA [State of], and the Settling Respondent.

5. ''Property'' shall mean that portion of the Site, encompassing approximately acres, which is described in Exhibit 1 of this Agreement.

6. ''Settling Respondent'' shall mean .

7. ''Site'' shall mean the [Superfund] Site encompassing approximately acres, located at [address or description of location] in [name of city, county, and State], and depicted generally on the map attached as Exhibit 2. The Site shall include the Property, and all areas to which hazardous substances and/or pollutants or contaminants, have come to be located [provide a more specific definition of the Site where possible; may also wish to include within Site description structures, USTs, etc].

8. ''United States'' shall mean the United States of America, its departments, agencies, and instrumentalities.

III. Statement of Facts

9. [Include only those facts relating to the Site that are relevant to the covenant being provided the prospective purchaser. Avoid adding information that relates only to actions or parties that are outside of this Agreement.]

10. The Settling Respondent represents, and for the purposes of this Agreement EPA [and the state] relies on those representations, that Settling Respondent's involvement with the Property and the Site has been limited to the following: [Provide facts of any involvement by Settling Respondent with the Site, for example performing an environmental audit, or if Settling Respondent has had no involvement with the Site so state.].

IV. Payment

11. In consideration of and in exchange for the United States' Covenant Not to Sue in Section VIII herein [and Removal of Lien in Section XXI herein, provided that is part of the consideration for this Agreement], Settling Respondent agrees to pay to EPA the sum of $, within days of the effective date of this Agreement. [Add separate Work section if the consideration is work to be performed.] The Settling Respondent shall make all payments required by this Agreement in the form of a certified check or checks made payable to ''EPA Hazardous Substance Superfund,'' referencing the EPA Region, EPA Docket number, and Site/Spill ID# [insert 4-digit no.; first 2 numbers represent Region, second 2 numbers are Region's Site/Spill ID no.], [DOJ case number , if applicable] and name and address of Settling Respondent. [insert Regional Superfund Lockbox address where payment should be sent]. Notice of payment shall be sent to those persons listed in Section XV (Notices and Submissions) and to EPA Region Financial Management Officer [insert address].

12. Amounts due and owing pursuant to the terms of this Agreement but not paid in accordance with the terms of this Agreement shall accrue interest at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), compounded on an annual basis.

[.] [Work To Be Performed]

[Include this section and other appropriate provisions relating to performance of the work, such as financial assurance, agency approvals, reporting, etc., where work to be performed is the consideration for the Agreement.

. Statement of Work attached as Exhibit 3.]

V. Access/Notice to Successors in Interest

13. Commencing upon the date that it acquires title to the Property, Settling Respondent agrees to provide to EPA [and the state] its authorized officers, employees, representatives, and all other persons performing response actions under EPA [or state] oversight, an irrevocable right of access at all reasonable times to the Property and to any other property to which access is required for the implementation of response actions at the Site, to the extent access to such other property is controlled by the Settling Respondent, for the purposes of performing and overseeing response actions at the Site under federal [and state] law. EPA agrees to provide reasonable notice to the Settling Respondent of the timing of response actions to be undertaken at the Property. Notwithstanding any provision of this Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Solid Waste Disposal Act, as amended by the Resource

Conservation and Recovery Act, 42 U.S.C. 6901 (''RCRA'') et seq., and any other applicable statute or regulation, including any amendments thereto.

14. With respect to any Property owned or controlled by the Settling Respondent that is located within the Site, within 15 days after the effective date of this Agreement or the date of acquisition of any Property, whichever date is later, the Settling Respondent shall submit to EPA for review and approval a notice to be filed with the Recorder's Office [or Registry of Deeds or other appropriate office], County, State of , which shall provide notice to all successors-in-title that the Property is part of the Site, that EPA selected a remedy the Site on , and that potentially responsible parties [or if Fund financed, so state] have entered a Consent Decree requiring implementation of the remedy. Such notice(s) shall identify the United States District Court in which the Consent Decree was filed, the name and civil action number of the case, and the date the Consent Decree was entered by the Court. [Language in this paragraph may differ for pre-remedial sites. Carefully review the status of any response action for the property subject to the PPA and provide the appropriate information.] The Settling Respondent shall record the notice(s) within 10 days of EPA's approval of the notice(s). The Settling Respondent shall provide EPA with a certified copy of the recorded notice(s) within 10 days of recording such notice(s).[1]

15. The Settling Respondent shall ensure that assignees, successors in interest, lessees, and sublessees of the Property shall provide the same access and cooperation [including any Institutional Controls]. The Settling Respondent shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the Property as of the effective date of this Agreement and shall ensure that any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with this Section, and Section XI (Parties Bound/Transfer of Covenant), of the Agreement [and where appropriate, Section (Work to be Performed)].

VI. Due Care/Cooperation

16. The Settling Respondent shall exercise due care at the Site with respect to the Existing Contamination and shall comply with all applicable local, State, and federal laws and regulations. The Settling Respondent recognizes that the implementation of response actions at the Site may interfere with the Settling Respondent's use of the Property, and may require closure of its operations or a part thereof. The Settling Respondent agrees to cooperate fully with EPA in the implementation of response actions at the Site and further agrees not to interfere with such response actions. EPA agrees, consistent with its responsibilities under applicable law, to use reasonable efforts to minimize any interference with the Settling Respondent's operations by such entry and response. In the event the Settling Respondent becomes aware of any action or occurrence which causes or threatens a release of hazardous substances, pollutants or contaminants at or from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Respondent shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under Section 103 of CERCLA, 42 U.S.C. 9603, or any other law, immediately notify EPA of such release or threatened release.

VII. Certification

17. By entering into this agreement, the Settling Respondent certifies that to the best of its knowledge and belief it has fully and accurately disclosed to EPA [and the state] all information known to Settling Respondent and all information in the possession or control of its officers, directors, employees, contractors and agents which relates in any way to any Existing Contamination or any past or potential future release of hazardous substances, pollutants or contaminants at or from the Site and to its qualification for this Agreement. The Settling Respondent also certifies that to the best of its knowledge and belief it has not caused or contributed to a release or threat of release of hazardous substances or pollutants or contaminants at the Site. If the United States [and the state] determines that information provided by Settling Respondent is not materially accurate and complete, the Agreement, within the sole discretion of the United States, shall be null and void and the United States [and the state] reserves all rights it [they] may have.

VIII. United States' Covenant Not To Sue[2]

18. Subject to the Reservation of Rights in Section IX of this Agreement, upon payment of the amount specified in Section IV (Payment), of this Agreement [if consideration for Agreement is work to be performed, insert, as appropriate, ''and upon completion of the work specified in Section —— (Work to Be Performed) to the satisfaction of EPA''], the United States [and the state] covenants not to sue or take any other civil or administrative action against Settling Respondent for any and all civil liability for injunctive relief or reimbursement of response costs pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. 9606 or 9607(a) [and state law cite] with respect to the Existing Contamination.

IX. Reservation of Rights

19. The covenant not to sue set forth in Section VIII above does not pertain to any matters other than those expressly specified in Section VIII (United States' Covenant Not to Sue). The United States [and the State] reserves and the Agreement is without prejudice to all rights against Settling Respondent with respect to all other matters, including but not limited to, the following:

(a) claims based on a failure by Settling Respondent to meet a requirement of this Agreement, including but not limited to Section IV (Payment), Section V (Access/Notice to Successors in Interest), Section VI (Due Care/Cooperation), Section XIV (Payment of Costs, [and, if appropriate, Section (Work to be Performed)];

(b) any liability resulting from past or future releases of hazardous substances, pollutants or contaminants, at or from the Site caused or contributed to by Settling Respondent, its successors, assignees, lessees or sublessees;

(c) any liability resulting from exacerbation by Settling Respondent, its successors, assignees, lessees or sublessees, of Existing Contamination;

(d) any liability resulting from the release or threat of release of hazardous substances, pollutants or contaminants, at the Site after the effective date of this Agreement, not within the definition of Existing Contamination;

(e) criminal liability;

(f) liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any

[1] Regions negotiating PPAs for Sites that may be owned by one person but controlled by another should discuss appropriate language for this Paragraph with Headquarters.

[2] Since the covenant not to sue is from the United States, Regions negotiating these Agreements should advise the Department of Justice if any other federal agency is involved with the Site, or of other CERCLA claim with respect to the Site and use best efforts to advise such federal agency of the proposed settlement.

natural resource damage assessment incurred by federal agencies other than EPA; and

(g) liability for violations of local, State or federal law or regulations.

20. With respect to any claim or cause of action asserted by the United States [or the state], the Settling Respondent shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Existing Contamination.

21. Nothing in this Agreement is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States [or the state] may have against any person, firm, corporation or other entity not a party to this Agreement.

22. Nothing in this Agreement is intended to limit the right of EPA [or the state] to undertake future response actions at the Site or to seek to compel parties other than the Settling Respondent to perform or pay for response actions at the Site. Nothing in this Agreement shall in any way restrict or limit the nature or scope of response actions which may be taken or be required by EPA [or the state] in exercising its authority under federal [or state] law. Settling Respondent acknowledges that it is purchasing Property where response actions may be required.

X. Settling Respondent's Covenant Not To Sue

23. In consideration of the United States' Covenant Not To Sue in Section VIII of this Agreement, the Settling Respondent hereby covenants not to sue and not to assert any claims or causes of action against the United States [or the state], its authorized officers, employees, or representatives with respect to the Site or this Agreement, including but not limited to, any direct or indirect claims for reimbursement from the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. 9507, through CERCLA Sections 106(b)(2), 111, 112, 113, or any other provision of law, any claim against the United States, including any department, agency or instrumentality of the United States under CERCLA Sections 107 or 113 related to the Site, or any claims arising out of response activities at the Site, including claims based on EPA's oversight of such activities or approval of plans for such activities.

24. The Settling Respondent reserves, and this Agreement is without prejudice to, actions against the United States based on negligent actions taken directly by the United States, not including oversight or approval of the Settling Respondent's plans or activities, that are brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA. Nothing herein shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. 9611, or 40 CFR 300.700(d).

XI. Parties Bound/Transfer of Covenant

25. This Agreement shall apply to and be binding upon the United States, [and the state], and shall apply to and be binding upon the Settling Respondent, its officers, directors, and employees. The United States' Covenant Not to Sue in Section VIII and Contribution Protection in Section XVIII shall apply to Settling Respondent's officers, directors, or employees to the extent that the alleged liability of the officer, director, or employee is based on its status and in its capacity as an officer, director, or employee of Settling Respondent, and not to the extent that the alleged liability arose independently of the alleged liability of the Settling Respondent. Each signatory of a Party to this Agreement represents that he or she is fully authorized to enter into the terms and conditions of this Agreement and to legally bind such Party.

26. Notwithstanding any other provisions of this Agreement, all of the rights, benefits and obligations conferred upon Settling Respondent under this Agreement may be assigned or transferred to any person with the prior written consent of EPA [and the state] in its sole discretion.

27. The Settling Respondent agrees to pay the reasonable costs incurred by EPA [and the state] to review any subsequent requests for consent to assign or transfer the benefits conferred by this Agreement.

28. In the event of an assignment or transfer of the Property or an assignment or transfer of an interest in the Property, the assignor or transferor shall continue to be bound by all the terms and conditions, and subject to all the benefits, of this Agreement except as EPA [the state] and the assignor or transferor agree otherwise and modify this Agreement, in writing, accordingly. Moreover, prior to or simultaneous with any assignment or transfer of the Property, the assignee or transferee must consent in writing to be bound by the terms of this Agreement including but not limited to the certification requirement in Section VII of this Agreement in order for the Covenant Not to Sue in Section VIII to be available to that party. The Covenant Not To Sue in Section VIII shall not be effective with respect to any assignees or transferees who fail to provide such written consent to EPA [and the state].

XII. Disclaimer

29. This Agreement in no way constitutes a finding by EPA [or the state] as to the risks to human health and the environment which may be posed by contamination at the Property or the Site nor constitutes any representation by EPA [or the state] that the Property or the Site is fit for any particular purpose.

XIII. Document Retention

30. The Settling Respondent agrees to retain and make available to EPA [and the state] all business and operating records, contracts, Site studies and investigations, and documents relating to operations at the Property, for at least ten years, following the effective date of this Agreement unless otherwise agreed to in writing by the Parties. At the end of ten years, the Settling Respondent shall notify EPA [and the state] of the location of such documents and shall provide EPA [and the state] with an opportunity to copy any documents at the expense of EPA [or the state]. [Where work is to be performed, consider providing for document retention for ten years or until completion of work to the satisfaction of EPA, whichever is longer.]

XIV. Payment of Costs

31. If the Settling Respondent fails to comply with the terms of this Agreement, including, but not limited to, the provisions of Section IV (Payment), [or Section—(Work to be Performed)] of this Agreement, it shall be liable for all litigation and other enforcement costs incurred by the United States [and the state] to enforce this Agreement or otherwise obtain compliance.

XV. Notices and Submissions

32. [Insert names, titles, and addresses of those to whom notices and submissions are due, specifying which submissions are required.]

XVI. Effective Date

33. The effective date of this Agreement shall be the date upon which EPA issues written notice to the Settling Respondent that EPA [and the state] has fully executed the Agreement after review of and response to any public comments received.

XVII. Termination

34. If any Party believes that any or all of the obligations under Section V (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the party requesting such termination receives written agreement from the other party to terminate such provision(s).

XVIII. Contribution Protection

35. With regard to claims for contribution against Settling Respondent, the Parties hereto agree that the Settling Respondent is entitled to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. 9613(f)(2) for matters addressed in this Agreement. The matters addressed in this Agreement are [all response actions taken or to be taken and response costs incurred or to be incurred by the United States or any other person for the Site with respect to the Existing Contamination].

36. The Settling Respondent agrees that with respect to any suit or claim for contribution brought by it for matters related to this Agreement it will notify the United States [and the state] in writing no later than 60 days prior to the initiation of such suit or claim.

37. The Settling Respondent also agrees that with respect to any suit or claim for contribution brought against it for matters related to this Agreement it will notify in writing the United States [and the state] within 10 days of service of the complaint on them.

XIX. Exhibits

38. Exhibit 1 shall mean the description of the Property which is the subject of this Agreement.

39. Exhibit 2 shall mean the map depicting the Site.

[—. Exhibit 3 shall mean the Statement of Work.]

XX. Removal of Lien

40. [Use this provision only when appropriate.] Subject to the Reservation of Rights in Section IX of this Agreement, upon payment of the amount specified in Section IV (Payment) [or upon satisfactory completion of work to be performed specified in Section (Work to be Performed)], EPA agrees to remove any lien it may have on the Property under Section 107(l) of CERCLA, 42 U.S.C. 9607(l), as a result of response action conducted by EPA at the Property.

XXI. Public Comment

41. This Agreement shall be subject to a thirty-day public comment period, after which EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

It Is So Agreed:

United States Environmental Protection Agency

By:

Regional Administrator *Date*
Region

It Is So Agreed:

United States Department of Justice

By:

Assistant Attorney General *Date*
Environment and Natural Resources Division, Department of Justice

It Is So Agreed:

By:

Name *Date*

[FR Doc. 00–487 Filed 1–7–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6520–9]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act; In Re: Transcomm, Inc. and Transcomm Realty Trust—210 New Boston Street—Industri-Plex Superfund Site; Woburn, MA

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed prospective purchaser agreement and request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into a prospective purchaser agreement to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.* Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to resolve the liability under CERCLA of Transcomm Realty Trust and Transcomm, Inc. for injunctive relief or for costs incurred or to be incurred by EPA in conducting response actions at the Industri-Plex Superfund Site in Woburn, Massachusetts.

DATES: Comments must be provided on or before February 9, 2000.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region 1, One Congress Street, Suite 1100, Mailcode RCG, Boston, Massachusetts 02114, and should refer to: Agreement and Covenant Not to Sue Re: Transcomm Realty Trust—210 New Boston Street, Industri-Plex Superfund Site, Woburn, Massachusetts, U.S. EPA Docket No. CERCLA–I–99–0076.

FOR FURTHER INFORMATION CONTACT: Daniel H. Winograd, U.S. Environmental Protection Agency, One Congress Street, Suite 1100, Mailcode SES, Boston, Massachusetts 02214, (617) 918–1885.

SUPPLEMENTARY INFORMATION: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.*, notice is hereby given of a proposed prospective purchaser agreement concerning the Industri-Plex Superfund Site in Woburn, MA. The settlement was approved by EPA Region I, and the Department of Justice subject to review by the public pursuant to this document. Transcomm Realty Trust and Transcomm, Inc. have executed signature pages committing them to participate in the settlement. Under the proposed settlement, Transcomm Realty Trust and Transcomm, Inc. will operate a school transportation facility, and pay $30,000 to the Hazardous Substances Superfund. In addition, the settling parties agree to abide by institutional controls and to provide access to the property. EPA believes the settlement is fair and in the public interest.

EPA is entering into this agreement under the authority of CERCLA section 101 *et seq.* which provides EPA with authority to consider, compromise, and settle a claim under sections 106 and 107 of CERCLA for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action. The U.S. Department of Justice has also signed this agreement. EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this document.

A copy of the proposed administrative settlement may be obtained in person or by mail from Daniel H. Winograd, U.S. Environmental Protection Agency, One

Congress Street, Suite 1100, Mail code SES, Boston, Massachusetts 02214, (617) 918–1885.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region 1, One Congress Street, Suite 1100, Mailcode RCG, Boston, Massachusetts (U.S. EPA Docket No. CERCLA–I–99–0076).

Dated: December 3, 1999.

John DeVillars,

Regional Administrator, Region 1.

[FR Doc. 00–489 Filed 1–7–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–62163; FRL–6397–2]

Asbestos-Containing Materials in Schools; State Request for Waiver from Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed waiver.

SUMMARY: EPA has received from Oklahoma a request for a waiver from the Agency's asbestos-in-schools program. A waiver of these requirements will be granted if EPA determines, after notice and comment and opportunity for a public hearing, that Oklahoma is implementing or intends to implement a program of asbestos inspection and management at least as stringent as EPA's program. This notice announces an opportunity for a public hearing on the Oklahoma waiver request and solicits written comments.

DATES: Written comments under docket control number OPPTS–62163 must be received on or before March 10, 2000. Each comment must include the name and address of the submitter. Any request for a public hearing must be in writing, be received on or before March 10, 2000, and detail specific objections to the grant of the waiver. If, during the comment period, EPA receives such a request for a public hearing, EPA will schedule a public hearing in Oklahoma following the comment period. EPA will announce the date of the public hearing in the **Federal Register**.

ADDRESSES: Written comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided under Unit I. of ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, you must identify docket control number OPPTS–62163 on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Neil Pflum, Asbestos Coordinator, (6PD–T), Region VI, Environmental Protection Agency, 1445 Ross Ave., Dallas, TX 75202; telephone: (214) 665–2295; e-mail: pflum.neil@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of special interest to teachers and other school personnel, their representatives, and parents in Oklahoma, and asbestos professionals working in Oklahoma. Since other entities may also be interested, the Agency has not attempted to describe all entities that may be affected by this action. If you have any questions regarding the applicability of this action to any entity, contact the person under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

EPA has established an official record for this action under docket control number OPPTS–62163. The official record consists of the documents referenced in this action, as well as any public comments received during the comment period, and other related information. The official record, which includes printed versions of any electronic comments, is available for inspection in Rm. 12D13 (Library 12th floor), EPA Region VI, 1445 Ross Ave., Dallas, TX. The Library is open from 8 a.m. to noon, Monday through Friday, excluding legal holidays. The telephone number is (214) 665–6427.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, you must identify docket control number OPPTS–62163 on the first page of your response.

1. *By mail.* Submit your comments to: Neil Pflum, Region VI Asbestos Coordinator (6PD–T), Environmental Protection Agency, 1445 Ross Ave., Dallas, TX 75202.

2. *In person or by courier.* Deliver your comments to: Rm. 12D13 (Library 12th floor), EPA Region VI, 1445 Ross Ave., Dallas, TX. The Library is open from 8 a.m. to noon, Monday through Friday, excluding legal holidays. The telephone number is (214) 665–6427.

3. *Electronically.* You may submit your comments by e-mail to: pflum.neil@epa.gov, or mail your computer disk to the address identified above. 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 6.1/8.0

II. Background

A. What Action is the Agency Taking and under What Authority?

EPA is considering granting, with conditions, a waiver of the asbestos-in-schools program to Oklahoma. This notice is issued, and the waiver, if granted, would be issued under section 203(m) of TSCA and 40 CFR 763.98. Section 203 is within Title II of TSCA, the Asbestos Hazard Emergency Response Act (AHERA).

In 1987, under TSCA section 203, the Agency promulgated regulations that require the identification and management of asbestos-containing material by local education agencies (LEAs) in the nation's elementary and secondary school buildings: the ''AHERA Schools Rule'' (40 CFR part 763, subpart E). Under section 203(m) of TSCA and 40 CFR 763.98, upon request by a State Governor and after notice and comment and opportunity for a public hearing in the State, EPA may waive, in whole or in part, the requirements of the asbestos-in-schools program (TSCA section 203 and the AHERA schools rule) if EPA determines that the State has established and is implementing or intends to implement a program of asbestos inspection and management that contains requirements that are at least as stringent as those in the Agency's asbestos-in-schools program. A State seeking a waiver must submit its request to the EPA Region in which the State is located.

The Agency recognizes that a waiver granted to any State would not encompass schools operated under the defense dependents' education system (the third type of LEA defined at TSCA section 202(7) and 40 CFR 763.83), which serve dependents in overseas areas, and other elementary and secondary schools outside a State's jurisdiction, which generally include schools in Indian country. Such schools would remain subject to EPA's asbestos-in-schools program.

B. When Did Oklahoma Submit its Request for a Waiver and How is EPA Proposing to Respond?

On October 4, 1999, Oklahoma Governor Frank Keating, submitted to Gregg A. Cooke, Regional Administrator, EPA Region VI, a letter requesting a full

waiver of the requirements of EPA's asbestos-in-schools program.

EPA is hereby issuing a notice in the **Federal Register** announcing receipt of the complete Oklahoma waiver request and an opportunity for comment and public hearing, and making the request and the supporting documentation available in the public record for this notice. The Agency is also describing the information submitted by Oklahoma and the Agency's preliminary determinations as to how the waiver request meets the criteria for the grant of a waiver.

C. What was EPA's Determination with Regard to the Completeness of Oklahoma's Waiver Request?

The Oklahoma waiver request has been deemed complete by EPA and contains the following:

1. A copy of the Oklahoma provisions that include its program of asbestos inspection and management in schools. These consist of: The Oklahoma Asbestos Control Act, Title 40 section 450 *et seq.* and Oklahoma Statutes, Title 27A, Section 1–3–101(J), and the Oklahoma Administrative Code (OAC) Title 380, Oklahoma Department of Labor, Chapter 50, ''Abatement of Friable Asbestos Materials Rules.''

2. The name of the Oklahoma agency responsible for administrating and enforcing the requirements of a waiver, namely the Oklahoma Department of Labor (ODOL). Responsible officials include: Brenda Reneau, Commissioner; Trey Davis, Deputy Commissioner; and John Crowder, Director of Asbestos--telephone: (405) 528–1500, ext. 352.

3. Reasons, supporting papers, and the rationale for concluding that Oklahoma's asbestos inspection and management programs, for which the waiver request is made, are at least as stringent as the requirements of EPA's program, as discussed in EPA's Preliminary Determinations in Units II.D.2. and 3.

4. A discussion of any special situations, problems, and needs pertaining to the waiver request accompanied by an explanation of how Oklahoma plans to handle them, as discussed in EPA's Preliminary Determination in Unit II.D.6.

5. A statement of the resources that Oklahoma intends to devote to the administration and enforcement of its program, as discussed in EPA's Preliminary Determination in Unit II.D.5.

6. Copies of Oklahoma laws and regulations relating to the request, including provisions for assessing penalties, as referenced in Unit II.C.1.

7. Assurance from the legal counsel of ODOL that the Department has the legal authority necessary to carry out the requirements relating to the waiver request, as indicated in a letter from Kevin Able, General Counsel, to Gregg Cooke, dated September 20, 1999.

D. What are the Criteria for EPA's Grant of the Waiver and What are EPA's Preliminary Determinations Relating to These Criteria?

EPA may waive the requirements of the Agency's asbestos-in-schools program if the Agency determines that Oklahoma has met the criteria set forth at 40 CFR 763.98. The criteria and EPA's preliminary determinations relating to the grant of the waiver to Oklahoma are set forth below:

1. *Criterion*: Oklahoma's lead agency has the legal authority necessary to carry out the provisions of asbestos inspection and management in schools relating to the waiver request.

EPA's Preliminary Determination: EPA has determined preliminarily that the statutory and regulatory provisions cited at Unit II.C.1. give ODOL such legal authority.

2. *Criterion*: Oklahoma's program is or will be at least as stringent as the EPA asbestos-in-schools program.

EPA's Preliminary Determination: Since Oklahoma has adopted the AHERA schools rule by reference in its regulations, EPA has determined preliminarily that Oklahoma's program is or will be at least as stringent as EPA's program. See EPA's Preliminary Determination in Unit II.D.6.

3. *Criterion*: Oklahoma has an enforcement mechanism to allow it to implement the program described in the waiver request.

EPA's Preliminary Determination: EPA has determined preliminarily that the compliance and enforcement provisions of Oklahoma's asbestos-in-schools program are adequate to run the program. Inspectors will use site visits to determine if the LEAs are complying with the program. Violations will be cited for enforcement action which can range from warning letters (notices of noncompliance) to administrative actions to civil actions.

4. *Criterion*: ODOL has or will have qualified personnel to carry out the provisions relating to the waiver request.

EPA's Preliminary Determination: EPA has preliminarily determined that ODOL has or will have qualified personnel to carry out the provisions of the waiver. Inspectors currently employed by ODOL have had experience in conducting asbestos inspections in schools.

5. *Criterion*: Oklahoma will devote adequate resources to the administration and enforcement of the asbestos inspection and management provisions relating to the waiver request.

EPA's Preliminary Determination: EPA has determined preliminarily that Oklahoma has adequate resources to administer and enforce the provisions of the program. Oklahoma plans to devote $143,508 to the program annually. It plans to match a Federal grant of $107,631, with $35,877 of State funds. The budget allows for two inspectors, travel, supplies, and training.

6. *Criterion*: Oklahoma gives satisfactory assurances that the necessary steps, including specific actions it proposes to take and a time schedule for their accomplishment, will be taken within a reasonable time to conform with applicable criteria in Units II.D.2.4.

EPA's Preliminary Determination: For EPA to grant a full waiver to Oklahoma, the State, as a condition of the grant of the waiver, would need to give a written assurance satisfactory to EPA that, if following the grant of the waiver, any provision of either TSCA section 203 or the AHERA schools rule is changed, the State would, within a reasonable period of time, make appropriate changes, as necessary, to the statutory and regulatory provisions of its asbestos-in-schools program to ensure that the program remains at least as stringent as the EPA asbestos-in-schools program.

In addition, if a waiver is granted and as long as it remains in effect, Oklahoma, utilizing adequate resources, would need to continue its asbestos-in-schools implementation and enforcement strategy. EPA may evaluate periodically the adequacy of Oklahoma's program under 40 CFR 763.98, and, under circumstances set forth in the regulation, may, in whole or in part, rescind the waiver if the Agency determines the program to be inadequate.

G. What Recordkeeping and Reporting Burden Approvals Apply to the Oklahoma Waiver Request?

The recordkeeping and reporting burden associated with waiver requests was approved by the Office of Management and Budget (OMB) under OMB control number 2070–0091. This document announces the Agency's receipt of the Oklahoma waiver request and, therefore, imposes no additional burden beyond that covered under existing OMB control number 2070–0091.

III. Materials in the Official Record

The official record, under docket control number OPPTS–62163, contains the Oklahoma waiver request, supporting documentation, and other relevant documents.

List of Subjects

Environmental protection, Administrative practice and procedure, Asbestos, Hazardous substances, Imports, Intergovernmental relations, Labeling, Occupational safety and health, Reporting and recordkeeping requirements, Schools.

Dated: December 22, 1999.

Gregg A. Cooke,

Regional Administrator, Region VI.

[FR Doc. 00–494 Filed 1–7–00; 8:45 am]

BILLING CODE 6560–50–F

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, VA, on January 13, 2000, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Vivian L. Portis, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance.

The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes
December 9, 1999 (Open and Closed)
B. New Business—Regulations
Customer Choice [12 CFR Parts 611, 614, and 618] (Final)

Dated: January 5, 2000.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.

[FR Doc. 00–590 Filed 1–6–00; 12:57 pm]

BILLING CODE 6705–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Notice of Distribution of Funds To Address Unmet Needs Resulting From Presidentially Declared Disasters

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: FEMA announces a second allocation of Fiscal Year (FY) 2000 funds for grants to States to address disaster-related needs not met by Federal disaster relief programs. These funds are available to certain States for use in communities that have experienced presidentially declared major disasters in FY 1999. The funds will be allocated to States (grantees) for distribution in communities affected by the disasters.

EFFECTIVE DATE: This notice is effective January 10, 2000.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Director, Program Support Division, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., room 417, Washington, DC 20472, (telephone) 202–646–4621, (facsimile) 202–646–3104, or (email) *robert.shea@fema.gov.*

SUPPLEMENTARY INFORMATION: On May 21, 1999, Congress appropriated $230 million to the Federal Emergency Management Agency (FEMA) to address communities' unmet disaster assistance needs for Fiscal Years 1998 and 1999. In a previous notice FEMA made allocations totaling $189,665,000. By this notice FEMA allocates an additional $39,335,000. Congress instructed FEMA to award these funds expeditiously to States for use in eligible communities. Pub. L. 106–31, Emergency Supplemental Appropriations Act for Fiscal Year 1999, requires the publication of a notice governing the allocation and use of these funds.

Authority: Emergency Supplemental Appropriations Act for Fiscal Year 1999, Pub. L. 106–31, 113 Stat. 74.

Eligible applicants: States are to use these funds to benefit communities affected by presidentially-declared major disasters between January 1, 1999 and May 21, 1999, including Native American tribes. The latter date is the date of enactment of the appropriations bill that provides the funds for this effort.

State emergency management organizations (grantees) will administer these grants in conjunction with their administration of FEMA disaster assistance programs.

Availability of funds: By this notice funds are allocated to the following States that experienced disasters between January 1, 1999 and May 21, 1999: Alabama, Arkansas, California, Colorado, Georgia, Iowa, Kansas, Louisiana, Maine, Mississippi, Missouri, Oklahoma, Tennessee, Texas and Wyoming.

Allocations: The allocations are as follows:

State	Disaster No.	Allocation
Alabama	1261	$3,532,104
Arkansas	1266	1,194,098
California	1267	4,310,428
Colorado	1276	6,064,742
Georgia	1271	51,241
Iowa	1277	3,446,853
Kansas	1273	4,426,195
Louisiana	1264	5,511,911
Louisiana	1269	557,948
Maine	1263	1,192,193
Mississippi	1265	4,569,973
Missouri	1270	1,273,588
Oklahoma	1272	1,012,570
Tennessee	1260	89,190
Tennessee	1262	253,580
Tennessee	1275	54,214
Texas	1274	307,671
Wyoming	1268	1,486,502
Total		39,335,000

We will provide an application package to States that receive allocations. States will submit applications to us indicating the proposed use of the funds. We will make awards up to the amount of the allocation after we make an expedited review of the State application package.

The application will require additional information and data that was used by the States in identifying the amount of their unmet needs in the submission to FEMA. This additional information and data must be specific and include supporting documentation. To the extent that we deem the information and data are insufficient or that they support an ineligible activity, we will reduce the amount of the initial allocation accordingly.

Correction to the **Federal Register** *Notice of August 6, 1999.* The August 6, 1999 Notice indicated that $40,000 of Florida's grant for unmet needs related to Disaster 1249 was to be directed to the Poarch Band of Creek Indians. We have since determined that the tribe's land is primarily in the State of Alabama; this is notice to the affected States that we have re-directed $40,000 from Florida to Alabama, and that we have adjusted each State's total allocation commensurately. We have notified each State separately of this action through official correspondence.

Alabama will administer the tribe's grant.

Grant requirements/Use of funds. The purpose of these funds is to provide to the extent possible for unmet needs that are the direct result of presidentially declared major disasters in Fiscal Years 1998 and 1999. States (grantees) and subrecipients must use these funds for activities for which there is no available funding through FEMA, the Small Business Administration, or the U.S. Army Corps of Engineers.

The funds can be used only for unmet needs for the purposes of mitigation, buyout assistance, disaster relief, and long-term recovery. We urge States to use funding in all categories in a manner that will reduce future disaster related costs.

The State must administer any funding used for buyouts or mitigation activities by the State consistent with the intent of the Hazard Mitigation Grant Program. For example, States must ensure that mitigation and buy-out activities are cost effective and that they will restrict the use of acquired properties in the same manner as under the Hazard Mitigation Grant Program.

Environmental review. The State and FEMA will complete an environmental review for all activities. Generally these reviews must be completed before beginning projects. Applicants for funding under this program will be responsible for preparing environmental documentation, conducting appropriate consultation with authoritative State agencies, and forwarding the results of such documentation and consultation to us for final review and approval to enable us to ensure compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other Federal environmental statutes and Executive Orders. Costs to prepare documentation and conduct consultation are eligible project costs and should be included within the budgeted project cost. FEMA has retained a small amount of the available unmet needs funds to pay for additional environmental review, if it is necessary.

Cost share. Each State must provide an assurance that there will be not less than 25 percent in non-Federal funds, or equivalent value, to match unmet needs funds. Funds provided under this Act cannot be used as the non-Federal match for other Federal funds nor can other Federal funds be used as the required non-Federal match for these funds.

Allowable costs. States may use up to 7% of these funds for costs to administer or manage the grant. Administrative and management costs should be included in the State's application. Further guidance on allowable costs for states and subgrantees can be found in Office of Management and Budget (OMB) Circulars on the Cost Principles.

- State and local governments should consult OMB Circular A–87.
- Private Non-Profit organizations should consult OMB Circular A–122.
- Educational institutions should consult OMB Circular A–21.

Reports. States will provide quarterly progress and financial reports to us within 30 days after the end of each Federal quarter. We will include the suggested format for these reports and exact due dates in the application package. The report must include specific information on actual projects funded during that quarter and the needs for which the funds were provided for each of those projects.

Evaluation process: Our regional offices will review State applications and quarterly progress reports to determine whether activities fall within the four eligible categories and that other Federal disaster relief programs do not already address them.

We use a system in which mitigation (including buyout assistance) is our priority, followed by long-term recovery and other unmet needs are generally categorized as disaster relief. States may submit unmet needs in any category, but we will emphasize mitigation and buyout assistance. We will determine other unmet needs (disaster relief and long-term recovery) based on State submissions. We will ask for reviews by appropriate Federal agencies so as to avoid duplication of existing Federal programs.

Based on the congressional action to place these funds under our disaster authorities, E.O. 12372 review procedures do not apply.

Application Submission and Deadline

We will mail application packages to States that are allocated funds in this notice. States should complete the application package and return it to our regional office listed in material that they receive.

Applications are due on or before 30 calendar days from the receipt of the application package that we send. Unless we receive a request for an extension we will reallocate funds from States that have not submitted an application by the due date.

Dated: January 4, 2000.

James L. Witt,

Director.

[FR Doc. 00–509 Filed 1–7–00; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 24, 2000.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. FMB, Ltd. (General Partner), Monticello, Florida; F.W. Carraway, Jr. (General Partner), Sopochoppy, Florida; F. Wilson Carraway, III (General and Limited Partner), Thomasville, Georgia; Edward H. Carraway (General and Limited Partner), Winter Springs, Florida; F.W. Carraway, Jr. (Limited Partner), Sopochoppy, Florida; F.W. Carraway, Jr. Grantor Retained Annuity Trust (Limited Partner), Sopochoppy, Florida; Elizabeth Carraway Neilson (Limited Partner), Monticello, Florida; Caroline Carraway Sutton (Limited Partner), Monticello, Florida; and Rena Katherine Carraway (Limited Partner), Monticello, Florida; individually and in their capacity as specified in parenthesis, to retain outstanding shares of FMB Banking Corporation, Monticello, Florida, and thereby retain shares of Farmers & Merchants Bank, Monticello, Florida.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102–2034:

1. Keith Wayne Pritchard and Barbara Schaeffer Pritchard, Waynesville, Missouri, to acquire additional voting shares of Security Bancshares of Pulaski County, Inc., St. Robert, Missouri, and thereby indirectly acquire voting shares of Security Bank of Pulaski County, Waynesville, Missouri.

2. Carl Edward Boone and Cindy Sue Boone, King City, Missouri; to acquire additional voting shares of Security Bancshares of Pulaski County, Inc., St.

Robert, Missouri, and thereby indirectly acquire voting shares of Security Bank of Pulaski County, Waynesville, Missouri.

Board of Governors of the Federal Reserve System, January 4, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–446 Filed 1–7–00; 8:45 am]

BILLING CODE 6210–01–P

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 January 24, 2000.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. *Central Progressive Bancshares, Inc.,* Hammond, Louisiana; to engage *de novo* in making, acquiring, brokering, or servicing loans or other extensions of credit through its wholly owned, newly formed subsidiary, Central Progressive Mortgage Corporation, Hammond, Louisiana, pursuant to § 225.28(b)(1) of Regulation Y.

2. *Intervest Bancshares Corporation,* New York, New York; to acquire Intervest Corporation of New York, New York, New York, and thereby engage in making, acquiring, or servicing loans or other extensions of credit, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, January 4, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–445 Filed 1–7–00; 8:45 am]

BILLING CODE 6210–01–P

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 January 25, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Arab Banking Corporation, Manama, Bahrain; to acquire ABC Capital, Inc., Greenwich, Connecticut, and thereby engage in extending credit and servicing loans, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, January 5, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–519 Filed 1–7–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of November 16, 1999.

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on November 16, 1999.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests continued solid expansion of economic activity. Nonfarm payroll employment increased appreciably on average over September and October, and the civilian unemployment rate dropped to 4.1 percent in October, its low for the year. Industrial production recorded a strong gain in October after having been depressed in September by the effects of hurricane Floyd. Total retail sales were flat in September and October owing to a drop in sales at auto dealers; sales at other stores were fairly robust. Housing activity softened somewhat over the summer but has remained at a high level. Trends in orders suggest that business spending on capital equipment has continued to increase. The July-August deficit in U.S. trade in goods and services was higher than its average in the second quarter, as further growth in imports exceeded the rise in exports. Inflation has continued at a moderate pace, though above that in 1998 owing to a sharp rebound in energy prices. Labor compensation rates have been rising more slowly than last year.

Most market interest rates have posted small mixed changes since the meeting on October 5, 1999. However, measures of share prices in equity markets have registered sizable increases over the intermeeting period. In foreign exchange markets, the trade-weighted value of the dollar has changed little over the period in relation to the currencies of a broad group of important U.S. trading partners.

M2 continued to grow at a moderate pace in October while M3 accelerated. For the year through October, M2 and M3 are estimated to have increased at rates somewhat above the Committee's annual ranges for 1999. Total domestic nonfinancial debt has continued to

[1] Copies of the Minutes of the Federal Open Market Committee meeting of November 16, 1999, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

expand at a pace somewhat above the middle of its range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee reaffirmed at its meeting in June the ranges it had established in February for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1998 to the fourth quarter of 1999. The range for growth of total domestic nonfinancial debt was maintained at 3 to 7 percent for the year. For 2000, the Committee agreed on a tentative basis in June to retain the same ranges for growth of the monetary aggregates and debt, measured from the fourth quarter of 1999 to the fourth quarter of 2000. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

To promote the Committee's long-run objectives of price stability and sustainable economic growth, the Committee in the immediate future seeks conditions in reserve markets consistent with increasing the federal funds rate to an average of around 5-1/2 percent. In view of the evidence currently available, the Committee believes that prospective developments are equally likely to warrant an increase or a decrease in the federal funds rate operating objective during the intermeeting period.

By order of the Federal Open Market Committee, December 27, 1999.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 00–433 Filed 1–7–00; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

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 1. First Follow-Up Survey of Youth and Site Visit and Focus Group Protocols for the Federal Evaluation of Initiatives Funded Under Section 510 of the Maternal and Child Health Block Grant Program—The Personal Responsibility and Work Opportunity Reconciliation Act (Pub. L. 104–193) established section 510 of the Maternal and Child Health Block Grant Program, the purpose of which is to support state efforts promoting abstinence only education. The Balanced Budget Act of 1997 (Pub. L. 105–33) established a requirement to ''evaluate programs under Section 510.'' This proposed information collection will gather follow-up information for the evaluation—NEW—Respondents: Individuals, state or local governments—Burden Information for First Follow-Up Survey—Number of Respondents: 6,510; Average Burden per Response: .75 hours; Burden: 4,883 hours—Burden Information for Focus Groups—Number of Respondents: 380; Average Burden per Response: 2 hours; Burden: 760 hours—Burden Information for Executive Interviews—Number of Respondents: 350; Average Burden per Response: 1.5 hours; Burden: 495 hours—Total Burden: 6,138 hours. Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue, SW, Washington DC, 20201. Written comments should be received within 60 days of this notice.

Dated: December 23, 1999.

Dennis Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 00–430 Filed 1–7–00; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

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 1. Site Visit Protocols for the Multi-Site Evaluation of the Welfare-to-Work Grant Program—0990–0230—Revision—This data collection will support the Office of the Assistant Secretary for Planning and Evaluation in its efforts to further documents the status of Welfare-to-Work formula and competitive grantees and provide information on implementation issues as part of the Congressionally mandated evaluation of the Welfare-to-Work grants program. Respondents: Individuals, State, Local or Tribal Governments, Non-profit Insitutions—Burden Information for Staff Interviews—Number of Responses: 360; Burden per Response: 1 hour; Total Burden for Staff Interviews: 360 hours—Burden Information for Focus Groups—Number of Responses: 350; Burden per Response: 1.5 hours; Total Burden for Focus Groups: 540 hour—Burden Information for Individual Tribal program Participants—Number of Responses: 50; Burden per Response: .5 hours; Total Burden for Individual Tribal Program Participants: 30 hours—Total Burden: 930 hours. Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H,

Humphrey Building, 200 Independence Avenue SW, Washington DC, 20201. Written comments should be received within 60 days of this notice.

Dated: December 29, 1999.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 00–431 Filed 1–7–00; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93612–002]

Availability of Financial Assistance To Investigate the Feasibility of Tribal Energy Sales

AGENCY: Administration for Native Americans (ANA), ACF, DHHS.

ACTION: Announcement of availability of competitive financial assistance to assist eligible applicants with integrated planning that examines and develops Tribal regulatory, management and energy conservation capabilities and opportunities available. Planning activities is an approach to addressing the mitigation of Indian lands due to DOD activities to Indian lands.

SUMMARY: The Administration for Native Americans (ANA) has cancelled the January 22, 1999 announcement, which announced the availability of financial assistance for the mitigation of environmental impacts on Indian lands due to Department of Defense Activities. (Program Announcement No. 93612–993) The cancellation of the January 22, 1999 announcement was published in the **Federal Register** on September 14, 1999. (Program announcement No. 93612–0002)

The Congress has recognized that DOD activities may have caused environmental problems for Indian tribes and Alaska Natives. These environmental hazards can negatively impact the health and safety as well as the social and economic welfare of Indian tribes and Alaska Natives. Accordingly, the Congress has taken steps to help those affected begin to mitigate environmental impacts from DOD activities by assisting them in the planning, development and implementation of programs for such mitigation. This environmental mitigation program was begun through a program announcement published on December 29, 1993 as a response to the Department of Defense Appropriations Act, Pub. L. 103–139, which was enacted on November 11, 1993.

This program continues under Pub. L. 103–335 (the Act), enacted on September 30, 1994. Section 8094A of the Act states that funds appropriated to the Department of Defense (DOD) for Operations and Maintenance Defense-Wide, not less than $8,000,000 shall be made available until expended to the Administration for Native Americans. Provided that such funds shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritizing of mitigation, on Indian lands resulting from Department of Defense activities. This program announcement primarily focuses on planning projects that investigate the feasibility of tribal energy sales through energy development, as a means of mitigating Indian lands. Mitigation as defined in 40 CFR 1508.20 includes ''(e) Compensating for the impact by replacing or providing substitute resources or environments''.

Application Kit

Application kits, are approved by the OMB under control number 0980–0204, which expired August 31, 1999. ANA has asked OMB for a six-month extension to use the kit while a new version is developed, reviewed and approved. We anticipate that the new kit will be available in January 2000. The current kit remains valid and contains the necessary forms and instructions to apply for a grant under this program announcement.

Application kits may be obtained from ANA training and technical assistance providers. ANA employs contractors to provide short-term training and technical assistance (T/TA) to eligible applicants. T/TA is available under these contracts for a wide range of needs; however, the contractors are not authorized to write applications. The T/TA is provided at no cost.

To obtain an application kit and/or training and technical assistance, applicants are encouraged to contact the appropriate T/TA provider within the appropriate service area. Each contractor's telephone number is listed below. You may also call: Administration for Native Americans, Applicant Help Desk, 202–690–7776; or visit ANA's web site listing of current providers at: www.acf.dhhs.gov/programs/ana.

The ANA technical assistance providers for this announcement are in four areas divided as follows:

Area I, Eastern serves federally recognized Tribes in AL, AR, CT, DE, FL, GA, IL, IN, KY, KS, LA, MA, MD, ME, MI, MN, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI, and WV. (Native American Management Services, Inc. 888–221–9686 toll free or 703–821–2226)

Area 2, Central federally recognized Tribes in AZ, CO, IA, KS, ND, ND, NE, NM, MO, MT, OK, SD, UT, WY, NV, ID, and TX. (RJS and Associates, Inc. 888–838–4757 toll free)

Area 3, Western serves federally recognized Tribes in CA, OR and WA. (Development Associates, Inc. 800–666–9711 toll free or (925–935–9711)

Area 4, Alaska serves all eligible applicants in AK. (Native American Management Services, Inc. 877–770–6230 toll free or 907–770–6230)

Copies of this program announcement and many of the required forms may be obtained electronically at the ANA World Wide Web Page: www.acf.dhhs.gov/programs/ana.

The printed **Federal Register** notice is the only official program announcement. Although all reasonable efforts are taken to assure that the files on the ANA World Wide Web Page containing electronic copies of the Program Announcement are accurate and complete, they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

DATES: The closing date for submission of applications is March 10, 2000.

Part I: Supplementary Information

A. Introduction and Purpose

The program announcement states the continued availability of unobligated fiscal year 1995 financial assistance to eligible applicants using DOD funds under Pub. L.103–335. The purpose of funds available under this announcement is for planning projects that examine the feasibility for Tribal energy sales through energy resources as a means to mitigate damages done by DOD.

Financial assistance awards made under this program announcement will be on a competitive basis and the proposals will be reviewed against the evaluation criteria in this announcement.

The Federal government recognizes that substantial environmental problems, resultant from defense activities, exist on Indian lands. It also recognizes its special Trust responsibility to protect the land and resources of Tribal lands as well as the

health and safety of Tribal communities. Therefore, ANA and DOD have joined together to assist those Indian Tribes and Alaska Natives who have been affected by DOD activities to plan for the development of their own technical capabilities and management capacity to remediate or mitigate those impacts.

It is recognized that the economic, social and political integrity of Indian Tribes and Alaska Natives as well as their specialized cultural knowledge and values are important considerations in the planning of strategies to mitigate the social and economic impacts of environmental damage sustained by those lands from DOD activities.

Indian Tribes and Alaska Natives are experiencing unprecedented population growth but their economies are not fully developed to sustain their communities. As a result the development of sustainable local economies is a major goal shared by Indian Tribes and Alaska Native villages with the federal government. Therefore the plans developed by Indian Tribes and Alaska Native villages to mitigate the affects of impacts to their lands and communities resultant from DOD activities are expected to reflect their priority for social and economic development.

An emergent aspect of Indian and Alaska Native social and economic development are the opportunities to address the service issues and costs of electric power made possible by new Federal electricity policies. The Western Area Power Administration (WAPA) and Bonneville Power Administration (BPA), electric power marketing agencies of the Department of Energy are, for the first time since the construction of Federal water projects by the Army Corps of Engineers and the Bureau of Reclamation, making direct allocations to Indian Tribes. Additionally, the government regulated electricity industry is moving toward open competition through Federal and state restructuring processes. These policy changes often referred to as ''deregulation'' present opportunities for energy/electricity development as strategies that impact mitigation.

ANA recognizes that energy conservation, management and development require comprehensive and integrated planning to allow for local Tribal and Alaska Native values and priorities to be expressed in their own policy and programs that develop their regulatory, management and energy conservation capabilities. Under this one time only announcement, proposals will be accepted from eligible applicants for assistance in planning for energy/electricity conservation or alternative or renewable energy resource development, management or development. Proposals for implementing projects related to electricity and energy will not be accepted under this program announcement.

B. Proposed Projects to be Funded

The purpose of this announcement is to invite single year (twelve to seventeen month) proposals from eligible applicants to undertake Tribal specific planning for using energy/electricity strategies for mitigating social, economic community impacts arising from environmental damage to Indian lands by DOD activities.

ANA continues its policy that an applicant may only submit one application under this competitive area and no applicant may receive more than one grant in any of ANA's competitive areas. ANA introduces two new requirements within the review criteria for budgets in applications. All applicants must clearly demonstrate a plan for an employee fringe benefit package, which includes an employee 5% retirement plan benefit, and the funding of travel for key personnel to attend post-award grant management and administration training sponsored by ANA.

Applicants may only apply for planning projects of up to 17 months duration. The following are some areas of known opportunity. ANA intends these to be viewed, as examples that may relate to Tribal or community specific concerns and applicants will identify their own local priorities in their applications. (It is expected that applicants may identify additional areas of concern in their applications):

- Data gathering and planning requirements for making application for allocation of electric power from a Federal Power Marketing Administration, e.g. Western Area Power Administration (WAPA) and Bonneville Power Administration (BPA). These data collections may range from documenting the size and peak consumption levels of electricity by the Tribe or community to documenting the number and types of electricity consumers within Tribal jurisdiction to more sophisticated long range Integrated Electricity Resource Plans, or
- Plans to investigate the development of local energy resources such as wind, solar, natural gas, coal, biomass, geothermal or co-generation of electric power that may be dispersed generation.
- Development of an integrated energy resource and infrastructure plan that takes into account the local conventional and renewable energy resource base of Indian Tribes and Alaska Native villages.
- Development of energy efficiency and conservation to reduce the cost and consumption of energy without reducing economic and social well being. Often the money saved from well developed plans for energy conservation exceed the costs of implementing the conservation plan, providing a means to implement the plan with existing resources.
- Development of plans to achieve a balanced and sustainable energy supply that is reliable and affordable by aggregating the Tribe's electricity load for bulk purchasing.

The purpose of grants funded through this program announcement is to promote planning for energy self-determination among American Indian Tribes. Research and planning is needed for a comprehensive review of tribal energy resources. Energy planning is a complex endeavor that takes into consideration the following:

- Existing energy usage,
- Historical trends of energy consumption,
- Tribal demographics,
- Changes in patterns of energy using behavior,
- Presently available sources of energy to meet energy loads,
- Future planned sources of energy to meet future energy loads,
- Energy resource requirements beyond existing energy plans,
- Capital requirements and availability for energy projects.

The following bullets provide descriptions of activities that are consistent with the philosophy of this program announcement. Proposed activities should be tailored to reflect the energy development needs of the local community and should be consistent and supportive of the proposed project activities. The types of planning projects which ANA may fund will address some or all of the following topics or similar topics:

- Studies of reservation energy load profiles and load forecasts including specific studies of residential, commercial, and industrial energy end-use applications;
- Analysis of utility records of energy consumption by customer and customer class;
- Identification, quantification and description of the energy use of Tribal members that are not served with utility connected services today, but who may be so served in the future;
- Tribal demographics;
- Determination of energy growth profiles among all energy segments of the Tribe residential, commercial, and

industrial. These growth profiles should be described as ranges above and below an average expected growth for a period of at least 10 years;

• Identification and evaluation of existing energy resources that serve current Tribal loads;

• Identification and evaluation of future energy resources currently planned by the Tribes or others (e.g., utility companies) to meet future Tribal loads;

• Review and evaluation of the sufficiency of existing and planned energy resources to meet Tribal loads both today and in the future;

• Identification and review of alternatives to existing plans for meeting future Tribal electricity load growth, including both traditional sources (e.g., coal, oil, propane, diesel, and gas-fired generation) and non-traditional sources (e.g., fuel cells, photovoltaic cells, wind turbines, etc.).

• Review of ''village electrification'' opportunities for non grid-connected local distribution systems and distributed generation (i.e. generation located at or near the load and scaled to the load, not a central generation plant feeding power to the grid);

• Identification of feasible co-generation opportunities to maximize both the efficiency of energy utilization and the economic development potential for the Tribal community. (Co-generation facilities are agricultural or industrial facilities co-located with generation facilities that use the heat of the generator as well as its power.);

• Identification of opportunities to develop power projects or other energy projects for export off Tribal lands to the energy marketplace;

• Source of capital requirements for development of energy resources.

The following is a list of major Federal environmental legislation that should be recognized in a regulatory review as all Federal, state and local regulatory requirements, which could have major impacts in the planning phase.

• Indian Environmental General Assistance Program Act of 1992;

• Clean Air Act (CAA);

• Clean Water Act (CWA);

• Safe Drinking Water Act (SDWA);

• Surface Mining Control and Reclamation Act of 1977 (SMCRA);

• Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA);

• Toxic Substances Control Act (TSCA);

• Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA);

• Nuclear Waste Policy Act of 1982 (NWPA);

• Comprehensive Environmental Resource Conservation and Liability Act (CERCLA or Superfund);

• Resource Conservation and Recovery Act of 1976 (RCRA);

• Hazardous and Solid Waste Amendments of 1984 (HSWA);

• National Environmental Policy Act of 1969 (NEPA);

• Title XXVI of the National Energy Policy Act of 1992.

Other Federal legislation that should be included in the regulatory review and that should be of assistance are the tribal specific legislative acts, such as:

• American Indian Religious Freedom Act;

• National Historic Preservation Act of 1991;

• Indian Environmental Regulatory Enhancement Act of 1990;

• Native American Graves Protection and Repatriation Act of 1990.

Other regulatory considerations could involve applicable tribal, village, state and local laws, codes, ordinances, standards, etc. which should also be reviewed to assist in planning, the mitigation design, and development of the comprehensive mitigation strategy.

C. Eligible Applicants

The following organizations are eligible to apply:

• Federally recognized Indian tribes;

• Nonprofit Alaska Native Community entities, including Alaska Native villages, or tribal governing bodies (IRA or traditional councils) as recognized by the Bureau of Indian Affairs;

• Nonprofit Alaska Native Regional Associations and/or Corporations with village specific projects;

• Nonprofit Native organizations in Alaska with village specific projects.

Applicants must comply with the following administrative policies:

• Current grantees funded under the previous DOD announcement dated January 22, 1999 who wish to apply for another phase of phases should apply under ANA's FY 2000 SEDS program announcement dated August 17, 1999. [Program Announcement No. 93612–001] or

• Applicants interested in applying for one or more of the phases described in the January 22, 1999 announcement should apply under SEDS, provided the applicant does not have a current SEDS grant or has a SEDS grant that expires no later than September 29, 2000. ANA does continue however, its policy that an applicant may only submit one application per competitive area and may only receive one grant per competitive area.

• An application from a federally recognized Tribe, Alaska Native Village or Native American organization must be from the governing body of the Tribe or organization.

• ANA will not accept applications from tribal components which are tribally-authorized divisions of a larger tribe, unless the application includes a Tribal resolution which clearly demonstrates the Tribe's support of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under that specific competitive area both for the current competition and for the duration of the approved grant period, should the application be funded.

• If a federally recognized Tribe or Alaska Native village chooses not to apply, it may support another applicant's project (e.g., a tribal organization) which serves or impacts their reservation. In this case, the applicant must include a Tribal resolution which clearly demonstrates the Tribe's approval of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under that specific competitive area both for the current competition and for the duration of the approved grant period, should the application be funded.

D. Available Funds

Subject to availability of funds, approximately $1 million of financial assistance is available under this program announcement for eligible applicants. It is expected that about 15 awards will be made, ranging from $50,000 to $100,000.

Each eligible applicant described above can receive only one grant award under this announcement.

E. Grantee Share of Project

Grantees must provide at least five (5) percent of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions. The funds for the match must be from a private source, or state source where the funds were not obtained from the Federal government by the state, or a Federal source where legislation or regulation authorizes the use of these funds for matching purposes (e.g. Indian Self-Determination and Education Assistance funds, through the Department of Interior and the Department of Health and Human Services).

Therefore, a project requesting $100,000 in Federal funds must include a match of at least $5,263 (5% total

project cost). To calculate 5% non-Federal share multiply the Federal share by .05263. Applicants may request a waiver of the requirement for a 5% non-Federal matching share. Since the matching requirement is low it is not expected that waivers will be necessary. However, the procedure for requesting a waiver can be found in 45 CFR part 1336, Subpart E-Financial Assistance Provision.

As per 45 CFR 74.2 and 92.3, In-Kind contributions are defined as ''the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.''

An itemized budget detailing the applicant's non-Federal share, and its source(s), must be included in the application.

If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Agreement must be included in the application.

It is the policy of ANA to apply the waiver of the non-federal matching share requirement for the purposes of this particular program announcement.

F. Review Process

1. Initial Application Review

Applications submitted by the post-marked date under this program announcement will undergo a pre-review to determine that:

- The applicant is eligible in accordance with the Eligible Applicants Section of this announcement.
- The application materials submitted are sufficient to allow the panel to undertake an in-depth evaluation (All required materials and forms are listed in the Grant Application Checklist.)

Applications subjected to the pre-review described above which fail to satisfy one or more of the listed requirements will be ineligible or otherwise excluded from competitive evaluation.

2. Competitive Review of Accepted Applications

Applications that pass the pre-review will be evaluated and rated by an independent review panel on the basis of the specific evaluation criteria. These criteria are used to evaluate the quality of a proposed project, and to determine the likelihood of its success.

A proposed project should reflect the purposes stated and described in the Introduction and Program Purpose (Section A) of this announcement.

ANA staff cannot respond to requests for information regarding funding decisions prior to the official notification to the applicants.

After the Commissioner has made decisions on all applications, unsuccessful applicants are notified in writing within 30 days. The notification will be accompanied by a critique including recommendations for improving the application.

3. Appeal of Ineligibility

Applicants who are excluded from competitive evaluation because of ineligibility, may appeal an ANA decision of applicant ineligibility. Likewise, applicants may also appeal an ANA decision that an applicant's proposed activities are ineligible for funding consideration. The appeals process is stated in the final rule published in the **Federal Register** on August 19, 1996 (61 FR 42817).

G. Criteria

The evaluation criteria are:

(1) Goals and Available Resources (30 points):

(a) The application presents specific planning goals relating to a proposed tribal energy retail project. The application explains how the tribe or village intends to achieve those goals identified in the application and clearly documents the involvement and support of the community in the planning process and implementation of the proposed project. ANA encourages the planning process to include community involvement. The above requirement may be met by submission of a resolution by a tribe or tribal organization stating that community involvement has occurred in the project planning and will occur in the implementation of the project.

(b) The application identifies and documents pre-existing and planned involvement and support of the community in the planning process and implementation of the proposed project. The type of community you serve and nature of the proposal being made, will influence the type of documentation necessary. For example, a Tribe may choose to address this requirement by submitting a resolution stating that community involvement has occurred in the project planning or may determine that additional community support work is necessary.

(c) Available resources (other than ANA and the non-Federal share) which will assist, and be coordinated with the project are described. The Tribe can address work already underway. These resources may be personnel, facilities, vehicles or financial and may include other Federal and non-Federal resources.

These resources should be documented by letters of commitment of resources, not merely letters of support. ''Letters of commitment'' are binding when they specifically state the nature, the amount, and conditions under which another agency or organization will support a project funded with ANA funds. ''Letters of support'' merely express another organization's endorsement of a proposed project. Support letters are not binding commitment letters or do not factually establish the authenticity of other resources and do not offer or bind specific resources to the project.

For example, a letter from another Federal agency or foundation pledging a commitment of $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment. These resources may be human, natural or financial, and may include other Federal and non-Federal resources. Statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources and therefore carry less significance.

Non-ANA resources should be leveraged to strengthen and broaden the impact of the proposed project in the community. Project designs should explain how those parts of projects which ANA does not fund will be financed through other sources. For example, ANA does not fund construction. Applicants must show the relationship of non-ANA funded activities to those objectives and activities that are funded with ANA grant funds.

(2) Organizational Capabilities and Qualifications (10 points)

(a) The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed scope is well defined. The application clearly demonstrates the successful management of prior or current projects of similar scope by the organization and/or by the individuals designated to manage the project.

(b) Position descriptions and/or resumes of key personnel, including those of consultants, are presented. The position descriptions and/or resumes relate specifically to the staff proposed in the Objective Work Plan and in the proposed budget. Position descriptions very clearly describe each position and its duties and clearly relate to the personnel staffing required to achieve the project objectives. Resumes and/or

proposed position descriptions demonstrate that the proposed staff are or will be qualified to carry out the project activities. Either the position descriptions or the resumes contain the qualifications and/or specialized skills necessary for overall quality management of the project. Resumes must be included if individuals have been identified for positions in the application.

Note: Applicants are strongly encouraged to give preference to Native Americans in hiring staff and subcontracting services under an approved ANA grant.

(3) Project Objectives, Approach and Activities (30 points).

The Objective Work Plan in the application includes project objectives and activities related to the long term goals for each budget period proposed and demonstrates that these objectives and activities:

- Are measurable and/or quantifiable;
- Are based on a fully described and locally determined balanced strategy for mitigation of impacts to the environment;
- Clearly relate to the tribe or village long-range goals which the project addresses;
- Can be accomplished with available or expected resources during the proposed project period;
- Indicate when the objective, and major activities under each objective will be accomplished;
- Specify who will conduct the activities under each objective; and
- Support a project that will be completed, self-sustaining, and leads the Tribe to an action plan.

(4) Results or Benefits Expected (20 points).

The proposed project will result in specific measurable outcomes for each objective that will clearly contribute to the completion of the project and will help the tribe or village meet its goals. The specific information provided in the application on expected results or benefits for each objective is the basis upon which the outcomes can be evaluated at the end of each budget year.

(5) Budget (10 points)

There is a detailed budget provided which:

- Fully explains the budget.
- Justifies each line item in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source.
- Explains sufficiently cost and other detail to facilitate the determination of cost allowability and the relevance of these costs to the proposed project.
- Demonstrates that the funds requested are appropriate and necessary for the scope of the project.
- Includes sufficient funds for principal representatives from the applicant organization to travel to one post-award grant training and technical assistance conference. This travel and training should occur as soon as practical.
- Includes an employee fringe benefit budget that provides grant-funded employees with a qualified, self-directed, portable retirement plan in addition to Social Security. The applicant must provide a retirement plan fringe benefit for grant funded employees salaries of five (5) percent.
- ANA considers a retirement plan to be a necessary, reasonable and allowable cost in accordance with OMB rules. Minimum standards for an acceptable retirement fringe benefit plan are:
- The plan must be ''qualified'', *i.e.,* approved by the Internal Revenue Service to receive special tax-favored treatment.
- The plan exists for the exclusive benefit of the participants; funds are to be used for retirement and certain other pre-retirement needs, not for the organization's needs.
- The plan must have a vesting schedule that does not exceed the initial budget period of the ANA grant.
- The plan must be a 401(k) for people who work in corporations or 403(b) plan for people who work for not-for-profit organizations. An alternate proposal may be submitted for review and approval during grant award negotiations. An alternate proposal may be submitted for review and approval during grant award negotiations. Alternate proposals may include the use of Individual Retirement Accounts, Money Purchase Pension Plans, Defined Benefit Pension Plans, Combination Plans, etc. In no case will a non-qualified deferred compensation plan, e.g., Supplemental Executive Retirement Plan (SERPs) or Executive Bonus Plan be accepted.

H. Contact Information

Contact the ANA Applicant Help Desk at 202–690–7776 for assistance. You may also contact Sharon McCully at (202) 690–7776, or e-mail to smccully@acf.dhhs.gov.

I. General Guidance to Applicants

The following is provided to assist applicants to develop a competitive application.

(1) Program Guidance:

- The Administration for Native Americans will fund projects that present the strongest prospects for meeting the stated purposes of this program announcement. Projects will not be funded on the basis of need alone.
- In discussing the problems being addressed in the application, relevant historical data should be included so that the appropriateness and potential benefits of the proposed project will be better understood by the reviewers and decision-maker.
- Supporting documentation, if available, should be included to provide the reviewers and decision-maker with other relevant data to better understand the scope and magnitude of the project.

(2) Technical Guidance:

- Applicants are strongly encouraged to have someone other than the author apply the evaluation criteria in the program announcement and to score the application prior to its submission, in order to gain a better sense of its quality and potential competitiveness in the review process.
- ANA will accept only one application under this program announcement from any one applicant. If an eligible applicant sends two applications, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.
- An application from an Indian tribe, Alaska Native Village or other eligible organization must be submitted by the governing body of the applicant.
- The application's Form 424 must be signed by the applicant's representative (tribal official or designate) who can act with full authority on behalf of the applicant.
- The Administration for Native Americans suggests that the pages of the application be numbered sequentially from the first page and that a table of contents be provided. The page numbering, along with simple tabbing of the sections, would be helpful and allows easy reference during the review process.
- Two (2) copies of the application plus the original are required.
- The Cover Page should be the first page of an application, followed by the one-page abstract.
- Section B of the Program Narrative should be of sufficient detail as to become a guide in determining and tracking project goals and objectives.
- The applicant should specify the entire length of the project period on the first page of the Form 424, Block 13. ANA will consider the project period specified on the Form 424 as governing.
- Line 15a of the Form 424 should specify the Federal funds requested for the Budget period.

(3) Grant Administrative Guidance:

• The application Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.

• The Administration for Native Americans recommends that the pages of the application be numbered sequentially and that a table of contents be provided. Simple tabbing of the sections of the application is also helpful to the reviewers.

• An application with an original signature and two additional copies are required.

• The Cover Page (included in the Kit) should be the first page of an application, followed by the one-page abstract.

• The applicant should specify the entire project length on the first page of the Form 424, Block 13. Should the application propose one length of project period and the Form 424 specify a conflicting length of project period, ANA will consider the project period specified on the Form 424 as the request. ANA may negotiate a reduction of the project period. The approved project period is shown on block 9 of a Financial Assistance Award.

• Line 15a of the Form 424 should specify the Federal funds requested for the Budget Period.

Applicants may propose a 17-month project period.

(4) Projects or activities that generally will not meet the purposes of this announcement:

• Proposals from consortia of tribes or villages that are not specific with regard to support from, and roles of member tribes.

• The purchase of real estate or construction.

J. Paperwork Reduction Act of 1995 (Pub. L. 104–13)

Public reporting burden for this collection of information is estimated to average 29.5 hours per response, including the time for reviewing instruction, gathering and maintaining the data needed, and reviewing the collection of information.

The following information collections are included in the program announcement Application Kit, OMB control number 0980–0204, expires August 31, 1999.

K. Due Date for Receipt of Applications

The closing date for applications submitted in response to this program announcement is March 10, 2000.

L. Receipt of Applications

Applications must either be hand delivered or mailed to the address in Part II, Section E, Application Process. The Administration for Native Americans will not accept applications submitted electronically nor via facsimile (FAX) equipment.

Deadline: Applications shall be considered as meeting the announced deadline if they are either:

1. Received on or before the deadline date at the place specified in the program announcement, or

2. Sent on or before the deadline date and received by the granting agency in the time for the independent review under DHHS GAM Chapter 1–62 (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private Metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria above are considered late applications. The ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines: The ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

Part II—General Application Information and Guidance

A. Definitions

Funding areas in this program announcement are based on the following definitions:

• Indian land is defined as all lands used by American Indian tribes and Alaska Native Villages.

• A ''multi-purpose community-based Native American organization'' is an association and/or corporation whose charter specifies that the community designates the Board of Directors and/or officers of the organization through an elective procedure and that the organization functions in several different areas of concern to the members of the local Native American community. These areas are specified in the by-laws and/or policies adopted by the organization. They may include, but need not be limited to, economic, artistic, cultural, and recreational activities, and the delivery of human services such as health care, day care, counseling, education, and training.

• ''Budget Period'' is the interval of time (usually 12 months but may be up to 17 months) into which the project period is divided for budgetary and funding purposes.

• ''Core administration'' is funding for staff salaries for those functions which support the organization as a whole, or for purposes unrelated to the actual management or implementation of work conducted under an ANA approved project. However, functions and activities that are clearly project related are eligible for grant funding. For example, the management and administrative functions necessary to carry out an ANA approved project are not considered ''core administration'' and are, therefore, eligible costs. Additionally, ANA will fund the salaries of approved staff for time actually and reasonably spent to implement a funded ANA project.

• ''Real Property'' means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

• ''Construction'' is the term which specifies a project supported through a discretionary grant or a cooperative agreement, to support the initial building of a facility.

B. Activities That Cannot be Funded

The Administration for Native Americans does not fund:

• Projects that operate indefinitely or require ANA funding on a recurring basis.

• Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations which are otherwise eligible to apply to ANA (''third party T/TA''). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is acceptable.

• The support of on-going social service delivery programs or the expansion, or continuation, of existing social service delivery programs.

• ANA will not fund the purchase of real property.

• ANA will not fund construction.

• Objectives or activities for the support of core administration of an organization.

• Costs of fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable under a grant award.

Projects or activities that generally will not meet the purposes of this announcement are discussed further in Part I, Section H, General Guidance to Applicants.

C. Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372.

D. Application Process

(1) Application Submission by Mail:

Each application should include one signed original and two (2) copies of the grant application, including all attachments. Assurances and certifications must be completed. Submission of the application constitutes certification by the applicant that it is in compliance with Drug-Free Workplace and Debarment and these forms do not have to be submitted. The application must be hand delivered or mailed by the closing date to: U.S. Department of Health and Human Services, Administration for Children and Families, ACYF/Office of Grants Management 370 L'Enfant Promenade, S.W., Mail Stop HHH 326–F, Washington, DC 20447–0002, Attention: Lois B. Hodge—ANA No. 93612–002.

(2) Application Submission by Courier:

Hand delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, ACYF/Office of Grants Management, ACF Mail Room, Second Floor Loading Dock, Aerospace Center 901 D Street, S.W., Washington, DC 20024, Attention: Lois B. Hodge, ANA No. 93612–002.

The application must be signed by an individual authorized: (1) To act for the applicant tribe, village or organization, and (2) to assume the applicant's obligations under the terms and conditions of the grant award.

(3) Application Consideration:

The Commissioner of the Administration for Native Americans determines the final action to be taken with respect to each grant application received under this announcement.

The following points should be taken into consideration by all applicants:

- Incomplete applications and applications that do not otherwise conform to this announcement will not be accepted for review. (Incomplete applications include a missing Form SF 424 or no signed Form 424 or does not include proof of non-profit status, if applicable.) Applicants will be notified in writing of any such determination by ANA.
- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process. An independent review panel consisting of reviewers familiar with environmental problems of Indian tribes and Alaska Native villages will evaluate each application against the published criteria in this announcement. The results of this review will assist the Commissioner in making final funding decisions.
- The Commissioner's decision will also take into account the comments of ANA staff, state and Federal agencies having performance-related information, and other interested parties.
- As a matter of policy the Commissioner will make grant awards consistent with the stated purpose of the announcement and all relevant statutory and regulatory requirements under 45 CFR parts 74 and 92 applicable to grants under this announcement.
- After the Commissioner has made decisions on all applications, unsuccessful applicants will be notified in writing within approximately 120 days of the closing date. Successful applicants are notified through an official Financial Assistance Award (FAA) document. The Administration for Native Americans staff cannot respond to requests for funding decisions prior to the official notification to the applicants. The FAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-Federal matching share requirement.

(Catalog of Federal Domestic Assistance Program Number 93.612 Native American Programs)

Dated: January 4, 2000.

Gary N. Kimble,

Commissioner, Administration for Native Americans.

[FR Doc. 00–432 Filed 1–7–00; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–5435]

Draft Guidance for Industry on Photosafety Testing; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Photosafety Testing.'' The draft guidance is intended to help applicants decide whether they should test for photosensitivity and assess potential human risk for photochemical carcinogenesis (cancer) and enhancement of UV-induced skin carcinogenesis during the development of topically and systemically administered drug products. The draft guidance describes a consistent, science-based approach for considering testing. FDA is soliciting comments and seeking information from interested persons concerning photosafety testing.

DATES: Submit written comments on the draft guidance document by April 10, 2000. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Joseph J. DeGeorge, Center for Drug Evaluation and Research (HFD–024), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5476.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled ''Photosafety Testing.'' This draft guidance is intended to help applicants decide whether to test for photosensivity and potential human risk for photochemical carcinogenesis and enhancement of UV-induced skin carcinogenesis by topically and systemically administered drug products.

In the absence of data from photosensitivity tests conducted in animals or humans, warnings about the potential for photosensitization generally have been added to labels after adverse reactions resulted during widespread clinical use of products. Identification of photosensitivity effects before widespread human exposure is preferable to learning via adverse event reports.

This draft guidance considers: (1) Photosensitivity and photococarcinogenicity, (2) testing of drug product or testing of drug

substance, (3) testing for photosensitivity (photoirritation and photoallergy), (4) testing for the enhancement of UV-associated skin carcinogenesis (direct photochemical carcinogenicity or indirect effects in skin), (5) reasons for a separate approach to testing nonphotosensitizing drugs for long-term photosafety, and (6) current needs for assay development.

This Level 1 draft guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). The draft guidance represents the agency's current thinking on testing for photosafety. 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 requirements of the applicable statutes, regulations, or both.

Interested persons may, on or before April 10, 2000, submit to the Dockets Management Branch (address above) written comments on 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. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 29, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–429 Filed 1–7–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–0209 and HCFA–R–0245]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection.

Title of Information Collection: Medicare and Medicaid Programs: Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (HCFA–3006–IFC) and Supporting Regulations in 42 CFR 484.11 and 484.20.

Form No.: HCFA–R–0209 (OMB# 0938–0761).

Use: The information collection requirements contained in the HCFA–3006 regulation state that HHAs must report data from the OASIS data set as a condition of participation for HHAs. Specifically, the above named rule provides guidelines for HHAs for the electronic transmission of the OASIS data set as well as responsibilities of the State agency or OASIS contractor in collecting and transmitting this information to HCFA. These requirements are necessary to establish a prospective payment system for HHAs and to achieve broad-based, measurable improvement in the quality of care furnished through Federal programs.

Frequency: As determined by HHA and monthly.

Affected Public: Business or other for profit, Not for profit institutions, Federal Government, and State, Local, or Tribal Government.

Number of Respondents: 8,200.

Total Annual Responses: 8,200.

Total Annual Hours: 996,368.

2. *Type of Information Collection Request:* Revision of a currently approved collection.

Title of Information Collection: Medicare and Medicaid Programs: Use of Outcome and Assessment Information Set (OASIS) as Part of the Conditions of Participation for Home Health Agencies (HCFA–3007–F) and Supporting Regulations in 42 CFR 484.55.

Form No.: HCFA–R–0245 (OMB# 0938–0760).

Use: These information collection requirements revise the existing conditions of participation that home health agencies (HHAs) must meet to participate in the Medicare program. Specifically, this final rule requires that each patient receive from the HHA a patient-specific, comprehensive assessment that identifies the patient's need for home care and that meets the patient's medical, nursing, rehabilitative, social and discharge planning needs. In addition, this final rule requires that as part of the comprehensive assessment, HHAs use a standard core assessment data set, the OASIS, when evaluating adult, non-maternity patients. These changes are an integral part of the Administration's efforts to achieve broad-based improvements in the quality of care furnished through Federal programs and in the measurement of that care.

Frequency: Upon patient assessment.

Affected Public: Business or other for profit, Not for profit institutions, Federal Government, and State, Local, or Tribal Government.

Number of Respondents: 8,200.

Total Annual Responses: 8,200.

Total Annual Hours: 967,600.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: November 29, 1999.

John Parmigiani,

Acting HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–518 Filed 1–7–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–9005–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—Second Quarter, 1999

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice lists HCFA manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published during April, May, and June of 1999, relating to the Medicare and Medicaid programs. This notice also identifies certain devices with investigational device exemption numbers approved by the Food and Drug Administration that potentially may be covered under Medicare.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, we are also including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this timeframe.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons.

Questions concerning Medicare items in Addendum III may be addressed to Bridget Wilhite, Office of Communications and Operations Support, Division of Regulations and Issuances, Health Care Financing Administration, C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–5248.

Questions concerning Medicaid items in Addendum III may be addressed to Betty Stanton, Center for Medicaid State Operations, Policy Coordination and Planning Group, Health Care Financing Administration, S2–26–13, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–3247.

Questions concerning Food and Drug Administration-approved investigational device exemptions may be addressed to Sharon Hippler, Office of Clinical Standards and Quality, Coverage and Analysis Group, Health Care Financing Administration, C4–11–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–4633.

Questions concerning all other information may be addressed to Trenesha Fultz, Office of Communications and Operations Support, Division of Regulations and Issuances, Health Care Financing Administration, C5–12–08, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–3822.

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare and Medicaid programs. These programs pay for health care and related services for 39 million Medicare beneficiaries and 35 million Medicaid recipients. Administration of these programs involves (1) furnishing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public and (2) effective communications with regional offices, State governments, State Medicaid Agencies, State Survey Agencies, various providers of health care, fiscal intermediaries and carriers that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act). We also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the 3-month time frame.

II. How to Use the Addenda

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, substantive and interpretive regulations, or Food and Drug Administration-approved investigational device exemptions published during the timeframe to determine whether any are of particular interest. We expect it to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) published in 1988, and the notice published March 31, 1993 (58 FR 16837). Those desiring information on the Medicare Coverage Issues Manual may wish to review the August 21, 1989 publication (54 FR 34555).

To aid the reader, we have organized and divided this current listing into five addenda:

- Addendum I lists the publication dates of the most recent quarterly listings of program issuances.
- Addendum II identifies previous **Federal Register** documents that contain a description of all previously published HCFA Medicare and Medicaid manuals and memoranda.
- Addendum III lists a unique HCFA transmittal number for each instruction in our manuals or Program Memoranda and its subject matter. A transmittal may consist of a single instruction or many. Often, it is necessary to use information in a transmittal in conjunction with information currently in the manuals.
- Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarter covered by this notice. For each item we list the—

—Date published;

—**Federal Register** citation;

—Parts of the Code of Federal Regulations (CFR) that have changed (if applicable);

—Agency file code number;

—Title of the regulation;

—Ending date of the comment period (if applicable); and

—Effective date (if applicable).

- Addendum V includes listings of the Food and Drug Administration-approved investigational device exemption numbers that have been approved or revised during the quarter covered by this notice. On September 19, 1995, we published a final rule (60 FR 48417) establishing in regulations at 42 CFR 405.201 *et seq.* that certain devices with an investigational device exemption approved by the Food and Drug Administration and certain services related to those devices may be covered under Medicare. It is our practice to announce all investigational device exemption categorizations, using the investigational device exemption numbers the Food and Drug Administration assigns. The listings are organized according to the categories to which the device numbers are assigned (that is, Category A or Category B, and identified by the investigational device exemption number).

III. How to Obtain Listed Material

A. Manuals

Those wishing to subscribe to program manuals should contact either

the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses:

Superintendent of Documents, Government Printing Office, ATTN: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or

National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell. Additionally, all manuals are available at the following Internet address: http://www.hcfa.gov/pubforms/progman.htm.

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is also available on 24x microfiche and as an online database through GPO Access. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/nara/index.html, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

C. Rulings

We publish rulings on an infrequent basis. Interested individuals can obtain copies from the nearest HCFA Regional Office or review them at the nearest regional depository library. We have, on occasion, published rulings in the **Federal Register**. Rulings, beginning with those released in 1995, are available online, through the HCFA Home Page. The Internet address is http://www.hcfa.gov/regs/rulings.htm.

D. HCFA's Compact Disk-Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD–ROM and may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD–ROM disk:

- Titles XI, XVIII, and XIX of the Act.
- HCFA-related regulations.
- HCFA manuals and monthly revisions.
- HCFA program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 1995. (Updated titles of the Social Security Laws are available on the Internet at http://www.ssa.gov/OP Home/ssact/comp-toc.htm.) The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual (SOM), as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future and, with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

IV. How to Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most Federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library.

Superintendent of Documents numbers for each HCFA publication are shown in Addendum III, along with the HCFA publication and transmittal numbers. To help FDLs locate the materials, use the Superintendent of Documents number, plus the HCFA transmittal number. For example, to find the Intermediary Manual, Part 1–Fiscal Administration (HCFA Pub. 13–1) transmittal entitled ''General,'' use the Superintendent of Documents No. HE 22.8/6–3 and the HCFA transmittal number 129.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: December 21, 1999.

Elizabeth Cusick,

Director, Office of Communications and Operations Support.

Addendum I

This addendum lists the publication dates of the most recent quarterly listings of program issuances.

June 4, 1998 (63 FR 30499)
August 11, 1998 (63 FR 42857)
September 16, 1998 (63 FR 49598)
December 9, 1998 (63 FR 67899)
May 11, 1999 (64 FR 25351)
November 2, 1999 (64 FR 59185)
December 7, 1999 (64 FR 68357)

Addendum II

Description of Manuals, Memoranda, and HCFA Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the Medicare Coverage Issues Manual was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992 (57 FR 47468).

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS

[April 1999 through June 1999]

Trans. No.		Manual/Subject/Publication No.
		Intermediary Manual **Part 1—Fiscal Administration** **(HCFA Pub. 13–1)** **(Superintendent of Documents No. HE 22.8/6–3)**
129	•	General. Instructions for Completing the HCFA–750A/B, Contractor Financial Reports. Due Date. Certification. Instructions for Completing the HCFA–751A/B, Status of Accounts Receivable. Line Item Instructions.
		Intermediary Manual **Part 2—Audits-Reimbursements Program Administration** **(HCFA Pub. 13–2)** **(Superintendent of Documents No. HE 22.8/6–2)**
412	•	List of Medical Review Codes, Categories, and Conversion Factors.
		Intermediary Manual **Part 3—Claims Process** **(HCFA Pub. 13–3)** **(Superintendent of Documents No. HE 22.8/6)**
1773	•	Screening Pap Smears and Screening Pelvic Examinations.
1774	•	Prostate Cancer Screening Tests and Procedures.
1775	•	Transmittal 1775 was omitted from the sequence and will never be released.
1776	•	HCFA Common Procedure Coding System for Hospital Outpatient Radiology Services and Other Diagnostic Procedures.
1777	•	Payment for Blood Clotting Factor Administered to Hemophilia Inpatients.
		Carriers Manual **Part 1—Fiscal Administration** **(HCFA Pub. 14–1)** **(Superintendent of Documents No. HE 22.8/7–2)**
123	•	General. Instructions for Completing the HCFA–750B, Contractor Financial Reports. Due Date. Certification. Instructions for Completing the HCFA–751A/B, Status of Accounts Receivable. Line Item Instructions.
		Carriers Manual **Part 3—Claims Process** **(HCFA Pub. 14–3)** **(Superintendent of Documents No. HE 22.8/7)**
1631	•	Area Carrier-Supplier's Services.
1632	•	Correct Coding Initiative.
1633	•	Positron Emission Tomography Scans.
	.....	Conditions of Coverage of Positron Emission Tomography Scans for Recurrence of Colorectal Cancer, Staging and Characterization of Lymphoma, and Recurrence of Melanoma.
		Billing Requirements for Positron Emission Tomography Scans.
	.....	HCFA Common Procedure Coding System and Modifiers for Positron Emission Tomography Scans.
		Claims Processing Instructions for Positron Emission Tomography Scan Claims.
1634	•	Pancreas Transplants. Billing for Pancreas Transplants.
1635	•	Transmittal number 1635 was omitted from the sequence and will never be released.
1636	•	Chiropractors.
1637	•	Prostate Cancer Screening Tests and Procedures.
1638	•	Colorectal Cancer Screening.
1639	•	Private Contracts Between Beneficiaries and Physician/Practitioners. General Rules of Private Contracts. Effective Date of the Opt Out Provision. Definition of Physician/Practitioners. When a Physician or Practitioner Opts Out of Medicare. Definition of a Private Contract. Physician or Practitioner Who Has Never Enrolled in Medicare. The Relationship Between This Provision and Medicare Participation Agreements. Participating Physicians and Practitioners. Physicians or Practitioners Who Choose to Opt Out of Medicare.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[April 1999 through June 1999]

Trans. No.		Manual/Subject/Publication No.
		Maintaining Information on Opt Out Physicians. Informing Managed Care Plans Who the Opt Out Physicians or Practitioners Are. Informing the National Supplier Clearinghouse Who the Opt Out Physicians or Practitioners Are. Organizations that Furnish Physician or Practitioner Services. Private Contracting Rules When Medicare is the Secondary Payer. System Identification. Emergency and Urgent Care Situations. Denial of Payment to Employers of Opt Out Physicians and Practitioners. Denial of Payment to Beneficiaries and Others. Payment of Medically Necessary Services Ordered or Prescribed By an Opt Out Physician or Practitioner. Mandatory Claims Submission. Claims Denial Notices to Opt Out Physicians and Practitioners. Claims Denial Notices to Beneficiaries. Effect of Beneficiary Agreements Not to Use Medicare Coverage. When Payment May Be Made to a Beneficiary for Service of an Opt Out Physician or Practitioner. Requirements of a Private Contract. Requirements of the Opt Out Affidavit. Failure to Properly Opt Out. Failure to Maintain Opt Out. Actions to be Taken in Cases of Failure to Maintain Opt Out. Non-Participating Physicians or Practitioners Who Opt Out of Medicare. Excluded Physicians and Practitioners. Relationship to Non-Covered Services. The Difference Between Advance Beneficiary Notices. Registration and Identification of Physicians or Practitioners Who Opt Out. Definition of Emergency and Urgent Care Situations. Renewal of Opt Out. Early Termination of Opt Out. Appeals. Application to Medicare+Choice Contracts. Reporting.
1640	•	Bone Mass Measurements.
1641	•	Medicare Participating Physician or Supplier Agreement.
		Carriers Manual Part 4—Professional Relations (HCFA Pub. 14–4) (Superintendent of Documents No. HE 22.8/7)
21	•	Appeals.
		Program Memorandum Intermediaries (HCFA Pub. 60A) (Superintendent of Documents No. HE 22.8/6–5)
A–99–13	•	Reopenings for Sole Community Hospital and Medicare Dependent Hospital Cost Reports Due to the Change to the Cost Report Instructions in Calculating the Hospital-Specific Amount on Form HCFA–2552–96 and Form HCFA–2552–92.
A–99–14	•	Positron Emission Tomography Scans.
A–99–15	•	Cryosurgery of the Prostate Gland.
A–99–16	•	Claims Processing Instructions for Pancreas Transplantation.
A–99–17	•	Claims Processing Instructions for Cost Outlier Bills With Benefits Exhausted.
A–99–18	•	Clarification of Provider Cost Report Filing Requirements.
A–99–19	•	Removal of Edits Requiring Providers to Submit Home Health Claims in Sequence.
A–99–20	•	Payment Safeguard Review of Skilled Nursing Facility Prospective Payment Bills.
A–99–21	•	Claims Processing Instructions for Hospice Claims Received Out of Sequence.
A–99–22	•	Intermediary Review of Hospital Admission Questionnaires.
A–99–23	•	Managed Care Electronic Data Interchange Enrollment Form.
A–99–24	•	Policy Clarifications: Provider-Based Designation.
A–99–25	•	Extended Repayment Schedules for Home Health Agencies Affected by the Interim Payment System.
A–99–26	•	Extension of Due Date for Filing Provider Cost Reports.
A–99–27	•	Home Health Agency Surety Bond Requirements.
A–99–28	•	Surety Bonds From Home Health Agencies.
A–99–29	•	Provider Education Information for Home Health Agencies—Regional Home Health Intermediaries Only.
A–99–30	•	Provider Education Information for Home Health Agencies—Regional Home Health Intermediaries Only.
		Program Memorandum Carriers (HCFA Pub. 60B) (Superintendent of Documents No. HE 22.8/6–5)
B–99–13	•	Changes to Correct Coding Edits, Version 5.2, Effective July 1, 1999.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[April 1999 through June 1999]

Trans. No.	Manual/Subject/Publication No.
B–99–14	• Reviewing Reassignment Agreements of Five or More.
B–99–15	• Returns From Year 2000 Mailing.
B–99–16	• Discontinuing the Use of Modifiers for Processing of Claims for Nurse Practitioners, Physician Assistants, and Clinical Nurse Specialists.
B–99–17	• Establishment of Temporary National Modifiers to Allow Monitored Anesthesia Care for Complex, Complicated, or Markedly Invasive Surgical Procedures and for At Risk Patients.
B–99–18	• Adjustment in Payment Amounts for New Technology Intraocular Lenses Furnished by Medicare Approved Ambulatory Surgical Centers.
B–99–19	• Extraction of HCFA Form-484 Certificate of Medical Necessity Data.
B–99–20	• Durable Medical Equipment Regional Carriers Processing Claims When a Chiropractor is the Supplier.
B–99–21	• Establishment of Four Temporary National ''K'' Codes as Part of Planned Changes to the Durable Medical Equipment Regional Carriers Medical Review Policy on Respiratory Assist Devices.
B–99–22	• Correction of the Published National Standard Format Mapping for Remittance Advice.
B–99–23	• Issues Involving Certificates of Medical Necessity and Cover Letters for Certificates of Medical Necessity.
B–99–24	• Changes to the 1999 Medicare Physician Fee Schedule Database.
B–99–25	• Billing for Mammography Screening: Delay in Carrier Implementation and Coding Clarification—Implementation of the GH Modifier.
B–99–26	• Claims Processing Instructions for Cryosurgery of the Prostate Gland.
B–99–27	• Consent Settlement for Medical Review Audits.
B–99–28	• Correction to Change Request 888 to Provide Changes to the 1999 Medicare Physician Fee Schedule Database.
	Program Memorandum Intermediaries/Carriers (HCFA Pub. 60A/B) (Superintendent of Documents No. HE 22.8/6–5)
AB–99–12	• Coverage of Testing for Hepatitis C in Patients Exposed to Infected Blood.
AB–99–13	• Notification to Medicare Providers and Suppliers of Beneficiary Right to an Itemized Statement.
AB–99–14	• New Waived Tests.
AB–99–15	• Medicare Coverage of Abortion Services.
AB–99–16	• Changes to the FY 1999 Hospital Inpatient Operating Prospective Payment System Wage Index Geographic and Standardized Amounts, and Capital Prospective Payment System Adjustment Factors and Federal Rates.
AB–99–17	• Extension of the Limitation on Payment for Services to Individuals Entitled to Benefits on the Basis of End Stage Renal Disease Who Are Covered by Group Health Plans.
AB–99–18	• Promoting Influenza and Pneumococcal Vaccinations.
AB–99–19	• Expanded Implementation of the Office of the Inspector General's Fraud Hotline Number on Medicare Beneficiary Notices, Effective July 1, 1999.
AB–99–20	• Limited Medicare Coverage and Billing Instructions for Enhanced External Counterpulsation.
AB–99–21	• Claims Processing Instructions for Hyperbaric Oxygen Therapy.
AB–99–22	• Transmyocardial Revascularization for Treatment of Severe Angina.
AB–99–23	• Reimbursement for Ambulance Services to Non-hospital-Based Dialysis Facilities.
AB–99–24	• Y2K—Data Match/MPARTS Mailout Record Layout.
AB–99–25	• Beneficiary Right to Itemized Statement.
AB–99–26	• Procedures for Write-Off and Adjustment/Reclassification of Medicare Contractor NON-Medicare Secondary Payer Accounts Receivable.
AB–99–27	• Implementation of Calendar Year 2000 Fee Schedules and Pricing Updates.
AB–99–28	• HCFA–1522, Monthly Contractor Financial Report, Reconciliation.
AB–99–29	• Notice of New Interest Rate for Medicare Overpayments and Underpayments.
AB–99–30	• Implementation of § 4105 of the Balanced Budget Act Regarding Coverage of Diabetes Outpatient Self-Management Training Services.
AB–99–31	• Assisted Suicide Funding Restriction Act of 1997 (P.L. 105–12).
AB–99–32	• Claims Processing Instructions for Hyperbaric Oxygen Therapy.
AB–99–33	• Tracking and Reporting Procedures for Unsolicited/Voluntary Refund Checks from Providers/Suppliers-Interim Instructions.
AB–99–34	• Intermediary and Carrier Billing and Claims Processing Instructions for Magnetic Resonance Angiography.
AB–99–35	• Current Status of Medicare Program Memoranda Issued Before Calendar Year 1999.
AB–99–36	• Reserved for Y2K Contingency Planning Instructions.
AB–99–37	• Reserved for Y2K Contingency Planning Instructions.
AB–99–38	• Reserved for Y2K Contingency Planning Instructions.
AB–99–39	• Reserved for Y2K Contingency Planning Instructions.
AB–99–40	• Reserved for Y2K Contingency Planning Instructions.
AB–99–41	• Reserved for Y2K Contingency Planning Instructions.
AB–99–42	• Reserved for Y2K Contingency Planning Instructions.
AB–99–43	• Reserved for Y2K Contingency Planning Instructions.
AB–99–44	• Reserved for Y2K Contingency Planning Instructions.
AB–99–45	• Reserved for Y2K Contingency Planning Instructions.
AB–99–46	• Coverage of Diabetes Outpatient Self-Management Training Services, Effective: July 1, 1998.
AB–99–47	• New Waived Tests—Effective Date of Receipt.
AB–99–48	• Medicare Secondary Payer Denial Indicator and the Source Code Changes.
AB–99–49	• Medicare Travel Allowance Fees for Collection of Specimens.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[April 1999 through June 1999]

Trans. No.		Manual/Subject/Publication No.
		Program Memorandum **Medicaid State Agencies** **(HCFA Pub. 17)** **(Superintendent of Documents No. HE 22.8/6–5)**
99–2	•	Current Status of Medicaid Program Memoranda and Action Transmittals Issued Before Calendar Year 1999.
99–3	•	Title XIX of the Social Security Act, Elimination of Waste, Fraud and Abuse.
		Program Memorandum **Regional Offices—Standards and Certification** **(HCFA Pub. 54)** **(Superintendent of Documents No. HE 22.28/5:90–1)**
99–1	•	Civil Monetary Penalty Collection Procedures.
		State Operations Manual **Provider Certification** **(HCFA Pub. 7)** **(Superintendent of Documents No. HE 22.8/12)**
8	•	Resident Assessment in Long Term Care Facilities.
9	•	Medicare Rural Hospital Flexibility Program.
		Peer Review Organization Manual **(HCFA Pub. 19)** **(Superintendent of Documents No. HE 22.8/8–15)**
71	•	Critical Access Hospital Acute Care Inpatient Stays Review.
72	•	Introduction. Staffing Functions. Mandatory System Use. Operations. Communication. Confidentiality of System. Applicable Documentation. Process for Moving. Standard Data Processing System Engineering Review Board Process-Approved Software and Hardware. Hardware Maintenance Process. Standard Data Processing System Data Management Plan.
73	•	Request for Information Model Cover Letter. Request for Information Model Form. Final Response to Inquirer Model Notice (Concern Involved Practitioner). Final Response to Inquirer Model Notice (Concern Involved Provider (Facility)). Beneficiary Complaint Timetable for Retrospective Review (Fee-for-Service and Managed Care).
		Beneficiary Complaint Timetable for Concurrent Review (Fee-for-Service and Managed Care).
		Hospital Manual **(HCFA Pub. 10)** **(Superintendent of Documents No. HE 22.8/2)**
742	•	Screening Pap Smears and Screening Pelvic Examinations.
743	•	Payment for Blood Clotting Factor Administered to Hemophilia Inpatients.
744	•	Coding for Adequacy of Hemodialysis.
		End Stage Renal Disease **Network Organizations Manual** **(HCFA Pub. 81)** **(Superintendent of Documents No. HE 22.9/4)**
9	•	Background. Definition. Requirements. Disagreements. HCFA Office of Clinical Standards and Quality Requirements. Statutory and Regulatory Requirements. Office of Management and Budget Clearance. Items Not Subject to Office of Management and Budget Clearance. Request for Exception from Office of Management and Budget Review. Survey Justification and Methods. Additional Considerations. Documentation for HCFA.

ADDENDUM III.—MEDICARE AND MEDICAID MANUAL INSTRUCTIONS—Continued

[April 1999 through June 1999]

Trans. No.		Manual/Subject/Publication No.
		Coverage Issues Manual (HCFA Pub. 6) (Superintendent of Documents No. HE 22.8/14)
109	•	Cardiac Output Monitoring by Electrical Bioimpedance. Prostate Cancer Screening Tests.
110	•	Transmyocardial Revascularization for Treatment of Severe Angina. Cryosurgery of the Prostate.
111	•	Enhanced External Counterpulsation.
112	•	Hyberbaric Oxygen Therapy.
113	•	Positron Emission Tomography Scans.
114	•	Vagus Nerve Stimulation for the Treatment of Seizures.
115	•	Pancreas Transplants. Implantation of Automatic Defibrillators.
116	•	Home Use of Oxygen.
117	•	Magnetic Resonance Angiography.
		Provider Reimbursement Manual—Part 2 Provider Cost Reporting Forms and Instructions Chapter 36—Form HCFA–2552–96 (HCFA Pub. 15–2–36) (Superintendent of Documents No. HE 22.8/4)
5	•	Hospital and Hospital Health Care Complex Cost Reporting Form.
		Provider Reimbursement Manual—Part 2 Provider Cost Reporting Forms and Instructions Chapter 38—Form HCFA–1984–99 (HCFA Pub. 15–2–38) (Superintendent of Documents No. HE 22.8/4)
1	•	Hospice Cost Reporting Form.
		Medicare/Medicaid Sanction—Reinstatement Report (HCFA Pub. 69)
99–3	•	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated-February 1999.
99–4	•	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated-March 1999.
99–5	•	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated-April 1999.
99–6	•	Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated-May 1999.

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER

Publication Date	FR Vol. 64 Page	CFR [1] Part(s)	File Code [2]	Regulation title	End of comment period	Effective date
04/08/99	17184–17185	.....	HCFA–1071–N	Medicare Program; April 23, 1999, Open Town Hall Meeting to Discuss the Skilled Nursing Facility Prospective Payment System (SNF/PPS) and Quality of Care in Nursing Facilities.	.....	
04/26/99	21196–21301	21 CFR Ch. 1; 42 CFR Chs. I–V; and 45 CFR Subtitle A, Chs. II, III, and XIII.	.....	Unified Agenda of Federal Regulatory and Deregulatory Actions.	.....	
04/27/99	22619–22626	.....	HCFA–3432–GN	Medicare Program; Procedures for Making National Coverage Decisions.	.....	06/28/99
05/03/99	23653–23654	.....	HCFA–1101–N2	Medicare Program; Meetings of the Competitive Pricing Demonstration Area Advisory Committee, Maricopa County, AZ.	.....	

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER—Continued

Publication Date	FR Vol. 64 Page	CFR [1] Part(s)	File Code [2]	Regulation title	End of comment period	Effective date
05/07/99	24550–24551	42 CFR Part 405.	HCFA–1002–N	Medicare Program; Meetings of the Negotiated Rulemaking Committee on Ambulance Fee Schedule.	.....	
05/07/99	24716–24864	412, 413, 483, and 485.	HCFA–1053–N	Medicare Program; Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 2000 Rates.	07/06/99.	
05/10/99	24956–24957	498	HCFA–3139–F	Medicare Program and Medicaid Programs; Effective Dates of Provider Agreements and Supplier Approvals; Correction.	.....	09/17/97
05/11/99	25351–25359	.....	HCFA–9000–N	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances-Third Quarter, 1998.		
05/12/99	25456–25460	405, 410, 413, 414, 415, 424, and 485.	HCFA–1006–CN	Medicare Program; Revisions to Payment Policies and Adjustments to the Relative Value Units Under the Physician Fee Schedule for Calendar Year 1999; Correction.	.....	01/01/99
05/14/99	26426–26427	.....	HCFA–1072–N	Medicare Program; June 14, 1999, Meeting of the Practicing Physicians Advisory Council.		
05/28/99	29186–29188	45 CFR Subtitle A.	.....	Coverage for Breast Reconstruction and Related Services After a Mastectomy.	06/28/99.	
06/04/99	30042–30043	.....	HCFA–1075–N	Medicare Program; June 25, 1999, Public Meeting To Discuss the Payment Classification for Respiratory Assist Devices.		
06/09/99	31006–31007	.....	HCFA–1080–N	Medicare Program; Meeting of the Competitive Pricing Demonstration Area Advisory Committee, Maricopa County, AZ.		
06/10/99	31281–31282	.....	HCFA–1081–N	Medicare Program; June 24, 1999, Meeting of the Competitive Pricing Advisory Committee and the Area Advisory Committee for the Kansas City Metropolitan Area.		
06/15/99	31995–32021	412, 413, 483, and 485.	HCFA–1053–CN	Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2000 Rates; Correction.		
06/16/99	32198–32206	416	HCFA–3831–F	Medicare Program; Adjustment in Payment Amounts for New Technology Intraocular Lenses Furnished by Ambulatory Surgical Centers.	.....	07/16/99
06/18/99	32881–32886	.....	HCFA–2039–FN	Medicare Program; Recognition of the Joint Commission for Accreditation of Healthcare Organizations (JCAHO) for Hospices.	.....	06/18/99–06/18/03
06/18/99	32983–32991	.....	HCFA–3020–N	Medicare and Medicaid Programs; Mandatory Use, Collection, Encoding, and Transmission of Outcome and As sessment Information Set (OASIS) for Home Health Agencies.	.....	07/19/99

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER—Continued

Publication Date	FR Vol. 64 Page	CFR [1] Part(s)	File Code [2]	Regulation title	End of comment period	Effective date
06/18/99	32992–32998	.....	.....	Privacy Act of 1974; Report of New System.	.....	06/18/99 or 07/28/99
06/22/99	33314–33315	.....	HCFA–1081–2N	Medicare Program; Cancellation of the June 24, 1999, Meeting of the Competitive Pricing Advisory Committee and the Area Advisory Committee for the Kansas City Metropolitan Area.		
06/30/99	35257–35513	409, 410, 411, 412, 413, 419, 489, 498, and 1003.	HCFA–1005–CN	Medicare Program; Prospective Payment for Hospital Outpatient Services; Correction; Proposed Rule.		

[1] 42 CFR except where noted.
[2] N—General Notice; PN—Proposed Notice; NC—Notice with Comment Period; FN—Final Notice; P—Notice of Proposed Rulemaking (NPRM); F—Final Rule; FC—Final Rule with Comment Period; CN—Correction Notice; IFC—Interim Final Rule with Comment Period; GNC—General Notice with Comment Period.

Addendum V

Categorization of Food and Drug Administration—Allowed Investigational Device Exemptions

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c), devices fall into one of three classes. Also, under the new categorization process to assist HCFA, the Food and Drug Administration assigns each device with a Food and Drug Administration-approved investigational device exemption to one of two categories. To obtain more information about the classes or categories, please refer to the **Federal Register** notice published on April 21, 1997 (62 FR 19328).

The following information presents the device number, category (in this case, A), and criterion code.

G940094 A1
G940156 A1
G970104 A1
G970204 A1
G980179 A2
G980283 A1
G990056 A1
G990062 A2
G990071 A1

The following information presents the device number, category (in this case, B), and criterion code.

G980237 B2
G980258 B2
G980317 B1
G980329 B2
G990002 B2
G990013 B2
G990018 B2
G990027 B3
G990059 B3
G990063 B4
G990065 B4
G990072 B1
G990073 B
G990079 B2
G990081 B3
G990082 B2
G990086 B4
G990087 B4
G990088 B2
G990090 B4
G990091 B4
G990093 B2
G990095 B4
G990096 B3
G990098 B4
G990099 B2
G990106 B2
G990109 B4
G990115 B3
G990117 B1
G990119 B4
G990136 B3

[FR Doc. 00–505 Filed 1–7–00; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4565–N–04]

Notice of Proposed Information Collection: Comment Request; Request for Occupied Conveyance

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

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 10, 2000.

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; Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Plaza Building, Room 8202, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Joseph McCloskey, Director, Single Family Asset Management, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 708–1672 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Request for occupied Conveyance.

OMB Control Number, if applicable: 2502–0268.

Description of the need for the information and proposed use: This information is needed to provide information to HUD to determine if the occupant is financially able to pay the fair market rent and/or whether a member of the immediate family residing in the residence suffers from a temporary, permanent or long-term illness or injury which would be aggravated by the process of moving. HUD personnel use this information to base its determination as whether to approve a deny occupied conveyance.

Agency Form Numbers, if applicable: HUD–9539.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total number of hours needed to prepare the information collection is 17,388, number of respondents is 11,025, frequency response is one-time, and the hours per response is .50.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: December 30, 1999.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 00–441 Filed 1–7–00; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4565–N–03]

Notice of Proposed Information Collection: Comment Request; Reporting Requirements Associated with 24 CFR 203.508b and 235.1001 Providing Information

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

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 10, 2000.

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: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Plaza Building, Room 8202, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Joseph McCloskey, Director, Asset Management Division, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 708–1672 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Reporting Requirements Associated with 24 CFR 203.508b and 235.1001—Providing Information.

OMB Control Number, if applicable: 2502–0235.

Description of the need for the information and proposed use: The purpose of this notice is to reinstate the use of 24 CFR 203.508b and 24 CFR 235.1001. The requirements of 24 CFR 203.508b state, in part, that ''all mortgagors must be informed by the mortgagees of the system available to them on loan inquiries on their mortgages and they must be reminded of the system at least annually.'' The requirements of 24 CFR 235.101 state, in part, that ''mortgagees must provide to the mortgagor an annual statement of interest paid and taxes disbursed and shall include an accounting of the total amount of assistance payments paid by HUD and applied to the mortgagor's account during the preceding year.''

Agency form numbers, if applicable: N/A.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Public reporting burden for this collection of information is estimated to average 0.25 hours per response, the number of respondents is 12,000, frequency of response is annually, and the total burden hours are 3,000.

Status of the proposed information collection: Reinstatement of a previously approved information collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: December 30, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–442 Filed 1–7–00; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4565–N–02]

Notice of Proposed Information Collection: Comment Request; Application for Insurance and Advance of Mortgage Proceeds

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

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 10, 2000.

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: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Building, Room 8202, Washington, DC 20410, telephone (202) 708–5221 (this is not a toll-free number)

for copies of the proposed forms and other available information.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Multifamily Housing, Office of Business Products, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone (202) 708–3944 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permiting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application for Insurance of Advance of Mortgage Proceeds.

OMB Control Number, if applicable: 2502–0097.

Description of the need for the information and proposed use: The collection of application for insurance of advance of mortgage proceeds is necessary to authorize the insurance of mortgages proceeds is necessary to authorize the insurance of mortgages (including but not being limited to advances during construction) on real estate or qualifying property. Sections 207, 213, 220, 221, 231, 232, 234(d), 236, 241, 242 and 810 of the National Housing Act, P.L. 479 48 Stat. 1246, 12 U.S.C. 1701 *et seq.,* reference the required regulations for the above mentioned application.

Agency form numbers, if applicable: HUD–92403.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents are 5,000, the frequency of responses is on occasion, the total annual responses are 5,000, and the estimated annual burden hours requested is 1,000 hours.

Status of the proposed information collection: Reinstatement with change.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: December 28, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–443 Filed 1–7–00; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4565–N–01]

Notice of Proposed Information Collection: Comment Request; Single Family Property Disposition and Acquisition (Conveyance) of Mortgaged Properties

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

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the paperwork Reduction Act. The Department is soliciting public comments on the subject proposed.

DATES: Comments Due Date: March 10, 2000.

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: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Building, Room 8202, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Joe McCloskey, Director, Single Family Asset Management, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 708–1672 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended)

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Single Family Property Disposition and Acquisition (Conveyance) of Mortgaged Properties.

OMB Control Number, if applicable: 2502–0306.

Description of the need for the information and proposed use: These information collections are needed to determine the condition of the property upon conveyance, to determine the results of the repair contracts, and to monitor the contractor's performance in maintaining the properties. The sales contracts will be used as binding contracts between the purchaser and HUD. Respondents are potential contractors, contractors who work for HUD, potential and actual purchasers of HUD-owned properties.

Agency Form Numbers, if applicable: HUD–9516A, 9519, 9519A, 9544, 9548, 9548A, 9548B, 9548C, and 9733.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 45,000 the total annual responses are 717,100, and the total annual hours of response are estimated at 249,590 based on approximately .50 hours per response.

Status of the proposed information collection: Revisision.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: January 3, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–444 Filed 1–7–00; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–200–00–1020–00]

Science Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of Land Management (BLM) announces a public meeting of the Science Advisory Board to examine the use of science for improving the management of the Nation's public lands and resources. Topics of discussion will include the Bureau's fire suppression program, the joint fire science research program, the Great Basin restoration initiative, and post-fire rehabilitation and rangeland restoration.

DATES: BLM will hold the public meeting on Wednesday, February 16, 2000, from 8 a.m. to 5 p.m. local time.

ADDRESSES: BLM will hold the public meeting in the Payette Clear Water Room at the National Interagency Fire Agency's Training Center, 3833 South Development Avenue, Boise, Idaho 83705–5354.

FOR FURTHER INFORMATION CONTACT: Lee Barkow, Bureau of Land Management Denver Federal Center, Building 50, P.O. Box 25047, Denver, CO 80225–0047, (303) 236–6454.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Public Law 92–463).

I. The Agenda for the Public Meeting is as Follows

8:00 a.m.
Welcome, Introductions
Review Minutes of Previous Meeting
8:30 a.m.
Report from BLM Assistant Director
9:00 a.m.
Overview of the BLM Fire Suppression Program Needs and Opportunities for the Integration of Science
10:00 a.m. The Joint Fire Science Program: Congressional Origin and Mission; Fire Research Solicitation and Award Process; Summary of Current Research and Preliminary Results; Fire Fuels Photo Series Research Project
12:15 a.m. Working Lunch: A State Director's View of Fire Suppression and Fire Rehabilitation and A Departmental Perspective of Fire Suppression and Fire Rehabilitation
1:30 p.m. Rehabilitation and Restoration in the Great Basin: Great Basin Restoration Initiative; Wildfire Rehabilitation: Past and Present; Regional Seed Acquisition and Storage
3:30 p.m. Round Table Discussion Regarding the Science of Rangeland Restoration and Post Fire Rehabilitation
5:00 p.m. Adjourn

II. Public Comment Procedures

Participation in the public meeting is not a prerequisite for submittal of written comments from all interested parties. Your written comments should be specific and explain the reasons for any recommendation. The BLM appreciates any and all comments, but those most useful and likely to influence decisions on BLM's use of science are those that are either supported by quantitative information or studies, or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, commenters should submit two copies of their written comments, where practicable. The BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, we intend to make them available in their entirety, including your name and address (or your e-mail address if you file electronically). However, if you do not want us to release your name and address (or e-mail address) in response to a FOIA request, you must state this prominently at the beginning of your comment. We will honor your wish to the extent allowed by the law. All submissions from organizations or business, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be in their entirety, including names and addresses (or e-mail addresses).

Electronic Access and Filing Address: Commenters may transmit comments electronically via the Internet to: lee barkow@blm.gov. Please include the identifier ''Science4'' in the subject of your message and your name and address in the body of your message.

III. Accessibility

The meeting sites are accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the hearing, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the schedule hearing date. Although BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Dated: January 4, 2000.

Lee Barkow,

Director, National Applied Resource Sciences Center.

[FR Doc. 00–439 Filed 1–7–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ES; N–65761]

Notice of Realty Action: Lease/Purchase, for Recreation and Public Purposes in White Pine County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described public land in White Pine County has been identified and examined and will be classified under Section 7 of the Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315f), as amended (43 U.S.C. 869 *et seq.*). The described lands are hereby classified as suitable for lease/purchase under the authority of Section 212 of the Act of October 21, 1976; 43 U.S.C. 1761.

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Assistant Field Manager, Nonrenewable Resources.

ADDRESSES: Written comments should be addressed to: Bureau of Land Management, Gene L. Drais, Assistant Field Manager, Nonrenewable Resources, HC 33, Box 33500, Ely, NV 89301–9408.

FOR FURTHER INFORMATION CONTACT: Brenda Linnell, Realty Specialist, at the above address or telephone (775) 289–1808.

SUPPLEMENTARY INFORMATION: The following described parcel of land, situated in White Pine County is being offered for lease/purchase under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*).

Mount Diablo Meridian, Nevada

T. 12 N., R. 62 E.,
Section 34, S½,NW¼NW¼.
Containing 20 acres more or less.

The lands are hereby classified for public purpose use as school sites and/or other school facilities, 43 CFR 2410, 2430.4 (a) and (c). The White Pine County School District intends to use the land to construct and operate a kindergarten through twelfth grade school for residents in Lund and nearby communities.

The lease and or patent, when finalized, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

2. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

The land is not required for any federal purpose. The classification for lease/purchase is consistent with the Bureau's planning area. Detailed information, concerning this action is available for review at the Bureau Land Management, Ely Field Office, Ely, NV 89301.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all forms of appropriation under the public lands laws, except for recreation and public purposes.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding this action to the Assistant Field Manager, Nonrenewable Resources, at the address listed above. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**.

Dated: November 30, 1999.

Eric K. Luse,

Associate Field Manager.

[FR Doc. 00–573 Filed 1–7–00; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP0–0052; OR–52939]

Amendment of Proposed Withdrawal; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to amend its withdrawal application dated April 17, 1998, by adding 1.4 acres of recently acquired lands from surface entry and mining to protect the facilities and unique values of the Row River Trail. This notice does not alter or extend the 2 year segregative effect of the original notice other than adding the 1.4 acres of Federal land. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: Comments and requests for a public meeting must be received by February 9, 2000.

ADDRESSES: Comments should be sent to the Oregon/Washington State Director, BLM, P.O. Box 2965, Portland, Oregon 97208–2965.

FOR FURTHER INFORMATION CONTACT: Charles R. Roy, BLM Oregon/Washington State Office, 503–952–6189.

SUPPLEMENTARY INFORMATION: On April 17, 1998, a petition/application was approved for consideration by the Assistant Secretary, Lands and Minerals Management, allowing the Bureau of Land Management to study the proposed 196.07 acres of Federal land. A notice of proposed withdrawal was published in the **Federal Register** on May 14, 1998, 63 FR 26824, segregating the public lands from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, subject to valid existing rights, for a period of two years from the date of publication in the **Federal Register**. This notice adds the following described lands to the application:

Willamette Meridian

The portions of the following lands as more particularly identified and described by metes and bounds in the official records of the Bureau of Land Management, Oregon/Washington State Office and the Eugene District Office, Eugene, Oregon:

T. 21 S., R. 3 W.,

Sec. 1, lot 4 and Donation Land Claim No. 60.

Sec. 2, NE¼NE¼.

The areas described aggregate approximately 1.4 acres in Lane County.

The purpose of the proposed withdrawal would be to protect the facilities and unique recreational values of the approximate 14 miles of improved recreational trail converted from an abandoned railroad right-of-way.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed amendment to the withdrawal application may present their views in writing to the State Director at the address indicated above.

The lands added to the original application will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary land uses which may be permitted during this segregative period include licenses, permits, rights-of-way, and disposal of vegetative resources other than under the mining laws.

Dated: December 22, 1999.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 00–515 Filed 1–7–00; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS), Request for Information and Interest in a Commercial Sand and Gravel Lease Sale Offshore Northern New Jersey

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Request for Information and Interest (RFII).

SUMMARY: In 1996, the MMS received a request from a private company for a competitive sand and gravel commercial lease sale offshore northern New Jersey. A RFII was published in the **Federal Register** on May 21, 1996 (Vol. 61, No. 99). The MMS deferred further action, that is, preparing an environmental impact statement (EIS) after the company advised that they were pursuing other sources of sand and gravel. In 1998, and again in 1999, the company requested that MMS end the deferral of the competitive lease sale process and prepare an EIS. Because a significant amount of time has passed, MMS has decided to issue another RFII and to focus the area being considered to a much smaller one than that identified in the 1996 request. This smaller, more focused area reflects comments received on the earlier RFII

and is depicted on the accompanying page-size map.

This RFII is published pursuant to the Outer Continental Shelf Lands Act (OCSLA) as amended (43 U.S.C. 1331–1356 (1988)), and accompanying regulations (30 CFR part 281).

Purpose of the RFII

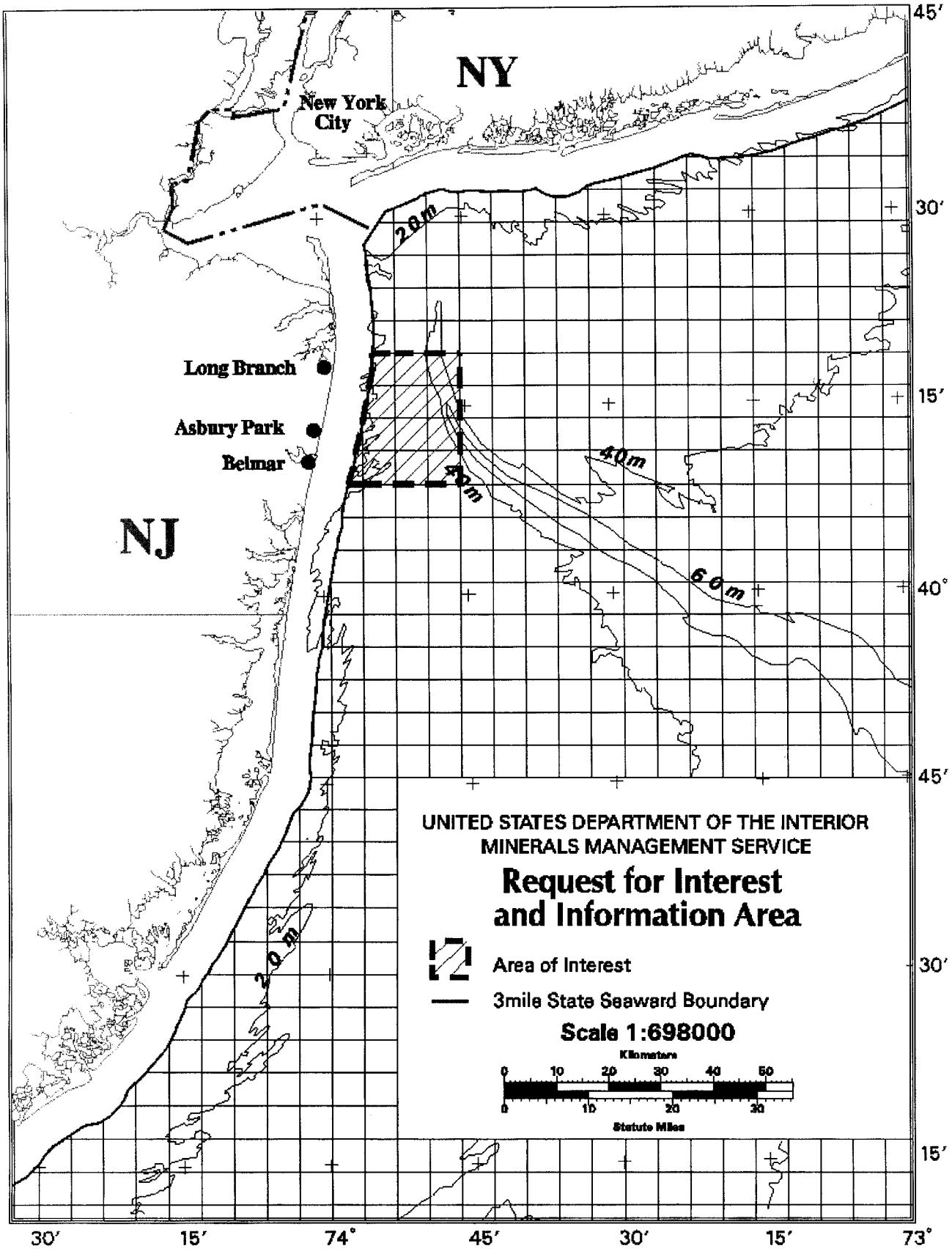
The purpose of the RFII is to gather comments, information and indications of interest from interested parties about a possible commercial sand and gravel lease sale offshore northern New Jersey. This does not mean that a preliminary decision to lease in this area has been made. The MMS would like comments addressing the area identified, including information on: Commercial, navigational, recreational, and multiple-use considerations; Environmental concerns, including information on biological and physical resources; Archaeological resources; and Social and economic issues.

This RFII is one of the early steps in a public-participation process that includes a thorough environmental analysis and compliance with the State's coastal zone management program. If a decision is made to prepare an EIS, the MMS will provide for several additional opportunities for public comment.

Description of the Area

The RFII area is located off the northern coast of New Jersey beginning 3 nautical miles (nm) from shore and extending southward 12 nm from slightly north of Long Branch to slightly south of Belmar. The landward boundary is the 3 nm line separating the Federal OCS and State submerged land jurisdictions. The seaward edge of the area is narrowest on the north (10 nm from shore) and widens slightly on the south (12 nm from shore). The area contains 10 whole OCS blocks and 4 partial blocks. Generally OCS blocks are 9 square miles. A large scale map of the RFII area showing boundaries of the RFII area with numbered blocks is available from MMS at the following address: Minerals Management Service, Division of International Activities and Marine Minerals, 381 Elden Street, Mail Stop 4030, Herndon, VA 22070, Phone: (703) 787–1300, FAX: (703) 787–1284.

BILLING CODE 4310–MR–P



BILLING CODE 4310–MR–C

Relation to Coastal Management Plans

The MMS specifically requests comments on potential conflicts with approved local coastal management plans (CMP) that may result from future commercial sand and gravel mining within the RFII area. We request that you identify specific CMP policies; the types of conflicts you foresee; and possible steps that MMS could take to avoid or mitigate these conflicts. Your comments may address the entire area under consideration or portions of the area. We request that you list block numbers or clearly outline the subject area on the large-scale RFII map.

Areas of Specific Industry Interest

We request that industry respondents indicate specific blocks or areas within the RFII area that are of particular interest for consideration in a possible OCS sand and gravel lease sale. Industry respondents are asked to outline their area(s) of interest on the large-scale RFII map and to submit a list of block numbers nominated (including both whole and partial blocks). Although identities of those indicating interest in specific areas within this RFII become a matter of public record, the blocks that the individual company(s) identifies are considered proprietary information.

Industry respondents should rank areas of specific interest according to priority: 1 (high), 2 (medium), and 3 (low). Areas identified that do not indicate priorities will be considered priority 3. The name and telephone number of a person in the respondent's organization to contact for additional information or clarification should be included in the response.

Commenting Procedures

The MMS must receive your comments, information and/or indications of interest (in envelopes labeled RFII Information (or Indication of Interest)) no later than 90 days following publication of this document in the **Federal Register**. Please submit the RFII map with comments and/or indications of interest to: Minerals Management Service, Division of International Activities and Marine Minerals, 381 Elden Street, Mail Stop 4030, Herndon, VA 22070.

The MMS will hold information meetings on February 28, 2000, from 7 p.m. to 10 p.m., at the Bradley Beach Borough Hall, Bradley Beach, New Jersey, and on February 29, 2000, at the Holiday Inn, 1000 Roosevelt Avenue, Carteret, New Jersey, from 7 p.m. to 10 p.m.

Additional Information

1. The MMS would like to clarify that any possible sand and gravel commercial lease sale within the RFII area will not include any requirements for the end use of the sand and gravel.

2. The MMS will restrict dredging to relatively shallow and uniform depths to preserve ocean bottom topography and promote rapid recolonization of biota in dredged areas. The MMS will prohibit the mining of deep pits for use in the disposal of any material.

3. The MMS has completed an Environmental Report assessing possible consequences associated with using OCS sand for beach nourishment along the U.S. east coast from Northern New Jersey to the Virginia/North Carolina border. A self-contained and separate appendix within the Environmental Report assesses potential environmental impacts of offshore mining for construction aggregate material. The appendix may provide useful information as parties prepare responses to this RFII. The Environmental Report, and the appendix are available through the MMS's internet web-site at www.mms.gov/intermar/marineac.htm.

Use of Responses to the RFII

The MMS will use information in response to this RFII in several ways. First, MMS will use comments on possible environmental impacts and multiple use conflicts to help in our analysis and handling of concerns in and near the RFII area. Based on this information we will make a preliminary determination on the potential advantages and disadvantages of OCS sand and gravel exploration and development within the RFII area and whether to prepare an EIS. Second, MMS will use the responses to identify specific areas within the RFII area that are of interest for potential commercial sand and gravel leasing and development. Third, comments will be used to identify potential conflicts among offshore activities and State or local coastal zone management plans. Finally, comments may be used to develop requirements to ensure safe and environmentally sound activities.

FOR FURTHER INFORMATION CONTACT: Carol A. Hartgen, International Activities and Marine Minerals, (703) 787–1300.

Dated: January 4, 2000.

WC Rosenbusch,

Director, Minerals Management Service.

[FR Doc. 00–434 Filed 1–7–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Delta Drinking Water Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Delta Drinking Water Council will meet on January 27, 2000, to discuss several issues including Fiscal Year 2000 drinking water quality actions and studies. This meeting is open to the public. Interested persons may make oral statements to the Delta Drinking Water Council or may file written statements for consideration.

DATES: The Bay-Delta Advisory Council's Delta Drinking Water Council meeting will be held from 12:00 noon to 3:30 p.m. on Thursday, January 27, 2000.

ADDRESSES: This meeting will meet at the Resources Building, 1416 Ninth Street, Room 1131, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Paul Hutton, CALFED Bay-Delta Program, at (916) 653–9715. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6935 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is

exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advice to CALFED on the program mission, problems to be addressed, and objectives of the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Delta Drinking Water Council to advise the CALFED Program and the CALFED Policy Group through BDAC on necessary adaptations to the Program's Drinking Water Quality Improvement Strategy to achieve CALFED's drinking water objectives.

Minutes of the meeting will be maintained by the Program, 1416 Ninth Street, Suite 1155, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday, within 30 days following the meeting.

Dated: January 4, 2000.

Kirk C. Rodgers,

Deputy Regional Director.

[FR Doc. 00–447 Filed 1–7–00; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

CALFED Bay-Delta Program Policy Group

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Meeting.

SUMMARY: The CALFED Bay-Delta Program Policy Group will meet on January 19, 2000. The agenda for the Policy Group meeting will include discussion of the CALFED Long-Term Water Management Strategy Evaluation Framework. This meeting is open to the public. Interested persons may make oral statements to the CALFED Bay-Delta Program Policy Group or may file written statements for consideration.

DATES: The CALFED Bay-Delta Program Policy Group meeting will be held from 9 a.m. to 5 p.m. on Wednesday, January 19, 2000.

ADDRESSES: This meeting will meet at the Vizcaya, 2019 21st Street, Sacramento, CA 95818.

FOR FURTHER INFORMATION CONTACT: Mary Selkirk, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal Government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the direction of the CALFED Policy Group. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. The CALFED Policy Group provides general policy direction on all aspect of the CALFED Program.

Dated: January 4, 2000.

Kirk C. Rodgers,

Deputy Regional Director.

[FR Doc. 00–448 Filed 1–7–00; 8:45 am]

BILLING CODE 4319–94–M

NUCLEAR REGULATORY COMMISSION

Pilot Program Evaluation Panel; Meeting Notice

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L., 94–463, Stat. 770–776) the U.S. Nuclear Regulatory Commission (NRC) announced the establishment of the Pilot Program Evaluation Panel (PPEP). The PPEP functions as a management-level Oversight group to monitor and evaluate the success of the Commission's Reactor Oversight Process Improvements program. A Charter governing the PPEP functions as a Federal Advisory Committee was filed with Congress on June 30, 1999, after consultation with the Committee Management Secretariat, General Services Administration. The PPEP will hold its forthcoming final meeting on January 13, 2000 at the Renaissance Hotel, 999 Ninth Street, NW, Washington, DC, Phone 202–898–9000. The PPEP meeting will start at 12:30 p.m. following the agency's Pilot Program Lessons Learned Workshop scheduled to start at 12 noon on January 10, 2000, also at the Renaissance Hotel.

The PPEP meeting participants are listed below along with their affiliation:

Frank P. Gillespie—Nuclear Regulatory Commission
Mohan C. Thadani—Nuclear Regulatory Commission
James T. Wiggins—Nuclear Regulatory Commission
Heidi Hahn—LANL
Bruce Mallet—Nuclear Regulatory Commission
Geoffrey Grant—Nuclear Regulatory Commission
Kenneth E. Brockman—Nuclear Regulatory Commission
James Lieberman—Nuclear Regulatory Commission
Steve Floyd—Nuclear Energy Institute
David Garchow—Public Service Electric and Gas
Masoud Bajestani—Tennessee Valley Authority
George Barnes—Commonwealth Edison Company
James Chase—Omaha Public Power District
Gary Wright—Illinois Department of Nuclear Safety
David Lochbaum—Union of Concerned Scientists

The PPEP completed its work and issued its final report on December 17, 1999. This last meeting is expected to be brief. If no significant new issues are identified prior to the meeting, it may be canceled. Meetings of the PPEP are open to the members of the public. Oral or

written views may be presented by the members of the public, including members of the nuclear industry. Persons desiring to make oral statements should notify Mr. Frank P. Gillespie (Telephone 301/415–1004, e-mail FPG@nrc.gov) or Mr. Mohan C. Thadani (Telephone 301/415–1476, e-mail MCT@nrc.gov) five days prior to the meeting date, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras will be permitted during this meeting.

Further information regarding topics of discussion; whether the meeting has been canceled, rescheduled, or relocated; and the Panel Chairman's ruling regarding requests to present oral statements and time allotted, may be obtained by contacting Mr. Frank P. Gillespie or Mr. Mohan C. Thadani between 8 a.m. and 4:30 p.m. EDT.

This meeting will not be transcribed but, if needed, the meeting report will be available from the Commission's Public Document Room, and the agency's web page at the address below. *http://www.nrc.gov/NRR/OVERSIGHT/overview.html.*

Transcripts of previous PPEP meetings and the PPEP's final report can now be viewed as a background material at the above web site.

Dated: January 3, 2000.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 00–495 Filed 1–7–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 15g–3, SEC File No. 270–346, OMB Control No. 3235–0392

Rule 15g–6, SEC File No. 270–349, OMB Control No. 3235–0395

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is publishing the following summary of collections for public comment.

Rule 15g–3 requires that brokers and dealers disclose to customers current quotation prices or similar market information in connection with transactions in penny stocks. It is estimated that approximately 270 respondents incur an average burden of 100 hours annually to comply with the rule.

Rule 15g–6 requires brokers and dealers that sell penny stocks to their customers to provide monthly account statements containing information with regard to the penny stocks held in customer accounts. It is estimated that approximately 270 respondents incur an average burden of 90 hours annually to comply with the rule.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: December 30, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–511 Filed 1–7–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42314; File No. SR–CTA/CQ–99–03]

Consolidated Tape Association; Notice of Filing and Order Granting Accelerated Approval of Sixth Charges Amendment to the Second Restatement of the Consolidated Tape Association Plan and the Fifth Charges Amendment to the Restated Consolidated Quotation Plan

January 4, 2000.

Pursuant to Rule 11Aa3–2 [1] of the Securities Exchange Act of 1934 (''Act''),[2] notice is hereby given that on December 27, 1999, the Consolidated Tape Association (''CTA'') and the Consolidated Quotation (''CQ'') Plan Participants (''Participants'') [3] filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') amendments to the Restated CTA Plan and CQ Plan. The amendments propose to establish an enterprise arrangement under which a broker-dealer would be charged a maximum monthly amount of $500,000 for aggregate monthly Network B market data fees incurred for interrogation services (both display-device and pay-per-use) that it provides to its officers, partners, and employees and to its nonprofessional, brokerage account customers.

Pursuant to Rule 11Aa3–2(c)(1), the CTA and CQ Participants submitted this notice of proposed amendments to two effective national market system plans.[4] The Commission is publishing this notice to solicit comments from interested persons on the amendments. For the reasons discussed below, the Commission is granting accelerated approval of the proposed amendments.

I. Description and Purpose of the Amendments

A. Rule 11Aa3–2

Enterprise Arrangement

The Network B Participants propose to introduce an enterprise arrangement and to make it available to United States registered broker-dealers. The arrangement would apply in respect of the devices that those broker-dealers use internally and to those broker-dealers' distribution of market data to their securities-trading customers. It would not apply insofar as broker-dealers make market data available to non-brokerage customers. The enterprise arrangement would limit the aggregate amount that United States registered broker-dealers would be required to pay in any month in respect of (i) the receipt and use of market data by its officers, partners and employees and those of its affiliates, and (ii) pay-for-use and monthly display-device interrogation services that it or its United States registered broker-dealer affiliates provide to their nonprofessional, broker-account customers (that is, customers that

[1] 17 CFR 240.11Aa3–2.

[2] 15 U.S.C. 78k–1.

[3] The amendments were executed by each Participant in each of the Plans. The Participants include American Stock Exchange LLC, Boston Stock Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Exchange, Inc., and Philadelphia Stock Exchange, Inc.

[4] The CTA and CQ Plans have been designated as effective transaction reporting plans pursuant to Exchange Act Rule 11Aa3–1(b).

qualify as nonprofessional subscribers and that have opened a trading account pursuant to an applicable brokerage account agreement). Charges ineligible for inclusion in the enterprise arrangement's monthly payment limitation are (i) pay-for-use and display-device fees payable in respect of such nonprofessional subscribers that do not have brokerage accounts with the broker-dealer or its United States registered broker-dealer affiliates, (ii) access fees and (iii) program classification charges.

The enterprise arrangement's maximum monthly payment through the end of the calendar year 2000 shall be $500,000. Thereafter, the Network B Participants propose to increase that maximum on an annual basis in an amount equal to the percentage increase in the annual composite share volume for the preceding calendar year, subject to a maximum annual increase of five percent.

This amendment furthers the objectives of the national market system regarding the dissemination of last sale information delineated in sections 11A(a)(1)(C), 11A(a)(1)(D) and 11A(a)(3)(B) of the Act.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of Amendment

The Participants have manifested their approval of the proposed amendments to the CTA and CQ Network B rate schedules by means of their execution of the amendments. The rate changes would become effective on the first day of the month that follows the month in which the Commission approves the proposed plan amendments.

D. Development and Implementation Phases

See Item I(C).

E. Analysis of Impact on Competition

The proposed amendments do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Network B Participants do not believe that the proposed plan amendments introduce terms that are unreasonably discriminatory for the purposes of section 11A(c)(1)(D) of the Act.

F. Written Understanding or Agreements relating to Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Sponsors in Accordance with Plans

In accordance with Section XII(b)(iii) of the CTA Plan and section IX(b)(iii) of the CQ Plan, each of the Participants has approved the fee reductions.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

See Item I(A) above.

J. Method of Determination and Imposition, and Amount of Fees and Charges

See Item I(A) and the text of the amendments.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 11Aa3–1 (solely in its application to the amendments to the CTA Plan)

A. Reporting Requirements

Not applicable.

B. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

C. Manner of Consolidation

Not applicable.

D. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

E. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

F. Terms of Access to Transaction Reports

See Item I(A).

G. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Nasdaq-Amex. All submissions should refer to the file number in the caption above and should be submitted by January 31, 2000.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Amendment

The Commission has reviewed Network B's proposed amendments and finds that the amendment is consistent with the requirements of section 11A of the Act and the rules and regulations thereunder applicable to national market system plans.[5] Specifically, the Commission finds that approval of the amendments is consistent with Rule 11Aa3–2(c)(2)[6] of the Act in that they are necessary for the protection of investors, the maintenance of fair and orderly markets, and to remove impediments to a national market system. The Commission realizes that the modified fee structure, as applied, may create competitive disparities. However, the Commission believes that the enterprise arrangement will reduce broker-dealers' costs of access to market information, which should result in a reduction of costs for investors.

The Commission has issued a release which reviews the fee structures for obtaining market information and the role of market information revenues in funding the self-regulatory organizations.[7] The concept release describes existing market information fees and revenues and invites public comment on the subject. The proposed amendment implicates some of the issues that the concept release addresses, including whether certain fee structures are unreasonably discriminatory or an inappropriate burden on competition. The Commission has decided to approve the

[5] The Commission has considered the proposed amendments' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 17 CFR 240.11Aa3–2(c)(2).

[7] *See* Securities Exchange Act Rel. No. 42208 (December 9, 1999), 64 FR 70613 (December 17, 1999) (''Concept Release'').

proposed plan amendments pending the outcome of the market data debate. The Commission wishes to emphasize, therefore, that a reevaluation of the enterprise arrangement may be required depending on subsequent actions taken by the Commission involving its review of market information fees and revenues.

The Commission finds good cause for approving the proposed amendments prior to the thirtieth day after the date of the publication of the notice in the **Federal Register**. On June 14, 1999, the Participants, on behalf of Network A, submitted amendments to the Plans which proposed to reduce the monthly nonprofessional subscriber fees and to implement an identical enterprise arrangement.[8] On October 5, 1999,[9] the Commission approved the plan amendments. Public comment supported the fee reductions only because they represented an improvement over the CTA's current fee structure. Given that the proposed amendments are identical to amendments approved previously by the Commission and that retail investors should ultimately benefit from lower costs of execution, the Commission believes that granting accelerated approval of the proposed rule change is appropriate and consistent with the Act.

V. Conclusion

It is therefore ordered, pursuant to section 11A of the Act,[10] and the rules thereunder, that the proposed amendments to the Plans (SR–CTA/CQ–99–03) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–514 Filed 1–7–00; 8:45 am]

BILLING CODE 8010–01–M

[8] *See* Securities Exchange Act Rel. No. 41572 (June 28, 1999), 64 FR 36412 (July 6, 1999).

[9] *See* Securities Exchange Act Rel. No. 41977, 64 FR 55503 (October 13, 1999).

[10] 15 U.S.C. 78k–1.

[11] 17 CFR 200.30–3(a)(27).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42281; File No. SR–DTC–99–25]

Self Regulatory Organizations; The Depository Trust Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Modifying DTC's Failure-to-Settle Procedures

December 28, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 15, 1999, The Depository Trust Corporation (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I and II below, which have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will modify DTC's failure-to-settle (''FTS'') procedures to permit DTC to borrow temporarily from all participants with net credit positions if DTC's liquidity resources are inadequate to complete settlement.

II. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis For, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. DTC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.[2]

A. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis For, the Proposed Rule Change

The proposed rule change will modify DTC's procedures to permit DTC to borrow temporarily from all participants in net credit positions in the unlikely circumstances that DTC's liquidity resources are inadequate to complete settlement. Under the proposed rule change, instead of borrowing first from participants in net credit positions that have made deliveries to a failed participant, DTC would have the option to borrow pro rata from all participants having net credits.

Each DTC participant pays the net debit balance or receives the net credit balance in its DTC money settlement account at the end of each day. DTC's principal risk is the possible failure of one or more participants to settle their net debit obligations. In order to assure that DTC is able to complete settlement on the day of a participant failure, DTC imposes on all participants net debit caps that are related to, among other things, the amount of DTC's total liquidity resources. DTC maintains liquidity resources of $1.4 billion, consisting of a cash participants fund of $400 million and a $1 billion committed line of credit with a consortium of banks.

DTC's FTS procedures address the unlikely possibility that DTC's liquidity resources may be inadequate to complete settlement, a circumstance that has never occurred, by allowing DTC to borrow temporarily from participants having net credits. Under DTC's current FTS procedures, DTC would first reduce the net credits of participants that made deliveries to the failed participant. If this initial borrowing is insufficient, the procedures provide for DTC to apply net credit reductions pro rata to all participants having net credits.

Because of DTC's net debit cap controls, DTC would experience a liquidity shortfall only if there were two or more participant failures on the same day. Simulations limiting the reduction of net credits solely to participants that have delivered to multiple failing participants, particularly where one or more of the failing participants maintain more than one DTC settlement account, show that because of the number of variables involved, such a process can be extremely time-consuming and if ever implemented could severely delay completion of settlement. By permitting DTC the option of either first reducing the net credits of deliverers to the failing participants with net credits or applying net credit reductions pro rata across-the-board to all participants, the proposed rule change could substantially reduce the amount of time necessary for DTC to process net credit reductions and to inform the affected participants.

DTC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

DTC since the proposed rule change will facilitate completion of daily money settlement at DTC in the unlikely event that DTC's liquidity resources are not sufficient to complete settlement.

B. Self Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

C. Self Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants and Others

Comments from DTC participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act [3] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the proposed rule change is consistent with DTC's obligations under Section 17A(b)(3)(c) because the proposal should facilitate the completion of the daily settlement process at DTC in the event of multiple participant failures on the same day which cause DTC's liquidity resources to be inadequate to complete settlement.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of the filing because such approval will allow DTC to implement this additional safeguard as soon as possible.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–99–25 and should be submitted by January 31, 2000. *It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–99–25) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority. [4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–513 Filed 1–7–00; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78q–1(b)(3)(F).

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42309; File No. SR–OCC–99–11]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Authority To Vote on Behalf of OCC

January 3, 2000.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') notice is hereby given that on October 26, 1999, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change grants the chairman of the OCC's board of directors the express authority to vote on behalf of OCC the stock of OCC's wholly-owned subsidiaries.

[1] 15 U.S.C. 78s(b)(1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to add paragraph (b) to Article IV, Section 6 of OCC's By-Laws. Paragraph (b) grants the chairman of OCC's board of directors or his proxy the express authority to vote on behalf of OCC the stock of OCC's wholly-owned subsidiaries. For example, the proposed rule change clarifies the chairman's authority to vote stock of a subsidiary to fill vacancies on the subsidiary's board where the subsidiary's by-laws require vacancies to be filled by its stockholders. This authority is subject to any specific direction of or alternative delegation by OCC's full board of directors. Any exercise of the chairman's authority under Article IV, Section 6(b) is subject to subsequent ratification by the OCC board.

The proposed rule change also amends the current text of Article IV, Section 6, newly designated as paragraph (a) thereof, to correct a typographical error.

OCC believes that the proposed rule change is consistent with Section 17A of the Act because it makes explicit and clarifies authority implicit under existing OCC By-Laws. According to OCC, the delegation of such authority to the Chairman has proven effective in promoting the efficient governance of OCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect

to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Act

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) [2] of the Act and pursuant to rule 19b–4(f)(3) [3] promulgated thereunder because the proposal is concerned solely with the administration of OCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to file number SR–OCC–99–11 and should be submitted by January 31, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–512 Filed 1–7–00; 8:45 am]

BILLING CODE 8010–01–M

[2] 15 U.S.C. 78s(b)(3)(A)(i).

[3] 17 CFR 240.19b–4(f)(3).

SMALL BUSINESS ADMINISTRATION

Privacy Act of 1974; Revision of Privacy Act System of Records

AGENCY: Small Business Administration.

ACTION: Notice of revision of Privacy Act System of Records.

SUMMARY: SBA is revising its Privacy Act Systems of Records, SBA 075, Loan Case Files, to include as a routine use the review of Disaster Home Loan Files by potential purchasers of the Disaster Home Loans included in SBA's Asset Sales Program, and to include Loan Service Centers as systems locations and the Directors of the Loan Service Centers as System Managers. SBA is updating the addresses of various offices that are systems locations. SBA is also removing HUD as a systems location and is removing Regional Directors as Systems Manager.

DATES: The changes to this System of Records are effective without further notice February 9, 2000, unless comments are received that result in further revision.

ADDRESSES: Arnold S. Rosenthal, Assistant Administrator / Office of Portfolio Management, Small Business Administration, 409 3rd Street SW, Washington, DC 20416, (202) 205–6484.

FOR FURTHER INFORMATION CONTACT: Arnold S. Rosenthal, Assistant Administrator / Office of Portfolio Management, Small Business Administration, 409 3rd Street SW, Washington, DC 20416, (202) 205–6484.

SUPPLEMENTARY INFORMATION: This publication is in accordance with the Privacy Act requirement that Agencies publish their amended Systems in the **Federal Register** when there is a revision, change or addition. SBA is amending the Routine Use Notice of System of Records for Loan Case Files previously published at 56 FR 8020 (1991). SBA is amending a certain system of records as some records will be subject to an expanded Routine Use in connection with future sales of assets. The Routine Use Notice of System 075, Loan Case Files, is being amended to specifically allow potential purchasers of SBA Disaster Home Loans which may be included in SBA's Asset Sale Program to review the contents of loan and collateral files. SBA is also adding Loan Service Centers as a location of this system and the Directors of the Loan Service Centers as System Managers, as some disaster home loans are maintained at Loan Servicing Centers.

SBA 075

SYSTEM NAME: Loan Case File—SBA 075.

SYSTEM LOCATION:

Area Disaster Offices, District and Branch Offices and Loan Servicing Centers (See Appendix A for list of addresses).

SYSTEM MANAGER(S) AND ADDRESS:

Area Disaster Office Managers, District Directors, Branch Managers and Loan Service Center Directors (see Appendix A for addresses).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

To provide information to potential investors who are interested in bidding on loans made available by the Agency in a sale of assets. Investors will be required to execute a confidentiality agreement prior to reviewing any record or information.

Dated: January 3, 2000.

Mona Koppel Mitnick,

Senior Privacy Act Official.

APPENDIX A

Headquarters
409 Third St., SW, Washington, DC 20416
Boston Regional Office
10 Causeway St., Suite 812, Boston, MA 0222–1093
New York Regional Office
26 Federal Plaza, Suite 3108, New York, NY 10278
Philadelphia Regional Office
900 Market St., 5th Floor, Philadelphia, PA 19107
Atlanta Regional Office
233 Peachtree St., NE, Atlanta, GA 30309–2482
Chicago Regional Office
500 West Madison St., Suite 1240, Chicago, IL 60661–2511
Dallas Regional Office
4300 Amon Carter Blvd., Suite 108, Fort Worth, TX 76155
Kansas City Regional Office
323 West 8th St., Suite 307, Kansas City, MO 64106
Denver Regional Office
721 19th St., Suite 400, Denver, CO 80202
San Francisco Regional Office
455 Market St., Suite 2200, San Francisco, CA 94105
Seattle Regional Office
1200 Sixth Ave., Suite 1805, Seattle, WA 98101–1128

SBA District Offices

Region I

Maine District Office
40 Western Ave., Room 512, Augusta, ME 04330
Massachusetts District Office
10 Causeway St., 2nd Floor, Boston, MA 02222–1093
New Hampshire District Office

143 N. Main St., Suite 202, Concord, NH 03301
Connecticut District Office
330 Main St., 2nd Floor, Hartford, CT 06106
Vermont District Office
87 State St., Room 205, Montpelier, VT 05602
Rhode Island District Office
380 Westminster Mall, 5th Floor, Providence, RI 02903
Springfield Branch Office
1441 Main St., Suite 410, Springfield, MA 01103

Region II

Buffalo District Office
111 West Huron St., Room 1311, Buffalo, NY 14202
Elmira Branch Office
333 E. Water St., 4th Floor, Elmira, NY 14901
Melville Branch Office
35 Pinelawn Road, Suite 207W, Melville, NY 11747
New Jersey District Office
Two Gateway Center, 15th Floor, Newark, NJ 07102
New York District Office
26 Federal Plaza, Suite 31–00, New York, NY 10278
Puerto Rico & Virgin Islands District Office
252 Ponce De Leon Blvd., Suite 201, Hato Ray, Puerto Rico 00918
Rochester Branch Office
100 State Street, Suite 410, Rochester, NY 14614
Syracuse District Office
410 South Salina St., 5th Floor, Syracuse, NY 13202

Region III

Baltimore District Office
10 S. Howard St., Suite 6220, Baltimore, MD 21201–2525
Charleston Branch Office
405 Capitol St., Suite 412, Charleston, WV 25301
West Virginia District Office
320 West Pike St., Suite 330, Clarksburg, WV 26301
Harrisburg Branch Office
100 Chestnut St., Room 108, Harrisburg, PA 17101
Philadelphia District Office
900 Market St., 5th Floor, Philadelphia, PA 19107
Pittsburgh District Office
1000 Liberty Ave., Rm. 1128, Pittsburgh, PA 15222–4004
Richmond District Office
400 North 8th St., Suite 1150, Richmond, VA 23240–0126
Washington District Office
1110 Vermont Ave., NW, Suite 900, Washington, DC 20201
Wilkes-Barre Branch Office
7 N. Wilkes-Barre Blvd., Suite 407, Wilkes-Barre, PA 18701–3589
Delaware District Office
824 North Market St., Suite 610, Wilmington, DE 19801–3011

Region IV

Georgia District Office
233 Peachtree Rd., NE, Suite 1900, Atlanta, GA 30309–2482
Alabama District Office
2121 8th Ave., North, Suite 200, Birmingham, AL 35203–2398
North Carolina District Office
200 N. College St., Suite A2015, Charlotte, NC 28202–2137
South Carolina District Office
1835 Assembly St., Rm. 358, Columbia, SC 29201
Gulfport Branch Office
2909 13th St., Suite 203, Gulfport, MS 39501–1949
Mississippi District Office
101 W. Capitol St., Suite 400, Jackson, MS 39201
North Florida District Office
7825 Baymeadows Way, Suite 100–B, Jacksonville, FL 32256–7504
Kentucky District Office
600 Dr. M.L. King Jr. Place, Rm. 188, Louisville, KY 40202
South Florida District Office
100 S. Biscayne Blvd., 7th Floor, Miami, FL 33131
Tennessee District Office
50 Vantage Way, Suite 201, Nashville, TN 37228–1500

Region V

Illinois District Office
500 West Madison St., Suite 1250, Chicago, IL 60661–2511
Cincinnati Branch Office
525 Vine Street, Suite 870, Cincinnati, OH 45202
Cleveland District Office
1111 Superior Ave. East, Suite 630, Cleveland, OH 44114–2507
Columbus District Office
2 Nationwide Plaza, Suite 1400, Columbus, OH 43215–2542
Michigan District Office
477 Michigan Ave., Room 515, Detroit, MI 48226
Indiana District Office
429 North Pennsylvania, Suite 100, Indianapolis, IN 46204–1873
Wisconsin District—Madison Office
740 Regent St., Suite 100, Madison, WI 53715
Minnesota District Office
100 North 6th St., Suite 610, Minneapolis, MN 49855
Marquette Branch Office
501 South Front Street, Marquette, MI 49855
Wisconsin District—Milwaukee Office
310 West Wisconsin Ave., Suite 400, Milwaukee, WI 53203
Springfield Branch Office
511 W. Capitol Ave., Suite 302, Springfield, IL 62704

Region VI

New Mexico District Office
625 Silver Ave., SW, Suite 320, Albuquerque, NM 87102
Corpus Christi Branch Office
606 N. Carancahua, Suite 1200, Corpus Christi, TX 78476
Dallas/Ft. Worth District Office
4300 Amon Carter Blvd., Suite 144, Dallas, TX 76155
El Paso District Office
10737 Gateway West, Suite 320, El Paso, TX 79935
Houston District Office
9301 Southwest Freeway, Suite 550, Houston, TX 77074–1591
Arkansas District Office
2120 Riverfront Dr., Suite 100, Little Rock, AR 72202
Lower Rio Grande Valley District Office
222 E. Van Buren St., Rm. 500, Harlingen, TX 78550–6855
Lubbock District Office
1205 Texas Ave., Suite 408, Lubbock, TX 79401–2693
Louisiana District Office
365 Canal St., Suite 2250, New Orleans, LA 70130
Oklahoma District Office
210 Park Ave., Suite 1300, Oklahoma City, OK 73102
San Antonio District Office
727 E. Durango Blvd., Suite A–527, San Antonio, TX 78206

Region VII

Cedar Rapids District Office
215 4th Ave. S.E., Suite 200, Cedar Rapids, IA 52401–1806
Des Moines District Office
210 Walnut Street, Room 749, Des Moines, IA 50309–2186
Kansas City District Office
323 West 8th Ave., Suite 501, Kansas City, MO 64105–1500
Nebraska District Office
11145 Mill Valley Rd., Omaha, NE 68154
Springfield Branch Office
6720 South Glenstone St., Suite 110, Springfield, MO 65802–3200
St. Louis District Office
815 Olive Street, Room 242, St. Louis, MO 63101
Wichita District Office
100 East English St., Suite 510, Wichita, KS 67202

Region VIII

Wyoming District Office
100 East ''B'' Street, Rm. 4001, Box 22839, Casper, WY 82602
Colorado District Office
721 19th St., Suite 400, Denver, CO 80202
North Dakota District Office
657 Second Ave. North, Room 219, Fargo, ND 58108
Montana District Office
301 South Park Ave., Room 334, Helena, MT 59626
Utah District Office
125 South State St., Room 2231, Salt Lake City, UT 84138
South Dakota District Office
110 South Phillips Ave., Suite 200, Sioux Falls, SD 57104

Region IX

Guam Branch Office
400 Route 8, Suite 302, Mongmong, GU 96927
Fresno District Office
2719 North Air Fresno Dr., Suite 200, Fresno, CA 93727–1547
Hawaii District Office
300 Ala Moana Blvd., Room 2–235, Honolulu, HI 96850–4981
Nevada District Office
300 Las Vegas Blvd., Suite 1100, Las Vegas, NV 89101
Los Angeles District Office

330 North Brand Blvd., Suite 1200, Los Angeles, CA 91203–2304
Arizona District Office
2828 North Central Ave., Suite 800, Phoenix, AZ 85004–1025
Sacramento District Office
660 J St., Suite 215, Sacramento, CA 95814–2413
San Diego District Office
550 West ''C'' St., Suite 550, San Diego, CA 92101–3500
San Francisco District Office
455 Market St., 6th Floor, San Francisco, CA 94105–2445
Santa Ana District Office
200 West Santa Ana Blvd., Suite 700, Santa Ana, CA 92701

Region X

Alaska District Office
222 West 8th Ave., Room A36, Anchorage, AK 99513–7559
Boise District Office
1020 Main St., Suite 290, Boise, ID 83702
Portland District Office
1515 SW 5th Ave., Suite 1050, Portland, OR 97201–5494
Seattle District Office
1200 6th Ave., Rm, 1700, Seattle, WA 98101–1128
Spokane District Office
801 West Riverside Ave., Suite 200, Spokane, WA 99201–0901

SBA Area Diasater Office

Niagara Falls Area 1 Disaster Office
360 Rainbow Blvd., South, 3rd Floor, Niagra Falls, NY 14303
Atlanta Area 2 Disaster Office
One Baltimore Place N.E., Suite 300, Atlanta, GA 30308
Forth Worth Area 3 Disaster Office
4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155–2608
Sacramento Area 4 Disaster Office
1825 Bell Street, Suite 208, Sacramento, CA 95853–4795

SBA Home Loan Servicing Centers

Birmingham Home Loan Servicing Center
2121 8th Ave. North, Suite 200, P.O. Box 12247, Birmingham, AL 35202–2247
New York Home Loan Servicing Center
201 Varick St., Rm. 628, New York, NY 10014
El Paso Home Loan Servicing Center
10737 Gateway West, Suite 300, El Paso, TX 79935
Santa Ana Loan Servicing & Liquidation Office
200 W. Santa Ana Blvd., Suite 180, Santa Ana, CA 92701

[FR Doc. 00–427 Filed 1–7–00; 8:45 am]
BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

Special Limited Revocable Power of Attorney

Know that the U.S. Small Business Administration, an Agency of the United States, with its principal offices at 409 Third Street, SW, Washington, DC (hereinafter SBA) does hereby make, constitute and appoint Computer Data Systems, Inc., a corporation with its principal offices at One Curie Court, Rockville, MD (hereinafter CDSI) by and through its subsidiary CDSI Mortgage Services, Inc., with its principal offices at 3100 Smoketree Court, Suite 3000, Raleigh, NC, (hereinafter CDSI/MSI) for SBA's benefit and in SBA's name, place and stead, SBA's true and lawful attorney-in-fact for the sole and limited purposes expressly set forth herein.

Pursuant to the Small Business Act 15 U.S.C. 636(b) SBA is conducting a Private Sector Loan Servicing Demonstration Program (hereinafter the ''Program'') in which SBA has contracted with CDSI under Contract No. SBAHQ–98–C–0007 (hereinafter the ''Contract'') to service, liquidate and provide litigation support to thirty percent (30%) of the loans in SBA's Disaster Home Loan portfolio (hereinafter the ''Loans'').

Pursuant to this power of attorney and to allow CDSI to service, liquidate and provide litigation support for the Loans assigned to CDSI under the Contract, in accordance with the Small Business Act, 15 U.S.C. 634(b)(4), SBA hereby grants to CDSI the following authority: to satisfy, release, subordinate or continue any beneficial or mortgagee's interest or assignment thereof, and any other rights and interests under all mortgages, deeds of trust, security agreements, UCC filings, pledges and other instruments evidencing, making or granting security for the Loans.

It is SBA's intention that this Special Limited Revocable Power of Attorney evidence to all third parties SBA's desire that CDSI take on behalf of SBA, all actions expressly set forth and described herein. SBA and CDSI acknowledge and agree that CDSI shall exercise such power through one or more of the following named officers of CDSI:

Officer	Title
Dennis R. Salvatore ..	Senior Vice President.
Linda B. Willett	Vice President.
Altoris A. Bonner	Vice President.
Karen L. Carter	Vice President.

SBA and CDSI hereby acknowledge that this Special Limited Revocable Power of Attorney shall automatically terminate upon the expiration or termination of the Contract.

In witness whereof, the undersigned, Administrator, U.S. Small Business Administration, has caused this instrument to be executed, pursuant to 15 U.S.C. 634(b)(4).

Small Business Administration,
Aida Alvarez,
Administrator, Small Business Administration.
[FR Doc. 00–508 Filed 1–7–00; 8:45 am]
BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public.

SUMMARY: Section 182 of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2242), requires the United States Trade Representative (USTR) to identify countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. (Section 182 is commonly referred to as the ''Special 301'' provisions in the Trade Act.) In addition, the USTR is required to determine which of these countries should be identified as priority foreign countries. Acts, policies or practices which are the basis of a country's identification as a priority foreign country are normally the subject of an investigation under the section 301 provisions of the Trade Act. Section 182 of the Trade Act contains a special rule for the identification of actions by Canada affecting United States cultural industries.

USTR requests written submissions from the public concerning foreign countries' acts, policies, and practices that are relevant to the decision whether particular trading partners should be identified under section 182 of the Trade Act.

DATES: Submissions must be received on or before 12:00 noon on Friday, February 18, 2000.

ADDRESSES: 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Claude Burcky, Director for Intellectual Property (202) 395–6864; Donna DiPaolo, Deputy Director for Intellectual Property (202) 395–6864; or Geralyn S. Ritter, Assistant General Counsel (202) 395–6800, Office of the United States Trade Representative.

SUPPLEMENTARY INFORMATION: Pursuant to section 182 of the Trade Act, the USTR must identify those countries that

deny adequate and effective protection for intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. Those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are to be identified as priority foreign countries. Act, policies or practices which are the basis of a country's designation as a priority foreign country are normally the subject of an investigation under the section 301 provisions of the Trade Act.

USTR may not identify a country as a priority foreign country if it is entering into good faith negotiations, or making significant progress in bilateral or multilateral negotiations, to provide adequate and effective protection of intellectual property rights.

In identifying countries that deny adequate and effective protection of intellectual property rights in 2000, USTR will focus special attention on other countries' compliance with their TRIPS obligations—many of which came due on January 2000—as well as their efforts to reduce piracy of optical media (music CDs, Video CDs, CD–ROMS, and DVDs) and prevent unauthorized government use of computer software.

Section 182 contains a special rule regarding actions of Canada affecting United States cultural industries. The USTR is obligated to identify any act, policy or practice of Canada which affects cultural industries, is adopted or expanded after December 17, 1992, and is actionable under Article 2106 of the North American Free Trade Agreement (NAFTA). Any such act, policy or practice so identified shall be treated the same as an act, policy or practice which was the basis for a country's identification as a priority foreign country under section 182(a)(2) of the Trace Act (i.e., such acts, policies or practices shall be the subject of a section 301 investigation under the ''Special 301'' procedures), unless the United States has already taken action pursuant to Article 2106 of the NAFTA.

USTR must make the above-referenced identifications within 30 days after publication of the National Trade Estimate (NTE) report, i.e., no later than April 30, 2000.

Requirements for Comments

Comments should include a description of the problems experienced and the effect of the acts, policies and practices on U.S. industry. Comments should be as detailed as possible and should provide all necessary information for assessing the effect of the acts, policies and practices. Any comments that include quantitive loss claims should be accompanied by the methodology used in calculating such estimated losses. Comments must be in English and provided in twenty copies. A submitter requesting that information contained in a comment be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy. A non-confidential version of the comment must also be provided.

All comments should be sent to Sybia Harrison, Special Assistant to the Section 301 Committee, Room 100A, 600 17th Street, NW, Washington, DC 20508, and must be received no later than 12:00 noon on Friday, February 18, 2000.

Public Inspection of Submissions

Within one business day of receipt, non-confidential submissions will be placed in a public file, open for inspection at the USTR Reading Room, in Room 101, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC. An appointment to review the file may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 10:00 a.m. to 12;00 noon and from 1:00 p.m. to 4;00 p.m. Monday through Friday.

Joseph Papovich,

Assistant USTR for Services, Investment and Intellectual Property.

[FR Doc 00–478 Filed 1–7–00; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 99–6693]

Notice of Request for Extension of Currently Approved Information Collection: Certification of Enforcement of Vehicle Size and Weight Laws

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements in section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of FHWA to request the Office of Management and Budget (OMB) to renew its clearance of the currently approved information collection identified below under **SUPPLEMENTARY INFORMATION.**

DATES: Comments must be submitted on or before March 10, 2000.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Klimek, (202) 366–2212, Federal Highway Administration, Office of Freight Management and Operations, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Certification of Enforcement of Vehicle Size and Weight Laws.

OMB Number: 2125–0034.

Background: Title 23, U.S.C. 141, requires each State, the District of Columbia, and Puerto Rico to file an annual certification that they are enforcing their size and weight laws on Federal-aid highways and that their Interstate System weight limits are consistent with Federal requirements to be eligible to receive an apportionment of Federal highway trust funds. Section 141 also authorizes the Secretary to require States to file such information as is necessary to verify that their certifications are accurate. To determine whether States are adequately enforcing their size and weight limits, each must submit an updated plan for enforcing their size and weight limits to the FHWA at the beginning of each fiscal year. At the end of the fiscal year, they must submit their certifications and sufficient information to verify that the enforcement goals established in the plan have been met. Failure of a State to file a certification, adequately enforce its size and weight laws, and enforce weight laws on the Interstate System that are inconsistent with Federal requirements, could result in a specified reduction of its Federal highway fund

apportionment for the next fiscal year. In addition, section 123 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599, 92 Stat. 2689, 2701) requires each jurisdiction to inventory (1) its penalties for violation of its size and weight laws, and (2) the term and cost of its oversize and overweight permits.

Respondents: The State Departments of Transportation (or equivalent) in the 50 States, the District of Columbia, and Puerto Rico.

Estimated Total Annual Burden: 4,160 hours. This number has not changed from the last approved OMB clearance.

Frequency: The reports must be submitted annually.

Authority: 23 U.S.C. 141; 44 U.S.C. 3506(c)(2)(A); 23 CFR 657; Section 123, P.L. 95–599, 92 Stat. 2701; 49 CFR 1.48.

Issued on: January 4, 2000.

Michael J. Vecchietti,

Director, Office of Information and Management Services.

[FR Doc. 00–483 Filed 1–7–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on May 20, 1999 [64 FR 27615].

DATES: Comments must be submitted on or before February 9, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Howard, (202) 366–0170, Office of Highway Policy Information, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590–0001. Office hours are from 7:30 a.m. to 4:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: A Guide to Reporting Highway Statistics.

OMB Number: 2125–0032.

Type of Request: Renewal of a currently-approved information collection.

Affected Public: State and local governments of the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, and the four territories (American Samoa, Guam, Northern Marianas, and Virgin Islands).

Abstract: The Guide to Reporting Highway Statistics provides for the collection of information by describing policies and procedures for assembling statistical data from the existing files of State agencies on motor-vehicle registration and fees, motor-fuel use and taxation, driver licensing, highway taxation and finance, and other related subjects, and the reporting of these data to the FHWA. The data collected in accordance with the Guide is used by the Federal, State, and local levels of government for transportation policy decision making and is published annually in FHWA's Highway Statistics and Our Nation's Highways. In addition, the FHWA is required to provide a biennial report to Congress, The Status of the Nation's Surface Transportation System: Conditions and Performance, to determine future highway needs. The data collected under the Guide is also a primary data source used in apportioning Federal-aid highway funds under the Transportation Equity Act for the 21st century (TEA–21), which significantly increased the amount of Federal funds that rely on State-reported motor fuel as an apportionment factor in distributing Federal funds to the States.

Estimated Burden: The total estimated annual burden for all respondents for the annual collection of data for the Guide is 40,880 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication of this Notice.

Issued on: January 4, 2000.

Michael J. Vecchietti,

Director, Office of Information and Management Services.

[FR Doc. 00–482 Filed 1–7–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 4, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before February 9, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0430.

Form Number: IRS Form 4810.

Type of Review: Extension.

Title: Request for Prompt Assessment Under Internal Revenue Code Section 6501(d).

Description: Form 4810 is used to request a prompt assessment under Internal Revenue Code (IRC) Section 6501(d). IRS uses this form to locate the return to expedite processing of the taxpayer's request.

Respondents: Business or other for-profit, Individuals or households, Farms, Federal Government.

Estimated Number of Respondents: 4,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,000 hours.

OMB Number: 1545–0916.

Regulation Project Number: EE–96–85 NPRM and EE–63–84 Temporary.

Type of Review: Extension.

Title: Effective Dates and Other Issues Arising Under the Employee Benefit Provisions of the Tax Reform Act of 1984.

Description: These temporary regulations provide rules relating to

effective dates and other issues arising under sections 91, 223 and 511–561 of the Tax Reform Act of 1984.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 12,800.

Estimated Burden Hours Per Respondent: 31 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 6,500 hours.

OMB Number: 1545–1041.

Regulation Project Number: PS–102–86 Final.

Type of Review: Extension.

Title: Cooperative Housing Corporations.

Description: This regulation provides an elective alternative to the proportionate share rule for allocating interest and taxes to the tenant-stockholders of cooperative housing corporations.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: Other (one-time election).

Estimated Total Reporting Burden: 625 hours.

OMB Number: 1545–1049.

Regulation Project Number: IA–7–88 Final.

Type of Review: Extension.

Title: Excise Tax Relating to Gain or Other Income Realized by Any person on Receipt of Greenmail.

Description: The final regulations provide rules relating to the manner and method of reporting and paying the nondeductible 50 percent excise imposed by section 5881 of the Internal Revenue Code with respect to the receipt of greenmail.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 4.

Estimated Burden Hours Per Respondent/Recordkeeper: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 2 hours.

OMB Number: 1545–1353.

Regulation Project Number: FI–189–84 Final.

Type of Review: Extension.

Title: Debt Instruments With Original Discount; Imputed Interest on Deferred Payment Sales or Exchanges of Property.

Description: The regulations provide definitions, reporting requirements, elections, and general rules relating to the tax treatment of debt instruments with original issue discount and the imputation of, and accounting for, interest on certain sales or exchanges or property.

Respondents: Business or other for-profit, Individuals or households, Farms, State, Local or Tribal Government.

Estimated Number of Respondents: 525,000.

Estimated Burden Hours Per Respondent: 21 minutes.

Frequency of Response: Other (per issuance of debt instrument with original issue discount).

Estimated Total Reporting Burden: 185,500 hours.

OMB Number: 1545–1529.

Type of Review: Extension.

Title: Tip Reporting Alternative Commitment (Hairstyling Industry).

Description: Information is required by the Internal Revenue Service in its compliance efforts to assist employers and their employees in understanding and complying with section 6053(a), which requires employees to report all their tips monthly to their employers.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 3,200.

Estimated Burden Hours Per Respondent/Recordkeeper: 15 hours.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 47,733 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–510 Filed 1–7–00; 8:45 am].

BILLING CODE 4830–01–P.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–51

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–51, Form 1040 On-Line Filing Program.

DATES: Written comments should be received on or before March 10, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 1040 On-Line Filing Program.

OMB Number: 1545–1513.

Revenue Procedure Number: Revenue Procedure 98–51.

Abstract: Revenue Procedure 98–51 requires the reporting of information needed to implement the On-Line Filing Program for Form 1040, Form 1040A, and Form 1040EZ. The information will be used to ensure that taxpayers receive accurate and essential information regarding the filing of their returns through the On-Line Filing Program and to identify the persons involved in the filing of returns through this program.

Current Actions: There are no changes being made to this revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 14.

Estimated Time Per Respondent: 5,179 hours (or approximately two (2) minutes per on-line electronically filed return).

Estimated Total Annual Burden Hours: 72,509.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal

revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) The accuracy of the agency's estimate of the burden of the collection of information; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 4, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–522 Filed 1–7–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–50

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–50, Form 1040 IRS e-file Program.

DATES: Written comments should be received on or before March 10, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 1040 IRS *e-file* Program.

OMB Number: 1545–1512.

Revenue Procedure Number: Revenue Procedure 98–50.

Abstract: Revenue Procedure 98–50 requires the reporting of information needed to implement the Form 1040 IRS e-file Program and to enable taxpayers to file their Form 1040, Form 1040A, or Form 1040EZ tax returns electronically. The information is used to ensure that taxpayers receive accurate and essential information regarding the filing of their electronic returns and to identify the persons involved in the filing of electronic returns.

Current Actions: There are no changes being made to this revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 75,000.

Estimated Time Per Respondent: 30 hours, 19 minutes (or approximately six (6) minutes per electronically filed return).

Estimated Total Annual Burden Hours: 2,273,932.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) The accuracy of the agency's estimate of the burden of the collection of information; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 3, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–523 Filed 1–7–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 99–50

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 99–50, Combined Information Reporting.

DATES: Written comments should be received on or before March 10, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Combined Information Reporting.

OMB Number: 1545–1667.

Revenue Procedure Number: Revenue Procedure 99–50.

Abstract: Revenue Procedure 99–50 permits combined information reporting by a successor business entity (*i.e.*, a corporation, partnership, or sole proprietorship) in certain situations

following a merger or an acquisition. Combined information reporting may be elected by a successor with respect to certain Forms 1042–S, all forms in the series 1098, 1099, and 5498, and Forms W–2G. The successor must file a statement with the IRS indicating what forms are being filed on a combined basis.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and farms.

Estimated Number of Respondents: 6,000.

Estimated Average Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 3, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–524 Filed 1–7–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 96–65

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 96–65, Treatment of a Trust as Domestic or Foreign—Changes Made by the Small Business Job Protection Act.

DATES: Written comments should be received on or before March 10, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the notice should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treatment of a Trust as Domestic or Foreign—Changes Made by the Small Business Job Protection Act.

OMB Number: 1545–1506.

Notice Number: Notice 96–65.

Abstract: Notice 96–65 provides that a domestic trust may avoid an involuntary change in status caused by operation of the Small Business Job Protection Act of 1996 by reforming to comply with the law within a reasonable period of time. The notice also gives guidance on how to elect to apply the trust status rules retroactively.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 1,200.

Estimated Time Per Respondent: 28 minutes.

Estimated Total Annual Burden Hours: 550.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 3, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–525 Filed 1–7–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 8606

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C.

3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8606, Nondeductible IRAs.

DATES: Written comments should be received on or before March 10, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Nondeductible IRAs.

OMB Number: 1545–1007.

Form Number: 8606.

Abstract: Internal Revenue Code Section 408(o) requires certain information regarding nondeductible contributions to traditional IRAs. Code section 408A requires information regarding conversions from traditional IRAs to Roth IRAs and distributions from Roth IRAs. Code section 530 requires information regarding distributions from Education IRAs. Form 8606 is used to report the required information.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,800,000.

Estimated Time Per Respondent: 1 hour, 13 minutes.

Estimated Total Annual Burden Hours: 2,198,320.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 3, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–526 Filed 1–7–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Midwest District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Midwest Citizen Advocacy Panel will be held in Milwaukee, Wisconsin.

DATES: The meeting will be held Thursday, January 27, 2000 and Friday, January 28, 2000.

FOR FURTHER INFORMATION CONTACT: Sandra McQuin at 1–888–912–1227, or 414–297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Citizen Advocacy Panel (CAP) will be held Thursday, January 27, 2000, from 9 a.m. to 4 p.m. and Friday, January 28, 2000, from 9 a.m. to 4 p.m. at Courtyard Marriott, Meeting Room B, 300 W. Michigan Street, Milwaukee, WI. The Citizen Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

The public is invited to make oral comments at the CAP town hall meeting on Thursday, January 27, 7 p.m. to 9 p.m. 53203 at the Wauwatosa Public Library, Firefly Room, 7635 West North Avenue, Wauwatosa, Wisconsin 53226. Written comments will be read into the record. Individual comments will be limited to five minutes and an additional five minutes allotted for questions and answers. If you would like to have the CAP consider a written statement or pre-register to make an oral comment, please call the CAP office at 1–888–912–1227 or 414–297–1604, FAX (414) 297–1623, or mail to Citizen Advocacy Panel, Mail Stop 1006–MIL, 310 W. Wisconsin Ave, Milwaukee, Wisconsin 53203–2221. If you would like to pre-register for the meeting, the only information needed by the CAP office is number of attendees and zip code.

The Agenda will include the following: Presentation of performance measures, reports by the CAP sub-groups, presentation of taxpayer issues by individual members, CAP office report, and discussion of issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: January 3, 2000.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 00–521 Filed 1–7–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

December 23, 1999.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before February 9, 2000.

OMB Number: 1550–0007.

Form Number: OTS Form 1582.

Type of Review: Extension of a currently approved collection.

Title: Application for conversion from: (a) OTS-regulated, state-chartered savings association to a Federal savings association; (b) National bank, commercial bank, state savings bank, or credit union to Federal savings association.

Description: Section 5(I) of the Home Owners' Loan Act (HOLA) authorizes the Office of Thrift Supervision to act on applications submitted by state-chartered savings and loan associations, savings banks and credit unions requesting permission to convert to a Federal savings and loan association or Federal savings bank charter. 12 CFR 543.8, 543.9, and 552.2–6 codify the eligibility requirements and establish processing procedures for applications involving the conversion of a credit union or a state-chartered association to a Federally-chartered association or savings bank of the same organizational type (i.e., mutual or stock form of ownership).

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 31.

Estimated Burden Hours Per Response: 4 hours.

Frequency of Response: Once per application submission.

Estimated Total Reporting Burden: 124 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 00–449 Filed 1–7–00; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

January 5, 2000.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before February 9, 2000.

OMB Number: 1550–0013.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Title: Request for Service Corporation Activity.

Description: Pursuant to 12 CFR 545.74, any Federal savings association that intends to acquire or establish a service corporation to engage in pre-approved securities brokerage activities must submit to the Office of Thrift Supervision written notice containing a full description of the brokerage services to be provided and a certification from the board of directors of such association that such services will be in compliance with the established requirements. In addition, the association shall retain complete records of all executed contractual agreements and memoranda between the service corporation and broker-dealers, investment advisors, the parent savings association, and their affiliates.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 141.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Occasionally.

Estimated Total Reporting Burden: 359 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 00–450 Filed 1–7–00; 8:45]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

January 5, 2000.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before February 9, 2000.

OMB Number: 1550–0032.

Form Number: OTS Form 1622.

Type of Review: Extension of a currently approved collection.

Title: Interagency Notice of Change of Control.

Description: Section 1817(j) of the Federal Deposit Insurance Act, as amended, and 12 CFR Section 574 require the filing of an application when an individual acquires control of any insured depository institution. Under this statute, persons seeking authority to acquire control of a Federally insured savings institution must submit a Change of Control notice to the Office of Thrift Supervision (OTS). The information required in connection with a Change of Control Notice is used by the OTS to evaluate the merits of an application in light of applicable statutory and regulatory criteria.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 32.

Estimated Burden Hours Per Response: 35 hours.

Frequency of Response: As required per transaction.

Estimated Total Reporting Burden: 1,110 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700, G Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 00–451 Filed 1–7–00; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

December 29, 1999

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, N. W., Washington, D.C. 20552.

DATES: Submit written comments on or before February 9, 2000.

OMB Number: 1550–0021

Form Number: Not Applicable.

Type of Review: Extension of a currently approved collection.

Title: Loan Application Register.

Description: Reporting is required by statute to assist OTS in monitoring compliance with fair lending laws.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 3,000,000.

Estimated Burden Hours Per Response: 0.03 hours.

Frequency of Response: Once per filing.

Estimated Total Reporting Burden: 90,000 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 00–452 Filed 1–7–00; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

January 5, 2000.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before February 9, 2000.

OMB Number: 1550–0005.

Form Number: OTS Form Nos. 138, 138E, 138F

Type of Review: Extension of a currently approved collection.

Title: Application for Permission to Organize a Federal Savings Association.

Description: An Application for Permission to Organize a Federal Savings Association must be submitted to the Office of Thrift Supervision (Office or OTS). The submission should be made by the organizers and is required for the establishment of a Federal savings and loan association or a Federal savings bank, and the issuance of a Federal charter, pursuant to Part 543 or Part 552 of the Rules and Regulations for the OTS.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 42.

Estimated Burden Hours Per Response: 145 hours.

Frequency of Response: Once per institution.

Estimated Total Reporting Burden: 6,132 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 00–453 Filed 1–7–00; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

January 5, 2000.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before February 9, 2000.

OMB Number: 1550–0006.

Form Number: OTS Forms 1450 and 1558.

Type of Review: Extension of a currently approved collection.

Title: Branch Offices.

Description: Pursuant to 12 CFR 545.92, Federally chartered institutions are required to submit either an application or notice prior to establishing a branch office. 12 CFR 545.95 requires Federally chartered institutions to submit either an application or a notice prior to relocating an existing office facility. Such applications or notices must be in a form prescribed by the Office of Thrift Supervision (OTS). The OTS' Applications for Permission to Establish a Branch Office and Change of Location of an office are designed to provide the minimum amount of information necessary to determine whether the request meets the OTS' criteria for approval of these activities as set forth in 12 CFR 545.92 and 516.3.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 1,253.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: Once for each branching activity.

Estimated Total Reporting Burden: 2,875 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 00–454 Filed 1–7–00; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; comment request

January 5, 2000.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

DATES: Submit written comments on or before February 9, 2000.

OMB Number: 1550–0047.

Form Number: OTS Form Nos. 1624, 1623 and 1606.

Type of Review: Extension of a currently approved collection.

Title: Notice of Hiring or Indemnifying Senior Executive Officers or Directors.

Description: 12 USC 1831 (i) requires Office of Thrift Supervision (OTS) to make a determination as to the hiring or appointment of senior executive officers or directors at savings institutions or thrift holding companies. The OTS' determination must be based upon an evaluation of the individual's competence, experience, character, and integrity. The information required by the collection is necessary to make this determination. Without this information, the OTS cannot accomplish the statutory requirement designed to protect the interests of the Savings Association Insurance Fund.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 1,798.

Estimated Burden Hours Per Response: 6 hours.

Frequency of Response: Occasionally.

Estimated Total Reporting Burden: 10,438 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

John E. Werner,

Director, Information & Management Services.

[FR Doc. 00–455 Filed 1–7–00; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register

Vol. 65, No. 6

Monday, January 10, 2000

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.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1615

Final Technical Changes; Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14

Correction

In rule document 99–1138 beginning on page 2833 in the issue of Tuesday, January 19, 1999, make the following correction:

§1615.1 [Corrected]

On page 2839, in §1615.1(o)(1)(i), in the table, in the ''Upper arm'' column, in the fourth line, ''(5⅝)'' should read ''(5⅞)'' and in the ''Thigh'' column, in the fourth line, ''(11¼)'' should read ''(11⅛)''.

[FR Doc. C9–1138 Filed 1–7–00; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7299]

Proposed Flood Elevation Determinations

Correction

Proposed rule document 99–32361 was inadvertently published in the Rules and Regulations section of the issue of Tuesday, December 14, 1999 beginning on page 69657. It should have appeared in the Proposed Rules section.

[FR Doc. C9–32361 Filed 1–7–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 121

Organ Procurement and Transplantation Network; Final rule Amendment, Stay of Final Rule, and Additional Comment Period

Correction

In rule document 99–33276, appearing on page 71626, in the issue of Tuesday, December 21, 1999, make the following corrections:

1. On page 71626, in the first column, in the **DATES** section, in the fifth line, ''), 42 CFR part 121,'' should be added after ''1999''.

2. On the same page, in the second column, in the third paragraph, the fifth sentence ''The Institute's report, issued in July 1999, the public comments received on the April 2, 1998, rule, and extensive consultation with representatives of the OPTN.'' should be removed.

3. On the same page, in the same column, in second line from the bottom ''amendment sot'' should read ''amendments to''.

4. On the same page, in the third column, in the eighth line, ''413(b)W'' should read ''413(b)1''.

[FR Doc. C9–33276 Filed 1–7–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday

January 10, 2000

Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 1, 2, 4 et al.

Federal Acquisition Regulation; Government Property; Proposed Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 4, 7, 8, 15, 16, 17, 22, 27, 28, 31, 32, 35, 37, 42, 43, 44, 45, 49, 51, 52, and 53

[FAR Case 1995–013]

RIN 9000–AH60

Federal Acquisition Regulation; Government Property

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to simplify procedures, reduce recordkeeping, and eliminate requirements related to the management and disposition of Government property in the possession of contractors. In addition, this proposed rule provides contractors the option of managing Government property under a standard process based system or managing Government property using the same business practices the contractors use to manage their own property. Contractors may use either system at a particular site (primary location at which a contract will be performed) but must use only one system at that site. Contractors that elect to use their property management practices to manage the Government's property in lieu of the standard processes must accept increased liability for property losses.

Based on the significant changes made to this rule from an earlier proposed rule, the Councils have agreed to republish the rule as a proposed rule and provide an opportunity for the public to comment on the changes.

DATES: Interested parties should submit comments in writing on or before March 10, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405. Address e-mail comments submitted via the Internet to: farcase.1995–013@gsa.gov.

Please submit comments only and cite FAR case 1995–013 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, Ms. Angelena Moy at (703) 695–1097/1098 (e-mail: moyac@acq.osd.mil), or Ms. Linda Klein, at (202) 501–3775. Please cite FAR case 1995–013.

SUPPLEMENTARY INFORMATION:

A. Background

On June 2, 1997, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) published a proposed rule to simplify the management and disposition of Government property in the possession of contractors (see 62 FR 30186). As a result of public comments received on that rule and comments received during and in response to public meetings conducted on February 18, 1998, and May 18, 1999, the Councils have revised and restructured the rule.

An interagency team (Department of Defense, Environmental Protection Agency, General Services Administration, and the National Aeronautics and Space Administration) analyzed each comment received in response to the June 2, 1997, proposed rule and the public meetings conducted on February 18, 1998, and May 18, 1999. Because this proposed rule significantly changes the June 1997 proposed rule, a summary of the comments received and recommended disposition is not included with this rule.

Based upon comments received in response to this proposed rule, and other information that might become available during the public comment period, the final rule might contain only the standard Government property and Government property administration clauses and related material discussed in this proposed rule, only the alternate Government property and Government property administration clauses and related material discussed in this rule, or both the standard and alternate Government property and Government property administration clauses and related material. The Councils are particularly interested in public comment on whether the final rule should contain only the standard Government property and Government property administrative clauses and related material discussed in this proposed rule, only the alternate Government property and Government property administration clauses and related material discussed in this proposed rule, or both the standard and alternate Government property and Government property administration clauses and related material.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804 because it continues the re-engineering of the Government property management processes and procedures and is not expected to affect significantly the profitability of contractors who have Government property in their possession.

B. Regulatory Flexibility Act

The Initial Regulatory Flexibility Analysis (IRFA) submitted to the Chief Counsel for Advocacy of the Small Business Administration is applicable to this revised proposed rule. A summary of the analysis was published in the **Federal Register** on June 2, 1997.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because the proposed rule contains information collection requirements. The Office of Management and Budget (OMB) approved the information collection requirements contained in the proposed rule dated June 2, 1997, under OMB Clearance Number 9000–0151. In response to public comments on the proposed rule, this revised proposed rule eliminates one additional notification requirement, replaces three of the reports identified in the proposed rule with notices, and simplifies the information collection requirements for the annual report of Government property in the possession of contractors. These changes slightly reduce the proposed rule's estimated information collection hours. The Councils will recalculate the paperwork burden using the latest labor and overhead rates when this proposed rule is finalized. It is estimated that this rule, when final, will reduce the public paperwork associated with Government property management by approximately 3,147,000 hours per year.

List of Subjects in 48 CFR Parts 1, 2, 4, 7, 8, 15, 16, 17, 22, 27, 28, 31, 32, 35, 37, 42, 43, 44, 45, 49, 51, 52, and 53

Government procurement.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 1, 2, 4, 7, 8,

15, 16, 17, 22, 27, 28, 31, 32, 35, 37, 42, 43, 44, 45, 49, 51, 52, and 53 be amended as set forth below:

1. The authority citation for 48 CFR parts 1, 2, 4, 7, 8, 15, 16, 17, 22, 27, 28, 31, 32, 35, 37, 42, 43, 44, 45, 49, 51, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Amend section 1.106 in the table following the introductory paragraph by—

a. Revising the OMB Control Number at entries for FAR segments 45, SF 1428, and SF 1429 to read ''9000–0151'';

b. Removing the FAR segment entries and their corresponding OMB Control Numbers at 52.216–13, 52.232–21, 52.245–2, 52.245–3, 52.245–5, 52.245–7, 52.245–8, 52.245–9, 52.245–10, 52.245–11, 52.245–16, 52.245–17, 52.245–18, SF 1423, SF 1424, SF 1426, SF 1427, SF 1430, SF 1432, and SF 1434; and

c. Adding entries to read as follows:

1.106 OMB approval under the Paperwork Reduction Act.

* * * * *

FAR segment	OMB control No.
* * * * *	
52.245–1	9000–0151
52.245–2	9000–0151
52.245–3	9000–0151
52.245–4	9000–0151
52.245–5	9000–0151
52.245–6	9000–0151
52.245–7	9000–0151
52.245–8	9000–0151
* * * * *	
SF 1450	9000–0151
* * * * *	

PART 2—DEFINITIONS OF WORDS AND TERMS

3. Amend section 2.101 by revising the definition ''Supplies''; and by adding, in alphabetical order, the definitions ''Property'', ''Real property'', and ''Personal property'' to read as follows:

2.101 Definitions.

* * * * *

Personal property means property of any kind or interest in it except real property, battleships, cruisers, aircraft carriers, destroyers, submarines, and records of the Federal Government.

* * * * *

Property means real and personal property.

Real property means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or equipment.

Supplies means all property except land or interest in land. It includes (but is not limited to) public works and buildings; ships, floating equipment, and vessels of every character, type, and description, together with parts and accessories; aircraft and aircraft parts, accessories, and equipment; machine tools; and the alteration or installation of any of the foregoing.

* * * * *

PART 4—ADMINISTRATIVE MATTERS

4. Amend section 4.703 by revising the first sentence of paragraph (b)(3) to read as follows:

4.703 Policy.

* * * * *

(b) * * *

(3) The contractor does not meet the original due date for submission of final indirect cost rate proposals specified in paragraph (e)(2) of the clause at 52.216–7, Allowable Cost and Payment. * * *

* * * * *

5. Amend section 4.804–4 by revising paragraph (b) to read as follows:

4.804–4 Physically completed contracts.

* * * * *

(b) Rental, use, and storage agreements are considered physically complete when the performance period stipulated in the agreement expires.

PART 7—ACQUISITION PLANNING

6. Amend section 7.105 by revising paragraph (b)(14) to read as follows:

7.105 Contents of written acquisition plans.

* * * * *

(b) * * *

(14) *Government-furnished property.* Identify any property to be furnished to contractors and discuss any associated considerations, such as the property's availability and compliance with the requirements at 45.201.

* * * * *

7.501 [Amended]

7. Amend section 7.501 in the second sentence of paragraph (b) by removing ''facilities operations and maintenance,'' and adding ''property management,'' in its place.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8. Revise section 8.101 to read as follows:

8.101 Definition.

Excess personal property means any personal property (see 2.101) under the control of a Federal agency that the agency head or a designee determines is not required for its needs or for the discharge of its responsibilities.

PART 15—CONTRACTING BY NEGOTIATION

9. Amend section 15.305 by redesignating paragraphs ''(a)(3)'' and ''(a)(4)'' as ''(a)(4)'' and ''(a)(5)'', respectively, and by adding a new paragraph (a)(3) to read as follows:

15.305 Proposal evaluation.

* * * * *

(a) * * *

(3) *Government property adjustment.* Offerors who will use Government property to perform a contract usually have a price advantage relative to competitors who will use their own property or will acquire or fabricate property to perform that contract. When evaluating offers, that advantage must be eliminated to the extent practicable.

(i) Contracting officers must adjust offers by applying a rental adjustment determined, to the extent practicable, using the rental guidelines in the clause at 52.245–6, Rental Charges for Commercial Use.

(ii) It is not necessary to calculate a Government property adjustment when—

(A) The solicitation requires the offerors to use specific Government-furnished property items during contract performance; or

(B) It is apparent that the difference between the offer or offers most advantageous to the Government and competing offers is so great that a rental adjustment will not affect source selection.

* * * * *

PART 16—TYPES OF CONTRACTS

16.307 [Amended]

10. Amend section 16.307—

a. In the first sentence of paragraph (a)(1) by removing the parenthetical ''(other than a facilities contract)'';

b. In paragraph (b) by removing from the parenthetical the words ''a facilities contract or'';

c. In paragraph (d) by removing ''(other than a facilities contract)'';

d. In paragraph (e)(1) by removing ''or a facilities contract'';

e. In paragraph (f)(1) by removing ''(other than a facilities contract)'';

f. By removing paragraphs (g) and (h); and

g. By redesignating paragraph ''(i)'' as paragraph ''(g)'', and amending it by removing the last sentence.

PART 17—SPECIAL CONTRACTING METHODS

11. Amend section 17.603 by revising paragraph (a)(5) to read as follows:

17.603 Limitations.

(a) * * *

(5) Functions that can more properly be accomplished in accordance with subpart 45.2, Furnishing Government Property.

* * * * *

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.400 [Amended]

12. Amend section 22.400 by removing the parenthetical ''(See definition of *Construction* in section 22.401.)''.

22.405 [Amended]

13. Amend section 22.405, in the first sentence, by removing ''Facilities Contracts'' and adding ''Government-Furnished Real Property'' in its place.

14. Amend section 22.407 by revising paragraph (d) to read as follows:

22.407 Contract clauses.

* * * * *

(d) The contracting officer shall insert the clause at 52.222–17, Labor Standards for Construction Work—Government-Furnished Real Property, when the Government will furnish real property for performance of a contract and the Government is not certain at the time of contract award that it may require covered construction work (see 22.402(b)) to be performed in the United States.

PART 27—PATENTS, DATA, AND COPYRIGHTS

27.409 [Amended]

15. Amend section 27.409 in the first sentence of paragraph (e) by removing the word ''facilities'' and adding ''property'' in its place.

PART 28—BONDS AND INSURANCE

16. Revise section 28.303 to read as follows:

28.303 Insurance against loss of or damage to Government property.

When the Government requires or approves insurance to cover loss, theft, or destruction of or damage to Government property, it may be provided by specific insurance policies or by inclusion of the risks in the contractor's existing policies. The policies shall disclose the Government's interest in the property.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.106 [Removed and Reserved]

17. Remove and reserve sections 31.106 through 31.106–3.

31.205–40 [Amended]

18. Amend section 31.205–40 in paragraph (a) by removing the citation ''45.101'' and inserting ''45.001'' in its place.

PART 32—CONTRACT FINANCING

32.403 [Amended]

19. Amend section 32.403 by removing and reserving paragraph (c).

32.407 [Amended]

20. Amend section 32.407 by removing and reserving paragraph (c).

32.503–15 [Removed and Reserved]

21. Remove and reserve section 32.503–15.

32.704 [Amended]

22. Amend section 32.704 in the introductory text of paragraph (a)(1) by removing ''52.232–21, Limitation of Cost (Facilities);''.

23. Amend section 32.705–2 by revising paragraph (a); by removing paragraph (b); and by redesignating paragraph (c) as paragraph (b). The revised text reads as follows:

32.705–2 Clauses for limitation of cost or funds.

(a) The contracting officer shall insert the clause at 52.232–20, Limitation of Cost, in solicitations and contracts if a fully funded cost-reimbursement contract is contemplated whether or not the contract provides for payment of a fee.

* * * * *

PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

24. Revise the section heading and text of 35.014 to read as follows:

35.014 Title to tangible personal property.

The provisions of 31 U.S.C. 6306 for vesting title to equipment and other tangible property in nonprofit organizations whose primary purpose is the conduct of scientific research or nonprofit institutions of higher education are implemented through Alternate II to the clause at 52.245–2, Government Property, and Alternate II to the clause at 52.245–7, Government Property—Alternate Procedures. It is generally in the Government's interests to vest title with such contractors unless an agency head has provided otherwise or the property can be used for follow-on contracts to be performed on real property owned or leased by the Government.

PART 37—SERVICE CONTRACTING

25. Amend section 37.101 by revising paragraph (e) of the definition ''Service contract'' to read as follows:

37.101 Definitions.

* * * * *

Service Contract * * *

* * * * *

(e) Operation of Government-owned equipment, real property, and systems.

* * * * *

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

26. Amend section 42.302 by revising paragraphs (a)(26), (a)(27), and (a)(28), and by removing and reserving (a)(30) to read as follows:

42.302 Contract administration functions.

(a) * * *

(26) Perform property administration (see part 45), including review and approval of contractor property management systems, assessment of contractor processes for the acquisition or fabrication of property under cost-reimbursement contracts, and the management and disposal of Government property.

(27) Determine reasonable rentals for noninterference use of Government property for commercial purposes (see 52.245–2, 52.245–6, and 52.245–7).

(28) Perform necessary screening, redistribution, and disposal of Government property.

* * * * *

(30) [Reserved]

* * * * *

42.705–1 [Amended]

27. Amend section 42.705–1 in the first sentence of paragraph (b)(1) by removing ''or 52.216–13''.

42.708 [Amended]

28. Amend section 42.708 in paragraph (b) by removing ''or 52.216–13''.

42.709–6 [Amended]

29. Amend section 42.709–6 by removing ''52.216–13,''.

PART 43—CONTRACT MODIFICATIONS

43.205 [Amended]

30. Amend section 43.205 by removing paragraph (b)(5); by redesignating paragraph ''(b)(6)'' as ''(b)(5)'', and amending it by removing ''Alternate V'' and adding ''Alternate IV'' in its place.

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

44.101 [Amended]

31. Amend section 44.101 by removing the definition ''Facilities''.

32. Amend section 44.202–2 by revising paragraph (a)(2); by removing paragraph (a)(10); and by redesignating paragraphs (a)(11) through (a)(13) as (a)(10) through (a)(12), respectively. The revised text reads as follows:

44.202–2 Considerations.

(a) * * *

(2) Is the subcontract for property identified in the solicitation as property the Government will furnish for contract performance?

* * * * *

33. Revise part 45 to read as follows:

PART 45—GOVERNMENT PROPERTY IN THE POSSESSION OF CONTRACTORS

Sec.

45.000 Scope of part.
45.001 Definitions.

Subpart 45.1—General

45.101 Property management procedures.
45.102 Policy.

Subpart 45.2—Furnishing Government Property

45.201 Furnishing property for performance of a Government contract.
45.201–1 Criteria for furnishing Government property.
45.201–2 Restrictions on furnishing Government property.
45.201–3 Documentation and approval requirements.
45.202 Competitive advantage.
45.203 Solicitation and contract requirements.
45.204 Postaward requests for Government property.
45.205 Repair or replacement of Government-furnished property.
45.205–1 Maintenance.
45.205–2 Property losses.
45.206 Government-furnished property to be returned to a Government activity.
45.207 Solicitation provision and contract clauses.
45.207–1 Solicitation provision.
45.207–2 Contract clauses.

Subpart 45.3—Contractor-Acquired or Produced Property

45.301 General.
45.302 Fixed-price and labor-hour contracts.
45.303 Cost-reimbursement and time-and-materials contracts.
45.304 Contract clause.

Subpart 45.4—Liability for Property Losses

45.400 General.
45.401 Liability for property losses—contracts that include the clause at 52.245–2, Government Property.
45.401–1 Government liability.
45.401–2 Contractor liability.
45.402 Liability for property losses—contracts that include the clause at 52.245–7, Government Property—Alternate Procedures.
45.402–1 Government liability.
45.402–2 Contractor liability.
45.403 Post delivery considerations.
45.404 Contract clause.

Subpart 45.5—Government Property Management

45.501 Preaward considerations.
45.502 Standard and alternate property management systems.
45.502–1 Property management under the clause at 52.245–5, Government Property Administration.
45.502–2 Property management under the clause at 52.245–8, Government Property Administration—Alternate Procedures.
45.503 Government property records and reports.
45.504 Property accountability.
45.504–1 Accountability.
45.504–2 Transferring accountability to other contracts.
45.505 Reutilization, transfer, and donation of Government property.
45.505–1 Contractor actions.
45.505–2 Inventory disposal schedules.
45.505–3 Reutilization priorities.
45.505–4 Screening.
45.505–5 Waiver of screening requirements.
45.505–6 Interagency property transfer costs.
45.506 Abandonment, destruction, or donation of excess agency property.
45.507 Disposal of scrap.
45.507–1 Production scrap.
45.507–2 Other scrap.
45.508 Disposal of surplus Government property.
45.508–1 Abandonment, destruction, or donation of surplus property in lieu of sale.
45.508–2 Sale of surplus property.
45.508–3 Proceeds from sales.
45.509 Inventory Disposal Reports.
45.510 Contract clause.

Subpart 45.6—Authorizing the Use of Government Property for Commercial Purposes

45.601 Policy.
45.602 Contract clause.

45.000 Scope of part.

This part prescribes policies for furnishing Government property to contractors, contractors' use and management of Government property, and, except for real property, the disposal of Government property. It does not apply to—

(a) Property leased under the provisions of 10 U.S.C. 2667, Leases: nonexcess property; or

(b) Property to which the Government has obtained title, a lien, or other security interest solely as a result of financing arrangements under fixed-price contracts.

45.001 Definitions.

As used in this part—

Commercial purpose means any purpose other than performance of a U.S. Government contract or subcontract thereunder.

Contractor's managerial personnel means the contractor's directors, officers, and any of the contractor's managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the contractor's business or operations at a site connected with performance of a Government contract.

Demilitarization means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

Equipment means nonexpendable, tangible personal property. The term does not include property that satisfies the definition in this part of material, unique Federal property, special tooling, or special test equipment.

Expendable property means property that is customarily consumed during design, manufacture, or testing of a product or performance of a service.

General purpose equipment means items that can be used, or with only minor modification could be used, to develop, produce, test, or maintain more than one type of item or perform more than one type of service.

Government-furnished property means Government property that a contracting officer authorizes a contractor to use for performance of a Government contract.

Government property means property the Government owns or leases.

Low value property means equipment, special tooling, or special test equipment that has an acquisition cost less than $5,000 and is not sensitive property.

Material means expendable property and property incorporated into or attached to an item deliverable under a contract.

Natural disaster means a sudden and unusual natural occurrence causing catastrophic damage, including floods, hurricanes, tornadoes, cyclones,

atmospheric electrical storms, tidal waves, avalanches, mudslides, landslides, volcanic eruptions, earthquakes, and other similar perils. The term does not include fire or explosion, unless directly or indirectly caused by a covered peril.

Nonprofit organization means a business entity organized and operated exclusively for charitable, scientific, or educational purposes, the net earnings of which do not inure to the benefit of any private shareholder or individual, that is exempt from Federal income taxation under section 501 of the Internal Revenue Code and does not conduct a substantial portion of its activities carrying on propaganda or otherwise attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office.

Personal property (see 2.101).

Plant clearance officer means a person appointed to disposition property accountable under Government contracts.

Precious metals means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.

Property (see 2.101).

Property administrator means a person appointed to perform property administration for the Government.

Real property (see 2.101).

Rental period means the calendar period during which Government property is made available for commercial purposes.

Rental time means the number of hours, to the nearest whole hour, rented property is actually used for commercial purposes. It includes time to set up the property for such purposes, perform required maintenance, and restore the property to its condition prior to rental (less normal wear and tear).

Scrap means personal property that has no value except its basic metallic, mineral, or organic content.

Sensitive property means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that must be subject to exceptional physical security, protection, control, and accountability such as classified property, weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

Special test equipment means—

(1) Test equipment designed specifically to conduct testing required by a Government contract provided such equipment cannot be used for other purposes;

(2) General purpose test equipment or modifications thereof that are interconnected and interdependent to form a new functional entity that can only be used to perform testing required by a contract while so interconnected and interdependent; or

(3) Any combination of specifically designed, general purpose, or modified general purpose test equipment that are so interconnected and interdependent to form a new functional entity that can only be used to perform special purpose testing required by a contract while so interconnected and interdependent.

Special tooling means items, such as jigs, dies, fixtures, molds, patterns, taps, gauges, or other equipment and manufacturing aids, that are of such a specialized nature that without substantial modification or alteration their use is limited to the development, production, repair, or maintenance of particular supplies or components thereof, or to the performance of particular services.

Unique Federal property means Government-owned personal property, or components thereof, that is specially designed to perform or support the mission of one or more Federal agencies and is not available to the public. The term does not include property that is incorporated into or attached to an item deliverable under a contract.

Work in process means bench stock materials, complete or incomplete fabricated parts, subassemblies, assemblies, and similar items that are created during production of deliverable end items, or are required to construct special tooling or special test equipment needed to produce deliverable end items, or are otherwise needed for design or testing required by a contract.

Subpart 45.1—General

45.101 Property management procedures.

(a) The Government permits offerors to elect to manage Government property under a standard, process based system or, alternatively, to manage Government property using the same business practices the contractors use to manage their own property. The solicitation provision at 52.245–1, Government Property Availability and Information Required from Offerors, is used for the election. See the clause at 52.245–5, Government Property Administration, for the standard, process based system, and the clause at 52.245–8, Government Property Administration—Alternate Procedures, if the election is to use the contractor's own business practices. Subparts 45.4 and 45.5 provide guidance regarding contractors' property liability and property management responsibilities.

(b) It is in the Government's interest to have a contractor use a single property management system at each location at which the contractor will perform Government contracts. Therefore, contracting officers should not question a contractor's election to use the alternate property management procedures if the contractor's election is consistent with the contractor's practices at a particular location. If the contractor's election is not consistent, the contracting officer should advise the contractor of the inconsistency and request the contractor to withdraw the election or agree to include the elective procedures in all contracts being performed at that location at no increase in the price or fee of such contracts.

45.102 Policy.

(a) Agencies must not—

(1) Furnish Government property to contractors except as provided in subpart 45.2;

(2) Specify, direct, or require for contract performance the use of specific (*e.g.,* brand name, brand name or equal, part number, or similar identifier) commercial items that will become Government property under a contract unless the contract's stated purpose is the acquisition of such items;

(3) Acquire commercial items or general purpose equipment for the sole purpose of subsequently furnishing such items as Government-furnished property to any contractor unless the commercial items are components of deliverable items; or

(4) Authorize contractors to acquire for the Government—

(i) Property not required for performance of a contract or subcontract thereunder;

(ii) Real property, alterations thereof, or improvements thereto, unless the contract's primary purpose is the maintenance of an essential industry capability or the contract requires the performance of alterations or improvements to real property; or

(iii) General purpose equipment, unless the contract's stated purpose is the acquisition of the equipment (see paragraph (b) of this section for nonprofit organizations).

(b) Under contracts for basic or applied scientific research, contracting officers may authorize nonprofit organizations whose primary purpose is the conduct of scientific research, or nonprofit institutions of higher education, to acquire tangible personal property for the Government, including commercial items.

Subpart 45.2—Furnishing Government Property

45.201 Furnishing property for performance of a Government contract.

Government property may be furnished for performance of a Government contract, subject to the restrictions in 45.201-2, only when at least one of the criteria in 45.201–1 and the corresponding documentation and approval requirements in 45.201–3 are satisfied.

45.201–1 Criteria for furnishing Government property.

The criteria for furnishing Government property are:

(a) The Government is the sole source of property required to perform a contract.

(b) The property will be incorporated into or attached to a deliverable end item.

(c) The property's use will result in substantial measurable cost savings to the Government when compared to estimated costs of contract performance without such property (consider the Government's costs to activate property or maintain property in an active status of ownership when determining cost savings).

(d) The Government must furnish the property to assure that items delivered under a contract are compatible with other Government items.

(e) The property must be furnished to accomplish repairs to, or maintenance or reconditioning of, Government-furnished property or items to be delivered under a contract and such repair, maintenance, or reconditioning is not the contractor's responsibility under the contract.

(f) The property must be furnished to respond to an unusual and compelling urgency for supplies or services (see 6.302–2) or to support contingency contracting.

(g) The property will be used on a contract for scientific research conducted by an institution of higher education or a nonprofit organization.

(h) Government-furnished equipment or real property is needed for the retention or operation of an essential Government-owned capability.

45.201–2 Restrictions on furnishing Government property.

The restrictions on furnishing Government property are:

(a) Government-owned material may be furnished to contractors only under the criteria in 45.201–1(a), (b), (c), (f), or (g). The quantity furnished may include reasonable amounts for repairs or corrections to work in process, scrap, or spoilage.

(b) Government-owned equipment may be furnished to contractors only under the criteria in 45.201–1 (c), (f), (g), or (h).

(c) Contracting officers may furnish commercial computer software or commercial computer software documentation to contractors only when the Government has a license in the software or documentation that permits release or disclosure to and use by third parties and the software or documentation is required to operate, maintain, or install other Government property furnished for performance of a Government contract.

(d) Contracting officers must not furnish noncommercial computer software or noncommercial computer software documentation (software or documentation that does not satisfy the requirements in 2.101 for commercial items) to contractors unless the Government is the software or documentation licensor or, prior to furnishing the software or documentation, the Government obtains a license in the software or documentation that permits release or disclosure to, or use by, third parties and the intended recipient has completed any use and nondisclosure agreement required by part 27 or an agency supplement.

45.201–3 Documentation and approval requirements.

Decisions to furnish property to contractors must be documented in the contract file. Contracting officers may make decisions based upon the criteria in 45.201–1(b) and (d) through (g). Unless otherwise designated in agency regulations, approval is required by—

(a) The contracting officer's first level supervisor when using the criterion in 45.201–1(c);

(b) The contracting officer's second level supervisor when using the criterion in 45.201–1(a); or

(c) The head of the contracting activity when using the criterion in 45.201–1(h).

45.202 Competitive advantage.

Offerors who will use Government property to perform a contract usually have a price advantage relative to competitors who will acquire, fabricate, or use their own property to perform that contract. When evaluating offers, that advantage must be eliminated to the extent practicable (see 15.305(a)(3)).

45.203 Solicitation and contract requirements.

When the Government will make property available for contract performance—

(a) Competitive solicitations must—

(1) List the available property by item name, national stock number (if the item has a national stock number), or other appropriate nomenclature; identify the quantity available; and, when known, identify the date the property was acquired;

(2) Include, or offer to provide, real property maps, drawings, plans, or similar information in sufficient detail to enable an offeror to prepare its offer;

(3) Separately identify property available on an ''as is'' basis;

(4) Separately identify property the Government will reactivate, rehabilitate, or convert;

(5) Identify the adjustment that will be applied to the cost or price of offers that contemplate use of Government-furnished property. The adjustment may be specified as a dollar amount, a formula, or any combination thereof; and

(6) Identify any special requirements for security, maintenance, liability, or property administration.

(b) Contracts must—

(1) List and identify (nomenclature, quantity, serial number or other appropriate identifier, or, for real property, maps, drawings, plans, or similar information) the Government property furnished for performance of the contract;

(2) Separately identify property furnished ''as is'';

(3) Provide that costs incurred by the contractor to transport ''as is'' property to its place of business or to modify or otherwise make such property suitable for the contractor's use must not result in an increase in contract price or fee;

(4) Identify any constraints on the period for, or amount of, use;

(5) Identify any special requirements for security, maintenance, liability, or property control applicable to a particular Government-furnished item;

(6) Identify any Government-furnished property that is to be returned directly to a Government activity in lieu of initiating disposal action and specify the method and point of return;

(7) For fixed-price construction contracts that contemplate furnishing property f.o.b. railroad cars or f.o.b. truck, specify the point of delivery and include appropriate terms and conditions if the Government or another person will install, prepare, or test the property; and

(8) To the extent known, identify the Government-furnished property's acquisition cost and acquisition date.

45.204 Postaward requests for Government property.

(a) Contracting officers must not furnish Government property to

contractors subsequent to contract award unless adequate consideration is received. If a contractor requests the use of property that is accountable under another contract, the contracting officer for the contract under which the property is accountable must authorize the proposed use, and the contracting officer responsible for the contract under which the property's use has been requested must agree with such use. Modify each contract for which use is authorized to identify the conditions for use and the applicable consideration.

(b)(1) The clause at 52.245–2, Government Property, authorizes a contractor to use Government property accountable under a contract in performance of all Government contracts at the same location if—

(i) The Contracting officer has agreed to such use; or

(ii) The contractor requests the use of the property and the contracting officer does not object within 30 days following receipt of the contractor's request.

(2) Generally, the contracting officer should not object unless—

(i) The program manager for the contract under which the property is accountable, or his designee, advises that the requested use of the property will have an adverse affect on the property's capability to perform that contract or on program budgets; or

(ii) A contracting officer responsible for a contract on which use has been requested (an affected contracting officer) advises that the pricing structure of that contract would be affected or the property is not suitable for use under that contract.

(3) If the program manager (or designee) or an affected contracting officer objects to the requested use, the contracting officer must advise the contractor of the Government's objection within 30 days following receipt of the contractor's request.

(4) The contracting officer may negotiate with the contractor to remove the Government's objections by rescoping the contractor's proposal or obtaining other consideration acceptable to the program manager (or designee) and the affected contracting officers.

45.205 Repair or replacement of Government-furnished property.

45.205–1 Maintenance.

Contractors are required to maintain Government property in a condition suitable for intended use. The Government property clauses at 52.245–2, Government Property, and 52.245–7, Government Property—Alternate Procedures, require contractors to notify the Government when the maintenance actions required by those clauses do not sustain the property's suitability for use and request direction regarding repair, rehabilitation, or replacement of the property.

(a) Contracting officers may elect to—

(1) Repair or replace the property;

(2) Substitute other property for the property requiring additional maintenance;

(3) Authorize the contractor to repair, rehabilitate, or replace the property;

(4) Authorize the contractor to dispose of the property; or

(5) Negotiate an equitable adjustment.

(b) Contracting officers should not authorize the repair, rehabilitation, or replacement of Government-furnished property, including property furnished ''as is'', or make a repair, rehabilitation, or replacement unless—

(1) The property is required for continued performance of the contract under which the property is accountable;

(2) The Government is obligated contractually to provide the property for performance of another contract; or

(3) The property is needed for work to be performed by the Government at a Government installation.

(c) Contracting officers must consult with appropriate technical, logistics, program office, and property specialists to determine whether the Government-furnished property should be replaced, the appropriate method and type of replacement, or if the contractor should repair or rehabilitate the property. If the Government does not elect to repair or replace Government-furnished property that is needed for continued contract performance, the contractor might be entitled to an equitable adjustment.

45.205–2 Property losses.

(a) *Property losses for which the Government is liable.* Generally, the Government is responsible for property losses under contracts that include the Government property clause at 52.245–2. The Government is also liable for certain property losses under contracts that contain the Government property clause at 52.245–7. Follow the guidance in 45.205–1(a) and (b) to remedy a property loss for which the Government is liable.

(b) *Property losses for which the contractor is liable.* When a contractor is liable for a property loss under the Government property clauses at 52.245–2 or 52.245–7, the contracting officer may authorize the contractor to repair or replace the property at no change in contract price or fee if the property is needed for continued performance of the contract or negotiate an equitable reduction in contract price or fee if the property is not needed for continued contract performance.

45.206 Government-furnished property to be returned to a Government activity.

When a contract requires the contractor to return Government-furnished property directly to a Government activity (in lieu of entering the property into the disposal process), the property administrator should determine the property's condition as near to the return date as practicable and must promptly notify the contracting officer if the property is not suitable for its intended use. The contracting officer promptly must direct the contractor to take any necessary corrective action or negotiate an equitable adjustment incident to the contractor's failure to sustain the property's suitability for intended use. When corrective action is not practical, the contracting officer must direct the contractor to dispose of the property (see 45.505–3) and promptly advise the property administrator of the action directed.

45.207 Solicitation provision and contract clauses.

45.207–1 Solicitation provision.

(a) Insert the provision at 52.245–1, Government Property Availability and Information Required from Offerors, when soliciting offers from more than one source, regardless of contract type, and the Government contemplates furnishing property for performance of the resulting contract.

45.207–2 Contract clauses.

(a) Except as provided in 45.207–2(d), insert the clause at 52.245–2, Government Property, in—

(1) All cost-reimbursement and time-and-materials solicitations and contracts for supplies, services, or research and development;

(2) Fixed-price or labor-hour solicitations and contracts for supplies, services, or research and development under which the Government will furnish property for performance of the contract;

(3) Contract modifications or orders for property repair under fixed-price or labor-hour contracts that do not include that clause when—(i) The aggregate acquisition cost of the property to be repaired exceeds or is reasonably anticipated to exceed $100,000; or

(ii) The Government will furnish property for performance of the repairs.

(b) Insert the clause with its Alternate I in solicitations and contracts that contemplate fixed-price awards based upon adequate price competition or

when the contract price is set by law or regulation.

(c) Insert the clause with its Alternate II in cost-reimbursement or time-and-materials solicitations and contracts for basic or applied scientific research to be conducted by nonprofit organizations whose primary purpose is the conduct of scientific research or by nonprofit institutions of higher education (see 35.014).

(d) Insert the clause at 52.245–7, Government Property—Alternate Procedures, when an offeror has elected to use that clause in the solicitation provision at 52.245–1, Government Property Availability and Information required from Offerors.

(1) Insert the clause with its Alternate I in contracts for services to be performed primarily on real property owned or leased by the Government and the contractor will not control access to or use of the property furnished for performance of the contract.

(2) Insert the clause with its Alternate II in cost-reimbursement or time-and-materials solicitations and contracts for basic or applied scientific research to be conducted by nonprofit organizations whose primary purpose is the conduct of scientific research or by nonprofit institutions of higher education (see 35.014).

Subpart 45.3—Contractor-Acquired or Produced Property

45.301 General.

A contractor's contention that property was acquired to perform a specific contract and is not needed for any other purpose does not alter the fact that the property might not qualify for treatment as a direct cost under the contractor's cost accounting practices and 31.202.

45.302 Fixed-price and labor-hour contracts.

(a) Property acquired or produced by the contractor for performance of a fixed-price or labor-hour contract is not Government-furnished property and is not subject to the clause at 52.245–5, Government Property Administration, or the clause at 52.245–8, Government Property Administration—Alternate Procedures, except—

(1) Delivered property accepted by the Government that the Government has directed the contractor to store; or

(2) Special tooling and special test equipment the contractor is required to store during the Government notice period under the clause at 52.245–3, Delivery—Special Tooling and Special Test Equipment (Fixed-Price Contracts) (see paragraphs (b) and (d) of this section).

(b)(1) The clause at 52.245–3, Delivery—Special Tooling and Special Test Equipment (Fixed-Price Contracts), requires a contractor to notify the Government if the contractor has acquired or produced special tooling or special test equipment that is not required to be delivered under the contract. The contractor's notice is required not later than the earlier of—

(i) 30 days following the contractor's determination that such special tooling or special test equipment is no longer required for contract performance; or

(ii) 120 days prior to completion of scheduled deliveries (other than technical data) under the contract.

(2) The Government has 120 days following receipt of the contractor's notice (or such other period mutually agreed upon) to notify the contractor that the Government requires delivery of any of the items identified in the contractor's notice. The Government's notice must identify the special tooling or special test equipment item(s) to be delivered, and must—

(i) Provide packing, packaging, marking, and shipping instructions;

(ii) Direct the contractor to prepare the property for storage at the contractor's facility or a Government facility; or

(iii) Provide instructions when accountability is to be transferred to another contract.

(c) The contractor is obligated to store the property during the notice period at no change in price. Storage subsequent to the Government's delivery notice might entitle the contractor to an equitable adjustment.

(d) Prior to furnishing any property delivered to the Government under the clause at 52.245–3 to a contractor for performance of a Government contract, including the contract under which delivery occurred, the contracting officer responsible for the receiving contract must modify that contract to identify the property as Government-furnished property. If the receiving contract does not contain either the clause at 52.245–2 or the clause at 52.245–7, the modification must add whichever of those clauses is appropriate for the location at which the receiving contract is performed and other clauses prescribed for use with the added clause. Notwithstanding any other provision of the receiving contract, the modification must specify that the property is furnished in accordance with the terms of the added clauses.

(e) Contracting officers must not exercise the Government's right to require delivery of special tooling or special test equipment items unless the items are needed for follow-on competitive procurements, component breakout, mobilization, or to establish a Government repair or maintenance capability.

45.303 Cost-reimbursement and time-and-materials contracts.

(a) Property acquired or produced by a contractor for performance of a cost-reimbursement and time-and-materials contract is subject to the clause at 52.245–5, Government Property Administration, or the clause at 52.245–8, Government Property Administration—Alternate Procedures, at the time the property's costs are properly allocable to a contract as direct costs except—

(1) Special tooling items, or special test equipment items to which the contractor has title under the clause at 52.216–7, Allowable Cost and Payment; and

(2) Property to which title has been vested in the contractor under Alternate II to the clause at 52.245–2, Government Property, or Alternate I to the clause at 52.245–7, Government Property—Alternate Procedures (See 35.014).

(b) If a person responsible for establishing requirements has determined that the Government requires delivery of certain low value (less than $5,000 acquisition cost) special tooling items or low value special test equipment items that do not contain general purpose test units, such items must be identified as deliverable items under the contract.

(c) Property acquired or produced under a cost-reimbursement contract is not property furnished for the performance of that contract. If the contracting officer elects to furnish that property to the contractor for performance of the contract under which the property was acquired or produced, or to a contractor for performance of another Government contract, the contracting officer must modify the receiving contract to identify the property as Government-furnished property and, if necessary, include the appropriate contract clauses. The modification must specify that the property is furnished in accordance with the terms of the clauses added.

(d) To avoid unnecessary maintenance and storage costs, contractors are required to enter into the disposal process property no longer required for contract performance. Contracting officers must not authorize the repair, rehabilitation, or replacement of property no longer needed for performance of a cost-reimbursement or time-and-materials contract, except special tooling or special test equipment

items described in 45.303(b) that diligent exercise of the contractor's contractual maintenance responsibilities cannot sustain in a condition suitable for intended use.

45.304 Contract clause.

Insert the clause at 52.245–3, Delivery—Special Tooling and Special Test Equipment (Fixed-Price Contracts), in fixed-price solicitations and contracts for supplies, services, or research and development where the effort to be performed will require the contractor to acquire or produce special tooling or special test equipment.

Subpart 45.4—Liability for Property Losses

45.400 General.

(a) As used in this subpart, the terms loss and losses include the physical loss of, the theft of, or the destruction of Government property, and damage to Government property.

(b) The clauses at 52.245–2, Government Property, and 52.245–7, Government Property—Alternate Procedures, identify the conditions under which either the Government or the contractor is liable for a property loss. See 45.401 for guidance on contracts that include the clause at 52.245–2 and 45.402 for contracts that include the clause at 52.245–7.

45.401 Liability for property losses—contracts that include the clause at 52.245–2, Government Property.

45.401–1 Government liability.

(a) The Government is liable for property losses that occur while the contractor is maintaining a property management system that satisfies contract requirements, except losses or any portion thereof—

(1) For which the contractor expressly is liable under the terms of a contract; or

(2) Are identified in 45.401–2.

(b) The Government's liability for a property loss is reduced by the amount of any reimbursement the contractor receives from a third party. Contracting officers may direct the contractor to use the reimbursement proceeds to repair, rehabilitate, or replace the property or may equitably adjust the contract. Repair, rehabilitation, or replacement should be considered only when the property is needed for continued performance of the contract, there is a known need for the property at a Government repair activity, or the Government is contractually obligated to furnish the property for performance of another contract.

45.401–2 Contractor liability.

(a) The contractor is liable for losses that—

(1) Occur at a time when the contractor has not established a property management system that satisfies the requirements of this contract;

(2) Occur on or after the date of a written or electronic notice from the property administrator that the Government has withdrawn approval of the contractor's property management system, unless the contractor can establish by clear and convincing evidence that a loss did not result from the contractor's failure to maintain an approved system;

(3) Occur on or after the first calendar day following the contractor's failure to correct a property system deficiency within the time specified by the property administrator or such other mutually agreed upon time for correction;

(4) Result from the contractor's failure to take reasonable and prudent steps to avoid losses resulting from acts of war, civil insurrection, or natural disasters; or (5) Result from the willful misconduct or lack of good faith on the part of the contractor's managerial personnel.

(b) The contractor's liability for a loss that results from a risk expressly required to be insured under this contract is limited to the extent of the insurance required to be purchased and maintained, or to the extent of the insurance actually purchased and maintained, whichever is greater.

(c) The contractor's transfer of Government property to the possession and control of a subcontractor does not affect the contractor's liability for property losses.

45.402 Liability for property losses—contracts that include the clause at 52.245–7, Government Property— Alternate Procedures.

45.402–1 Government liability.

(a) The Government is liable for losses to Government property—

(1) Caused by acts of war, civil insurrection, or natural disasters, regardless of property value, except a loss or portion thereof caused by or attributable to the contractor's or a subcontractor's failure to take reasonable and prudent steps to avoid or reduce such losses; and (2) Losses to Government property items that have an acquisition cost greater than $1,000,000 per item, except a loss or portion thereof caused by willful misconduct or lack of good faith on the part of the contractor's or a subcontractor's managerial personnel.

(b) The Government's liability for a property loss is reduced by the amount of any reimbursement the contractor receives from a third party. Contracting officers may direct the contractor to use the reimbursement proceeds to repair, rehabilitate, or replace the property or may equitably adjust the contract. Repair, rehabilitation, or replacement should be considered only when the property is needed for continued performance of the contract, there is a known need for the property at a Government repair activity, or the Government is contractually obligated to furnish the property for performance of another contract.

45.402–2 Contractor liability.

The contractor is liable for all losses of property accountable under the contract, except losses for which the Government is liable under 45.402–1. The contractor's transfer of Government property to the possession and control of a subcontractor does not affect the contractor's liability for property losses.

45.403 Post delivery considerations.

Contractors are liable for losses to property delivered to or accepted by the Government at a contractor or subcontractor managed location until the property is placed on board a carrier's conveyance (see appropriate f.o.b. clauses at 52.247–29 through 52.247–33).

45.404 Contract clause.

Insert the clause at 52.245–4, Liability for Government Property—Demolition Services Contracts, in addition to the clauses prescribed at 37.304, in solicitations and contracts for dismantling, demolition, or removal of improvements.

Subpart 45.5—Government Property Management

45.501 Preaward considerations.

(a) Contracting officers should consider whether an offeror's property management capabilities might affect source selection and must structure appropriate evaluation criteria.

(b) When property management capabilities will be evaluated, the official responsible for source selection should obtain and consider the cognizant property administrator's advice regarding the adequacy of offerors' plans to establish acceptable property management systems under contracts that contain the clause at 52.245–5, Government Property Administration, or the adequacy of offerors' plans to establish acceptable systems of property management practices under the clause at 52.245–8,

Government Property Administration—Alternate Procedures.

45.502 Standard and alternate property management systems.

Contractors are required to have a property management system that performs the processes identified in the clause at 52.245–5, Government Property Administration, unless they have elected to use the clause at 52.245–8, Government Property Administration—Alternate Procedures. See 45.502–1 for guidance regarding property management under contracts that include the clause at 52.245–2, Government Property, or 45.502–2 for guidance regarding the clause at 52.245–8, Government Property Administration—Alternate Procedures.

45.502–1 Property management under the clause at 52.245–5, Government Property Administration.

(a) *General.* (1) A contractor's property management system and processes must provide for the control of property in the possession of its subcontractors.

(2) The periods for establishing a new system or submitting changes to an existing system should be extended only when the contractor demonstrates a reasonable need for an extension. When authorizing an extension, the property administrator must specify the new establishment or submission date(s).

(b) *Property management system reviews and approvals*—(1) *New systems or systems not previously reviewed by the Government.* Property administrators must—

(i) Review new property management systems or existing systems that have not been reviewed by a property administrator as soon as practicable;

(ii) Approve a system if the system's processes are sufficient to assure compliance with contract requirements;

(iii) Require contractors to correct systems that do not include all processes identified in 52.245–5(c) or that include processes that are not sufficient to assure compliance with contract requirements. Notify the contractor of the corrections required and specify the date(s) by which the corrections must be made; and

(iv) Promptly refer to the contracting officer a contractor's failure to establish a property control system that satisfies the requirements in the clause at 52.245–5.

(2) *Changes to previously approved systems.* Contractors that have a Government-approved property management system are required to submit to the cognizant property administrator within 90 days following contract award any changes to that system that are required to conform the system to the contract's requirements. Property administrators must—

(i) Review the proposed changes within 90 days following receipt;

(ii) Validate the system's approval if the contractor-proposed changes are sufficient to assure contract compliance;

(iii) Require the contractor to make changes only to the extent necessary for contract compliance;

(iv) Notify the contractor of the corrections required and specify the date(s) by which the corrections must be made. The notice must advise the contractor that the contractor's failure to correct its system within the time specified might result in the contractor's assumption of liability for property losses that the Government might otherwise be liable for under the contract's Government Property clause; and

(v) Notify the contracting officer immediately following issuance of a notice under paragraph (b)(2)(iv) of this section.

(3) *Corrections following property control system reviews.* Property administrators must provide a correction notice to a contractor promptly following a control system review that discloses a previously approved system no longer satisfies one or more requirements for an approved system. The notice must specify the corrections required to make the system compliant and the date for completing corrective action. The notice must advise the contractor that the contractor's failure to correct its system within the time specified might result in the contractor's assumption of liability for property losses that the Government otherwise would be liable for under those clauses.

(c) *Withdrawing system approval.* The administrative contracting officer's concurrence is required prior to withdrawing approval of an approved property management system. Generally, approval should be withdrawn only when a contractor fails to maintain a Government property control system that satisfies contract requirements.

45.502–2 Property management under the clause at 52.245–8, Government Property Administration— Alternate Procedures.

(a) The Government will rely upon a contractor's use of sound business practices to maintain, protect, preserve, control, and account for Government property.

(b) The property administrator must notify the contracting officer responsible for contract administration promptly if experience under a contract indicates that the contractor's property management practices are not sufficient to maintain, protect, preserve, or control the Government's property as required by the contract.

(c) The contracting officer responsible for contract administration may require the contractor to correct the property system deficiencies, may negotiate an equitable reduction in contract price in lieu of correction, or may negotiate other appropriate corrective action. The procuring contracting officer should be consulted prior to implementing any corrective action.

45.503 Government property records and reports.

(a) Generally, it is in the Government's interests to have a contractor generate records and reports of Government property using the same practices the contractor uses for its own property. The property records maintained by a contractor are the Government's official property records. A contracting office may elect to establish and maintain the Government's property records and generate required property reports when the contracting office retains contract administration functions and the contracting officer considers Government recordkeeping and reports generation to be in the Government's interests. The circumstances under which Government recordkeeping and reporting might be warranted are—

(1) Contract performance periods less than 6 months; or

(2) When Government property will be furnished for a contract for services to be performed entirely at real property owned or leased by the Government such as the management or operation of installations, bases, or portions thereof, warehouses, libraries, stock rooms, mailrooms, or computer centers.

(b) The contracting office responsible for contract administration must process property reports in accordance with agency procedures.

45.504 Property accountability.

45.504–1 Accountability.

(a) Government-furnished property is accountable under the contract for which it was furnished.

(b) Property acquired or produced by a contractor to which the Government has title is accountable under the contract for which the property was acquired or produced until the contracting officer directs a transfer of accountability, the property is placed aboard a carrier's conveyance (f.o.b. origin), or is delivered at the specified f.o.b. destination point.

45.504–2 Transferring accountability to other contracts.

(a) *Contract modification.* Accountability transfers should be made only when the property is currently needed for the performance of another Government contract or is needed to preserve or maintain an essential industrial capability. All transfers must be reflected in a contract modification.

(b) *Special consideration for special tooling or special test equipment.* Accountability for a special tooling or special test equipment item acquired or produced by a contractor to which the Government has title, may be transferred to another contract with that contractor provided the property is identified as property furnished ''as is,'' the receiving contract's price or estimated cost and fee is adjusted in accordance with paragraph (c) of this subsection, and property records are adjusted in accordance with paragraph (d) of this subsection. Accountability instructions should be included in the notice required by paragraph (d) of the clause at 52.245–3, Delivery—Special Tooling and Special Test Equipment (Fixed-Price Contracts).

(c) *Price adjustment.* When a property item's accountability is transferred to another contract, the price or estimated cost and fee of the receiving contract should be equitably reduced if the receiving contract's current price or estimated cost and fee was established without a requirement for the Government to furnish the item for that contract.

(d) *Property records.* All property accountability transfers must be reflected in the property control records for the contract from which accountability is transferred (the losing contract) and the contract to which accountability is transferred (the gaining contract). When a Government-furnished property item's accountability is transferred, the respective contracting officers must modify the list of Government-furnished property items contained in the losing and gaining contracts.

45.505 Reutilization, transfer, and donation of Government property.

This section is applicable to the reutilization, transfer, and donation of Government property that is not required for continued performance of a Government contract. It does not apply to scrap (see 45.507).

45.505–1 Contractor actions.

Contractors are required to—

(a) Make reasonable efforts to return Government property that was acquired or produced by the contractor and is no longer needed for contract performance to the appropriate supplier or to use the property in performance of other contracts; and

(b) List property that could not be returned to a supplier or used in the performance of other Government contracts on Standard Form 1428, Inventory Disposal Schedule.

45.505–2 Inventory disposal schedules.

(a) Plant clearance officers should review and accept, or return for correction, inventory disposal schedules or scrap lists within 10 days following receipt. Schedules or lists that are completed in accordance with the instructions for Standard Form 1428 should be accepted.

(b) Plant clearance officers must—

(1) Use Standard Form 1423 to verify accepted schedules within 20 days following acceptance.

(2) Require a contractor to correct any discrepancies found during verification or a contractor's failure to complete the actions described in subsection 45.505–1.

(3) Provide the contractor disposition instructions for property identified on an acceptable inventory disposal schedule within 120 days following receipt of the schedule. A failure to provide timely disposition instructions might entitle the contractor to an equitable adjustment.

(c) Contractors must obtain the plant clearance officer's approval to remove a Government property item from an inventory disposal schedule. Removal should be approved when the contractor has found a buyer for a contractor-acquired or produced item at full acquisition cost, the Government has authorized the contractor to use the property on another Government contract, or the contractor has justified continued use of a Government-furnished property item. Plant clearance officers must consult with appropriate program and technical personnel to determine whether the contractor's rationale for retaining a Government-furnished property item is valid. If the screening process (see 45.505–4, 45.505–5, and 45.505–6) has not begun, the plant clearance officer must adjust the schedule or return the schedule to the contractor for correction. If screening has begun, the plant clearance officer must promptly notify the activity performing the screening and must identify the items that should be removed from the screening process.

45.505–3 Reutilization priorities.

Plant clearance officers must initiate reutilization actions using the highest priority method appropriate for the property. Authorized methods, listed in descending order from highest to lowest priority, are—

(a) Reuse within the agency (see 45.506 for circumstances under which excess agency property may be abandoned, destroyed, or donated);

(b) Transfer of educationally useful equipment to schools and nonprofit organizations for educational and research activities (provided no other Federal agency has expressed a need for the property prior to screening by other Federal agencies) or report such property to the General Services Administration (see Executive Order 12999);

(c) Reuse within the Government; and

(d) Donation to an eligible donee designated by the GSA.

45.505–4 Screening.

The screening periods begin upon the plant clearance officer's acceptance of an inventory disposal schedule. The plant clearance officer must determine whether standard or special screening is appropriate and initiate screening actions.

(a) *Standard screening.* The standard screening period is 56 days.

(1) *1st through 20th day—screening by the contracting agency.* The contracting agency has 20 days to screen excess property for other use within the agency. Plant clearance officers must delete from an inventory disposal schedule any items for which other intra-agency use is identified, prepare revised schedules, and, no later than the 21st day, submit four copies of the revised schedules and Standard Form (SF) 120, Report of Excess Personal Property, or an electronic equivalent to GSA (see 41 CFR 101–43.4901–120–1, Instructions for Preparing SF 120). Enter the date of the 42nd day as the automatic surplus release date and the date of the 56th day as the screening completion date.

(2) *21st through 41st day—screening by other Federal agencies.* GSA will normally honor requests for transfers of property on a first-come-first-served basis through the 41st day. When a request is honored, the GSA regional office must promptly transmit to the plant clearance officer an approved transfer order that includes shipping instructions.

(3) *42nd through 56th day—GSA screening for possible donation.* During this period, GSA must screen property that has not been transferred to schools or nonprofit organizations or has not been identified for Federal reutilization for possible donation to eligible donees.

(4) *Screening period transfer request.* If an agency receives an intra-agency

transfer request during the screening periods described in paragraphs (a)(2) or (a)(3) of this subsection, the plant clearance officer must request GSA approval to withdraw the item from the inventory disposal schedule.

(b) *Special screening requirements*—(1) *Special tooling.* Agencies must follow the procedures at 45.505–4(a). Special tooling owned by the Department of Defense (DoD) or the National Aeronautics and Space Administration (NASA) may be screened for reutilization within the agency only.

(2) *Special test equipment.* (i) Agencies must complete the screening required by 45.505–4(a). If an agency has no further need for the property and the contractor has not expressed an interest in using or acquiring the property by annotating the inventory disposal schedule, the plant clearance officer must forward the inventory disposal schedule to the GSA regional office that serves the region in which the property is located.

(ii) If the contractor has expressed an interest in using the property on another Government contract, the plant clearance officer must contact the contracting officer for that contract. If the contracting officer concurs with the proposed use, the contracting officer for the contract under which the property is accountable must transfer the property's accountability to that contract. If the contracting officer does not concur with the proposed use, the plant clearance officer must deny the contractor's request and must resume the screening process.

(iii) If the contractor has expressed an interest in acquiring the property, and no other party expresses an interest during agency or GSA screening, the property may be sold to the contractor.

(3) *Printing equipment.* Agencies must report all excess printing equipment to the Public Printer, Government Printing Office, North Capitol and H Streets, NW, Washington, DC 20401, after screening within the agency (see 44 U.S.C. 312). If the Public Printer does not express a need for the equipment within 21 days, the agency must submit the report to GSA for further use and donation screening.

(4) *Nonnuclear hazardous materials, hazardous wastes, and classified items.* These items must be screened in accordance with agency procedures.

(5) *Nuclear materials.* The possession, use, and transfer of certain nuclear materials are subject to the regulatory controls of the Nuclear Regulatory Commission (NRC). Contracting activities must screen excess nuclear materials in the following categories:

(i) *By-product material.* Any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to producing or using special nuclear material.

(ii) *Source material.* Uranium or thorium, or any combination thereof, in any physical or chemical form; or ores that contain by weight one-twentieth of 1 percent (0.05 percent) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

(iii) *Special nuclear material.* Plutonium, Uranium 233, Uranium enriched in the isotope 233 or in the isotope 235, and any other material that the NRC determines to be special nuclear material (but not including source material); or any material artificially enriched by any nuclear material.

45.505–5 Waiver of screening requirements.

Agency heads may waive agency screening requirements when it is clearly in the Government's interests to do so. When circumstances suggest a waiver of GSA screening requirements would be in the Government's interests, the agency must submit the justification for the waiver to the General Services Administration, Office of Governmentwide Policy, Office of Transportation and Personal Property (MT), 1800 F Street NW, Washington, DC 20405, at least 10 days prior to implementing the waiver. The waiver will be effective unless GSA takes exception within 10 days of receipt. The agency must notify the contract administration office when implementing a waiver.

45.505–6 Interagency property transfer costs.

Agencies whose property is transferred to other agencies must not be reimbursed for the property in any manner unless the circumstances of 41 CFR 101–43.309–3 apply. The agency receiving the property must pay any transportation costs that are not the contractor's responsibility and any costs to pack, crate, or otherwise prepare the property for shipment. The contract administration office must process appropriate contract modifications. To accelerate plant clearance, the receiving agency must promptly furnish funding data, and transfer or shipping documents to the contract administration office.

45.506 Abandonment, destruction, or donation of excess agency property.

(a) Agencies may abandon, destroy, or donate to public bodies excess property that does not contain precious metals, hazardous materials or wastes, is not sensitive or classified property, and does not require demilitarization if the plant clearance officer determines in writing that—

(1) The property has no residual monetary value; or

(2) The estimated cost to sell the property, including advertising, storage and other costs associated with making the sale, is greater than the probable sale proceeds.

(b) Plant clearance officers must assure that the Government does not bear any of the costs incident to a donation.

(c) Property that contains hazardous materials or wastes, sensitive property, and property that requires demilitarization may be abandoned at a contractor's premises if the contractor consents.

45.507 Disposal of scrap.

45.507–1 Production scrap.

Contractors may dispose of scrap left over from the normal production process that has only remelting or reprocessing value (such as textile and metal clippings, borings, and faulty castings or forgings) without Government approval, provided the scrap does not contain precious metals, hazardous materials or wastes, nuclear materials, or classified materials; or does not require demilitarization.

45.507–2 Other scrap.

(a) Except as provided in 45.507–2(b), contractors must list scrap that is not production scrap on inventory disposal schedules and submit the schedules to the plant clearance officer. The plant clearance officer must process the schedules as described in 45.505–2.

(b) Under contracts that contain the clause at 52.245–2, Government Property, contractor's that have Government approved scrap procedures may submit scrap lists in lieu of inventory disposal schedules.

(1) The plant clearance officer must review scrap lists within 10 days following receipt. Generally, the plant clearance officer should accept scrap lists that are consistent with a contractor's Government approved scrap procedures, correctly identify the contracts under which the property is accountable, and correctly identify the property's quantity and condition. The plant clearance officers must provide disposition instructions to the contractor within 60 days following receipt of an acceptable scrap list. If disposition instructions are not provided within that period, the clause

at 52.245–2 permits a contractor to dispose of scrap identified on a scrap list without further Government approval.

(2) The plant clearance officer must reject or require correction of scrap lists that contain property that must be demilitarized prior to disposal, classified items, scrap generated from classified items, scrap that contains hazardous materials or hazardous wastes, precious metals, or items that are dangerous to the public health, safety, or welfare and require contractors to submit inventory disposal schedules for such items.

(c) Under contracts that contain the clause at 52.245–7, Government Property—Alternate Procedures, the plant clearance officer should consider favorably a contractor request to negotiate expedited nonproduction scrap disposal procedures when the contractor's experience under other Government contracts or the contractor's business practices indicate that the contractor will adequately protect the Government's interests.

45.508 Disposal of surplus Government property.

(a) *Applicability.* This section addresses the disposal of Government property in the possession of contractors that, after applicable screening, has not been reutilized or transferred (hereafter referred to as surplus property). It does not apply to the abandonment, destruction, or donation of excess agency property (see 45.506) or to the disposal of production scrap (see 45.507–1).

(b) *Disposal priorities.* Except as provided in paragraphs (c) and (d) of this section, surplus property must be sold in accordance with 45.508–2 or abandoned, destroyed or donated to public bodies in accordance with 45.508–1.

(c) *Disposal using agency procedures.* The surplus property identified in this paragraph must be disposed of in accordance with agency procedures:

(1) Classified items.

(2) Nonnuclear hazardous materials or hazardous wastes.

(3) Property that contains precious metals or requires demilitarization.

(4) Government property physically located outside the United States or its possessions (see 40 U.S.C. 511–514).

(d) *Disposal of Nuclear materials.* Nuclear materials (see 45.505–4(b)(5)) must be disposed of in accordance with NRC or applicable state licenses, applicable Federal regulations, and agency regulations.

45.508–1 Abandonment, destruction, or donation of surplus property in lieu of sale.

(a) Except as provided in paragraph (c) of this subsection, agencies may abandon, destroy, or donate surplus property, if the plant clearance officer determines in writing that the property does not constitute a danger to public health, safety, or welfare and—

(1) The property has no residual monetary value; or

(2) The estimated cost to sell the property, including advertising, storage and other costs associated with making the sale, is greater than the probable sale proceeds.

(b) All costs incident to a donation must be borne by the donee.

(c) Property that contains hazardous materials or wastes, sensitive property, or property that requires demilitarization, may be abandoned at a contractor's premises if the contractor consents.

45.508–2 Sale of surplus property.

Policy for the sale of surplus property is contained in the Federal Property Management Regulations, 41 CFR part 101–45. Agencies may specify implementing procedures.

45.508–3 Proceeds from sales.

Except for contracts that authorize proceeds from sales to be credited to the price or cost of the work (40 U.S.C. 485(a) and (e)), all sale proceeds are to be credited to the Treasury of the United States as miscellaneous receipts.

45.509 Inventory Disposal Reports.

Promptly following disposition of the property identified on an inventory disposal schedule and the crediting of any related proceeds, the plant clearance officer must prepare an SF 1424, Inventory Disposal Report, to account for the property. The report must identify any lost, stolen, damaged, destroyed, or otherwise unaccounted for property and any changes in quantity or value of the property made by the contractor after submission of the initial inventory disposal schedule. The report must be addressed to the administrative contracting officer or, for termination inventory, to the termination contracting officer, with a copy to the property administrator.

45.510 Contract clauses.

(a) Insert the clause 52.245–5, Government Property Administration, in solicitations and contracts that include the clause at 52.245–2, Government Property. If required for agency financial management or reporting purposes, agencies may modify paragraphs (f)(1)(vi) and (f)(2)(i) of the clause at 52.245–5 to specify different dollar thresholds.

(b) Insert the clause at 52.245–5 with its Alternate I when the Government will maintain the Government's official property records.

(c) The clause at 52.245–5 and its Alternate I may be modified to delete references to low-value property when contracting for services to be performed entirely on property owned or leased by the Government and the contracting officer determines in writing that it is in the Government's interests to have a contractor inventory all property and immediately notify the Government of a property loss regardless of the property's value.

(d) Insert the clause at 52.245–8, Government Property Administration—Alternate Procedures, in solicitations and contracts that include the clause at 52.245–7, Government Property—Alternate Procedures.

(e) Insert the clause at 52.245–8 with its Alternate I when the Government will maintain the Government's official property records.

(f) The clause at 52.245–8 and its Alternate I may be modified to delete references to low-value property when contracting for services to be performed entirely on property owned or leased by the Government and the contracting officer determines in writing that it is in the Government's interests to have a contractor inventory all property and immediately notify the Government of a property loss regardless of the property's value.

Subpart 45.6—Authorizing the Use of Government Property for Commercial Purposes

45.601 Policy.

(a) Unless prohibited by law, contracting officers may authorize the contractor performing a contract under which Government property is accountable to use that property for commercial purposes on a noninterference basis if the Government receives an equitable rental for such use.

(b) An authorization for use for commercial purposes must be reflected in a contract modification and must specify—

(1) The property is available ''as is'' without any representation as to suitability for intended use;

(2) The rental time and rental period during which the property may be used;

(3) Any restrictions on, or conditions of, use; and

(4) The rent or estimated rent the Government will receive.

(c) Contracting officers must require contractors to assume the liability for

property losses that occur while the property is being used for commercial purposes and to indemnify the Government against claims for injury to persons or damage to the contractor's or a third party's property that arise from the contractor's use or possession of the Government property for commercial purposes.

(d) If damaged, lost, stolen, or destroyed property is required for continued performance of a Government contract and cannot be repaired or replaced by the contractor without affecting scheduled deliveries, an equitable adjustment should be negotiated that includes schedule adjustments at no cost to the Government. Negotiate an equitable reduction in price or fee in lieu of repair or replacement when the property is not required for continued performance of a Government contract.

(e) The contracting officer must not revoke an authorization to use Government property for commercial purposes unless the contractor fails to comply with the terms and conditions governing such use or the Government has a compelling need that precludes continued availability for commercial purposes.

45.602 Contract clause.

Insert the clause at 52.245–6, Rental Charges for Commercial Use, in solicitations and contracts that include the clause at 52.245–2, Government Property, or the clause at 52.245–7, Government Property—Alternate Procedures. The contracting officer must also insert the clause at 52.245–6 when the clause at 52.245–2 or 52.245–7 is inserted in a contract subsequent to contract award.

PART 49—TERMINATION OF CONTRACTS

35. Amend section 49.001 by revising the definition ''Termination inventory'' to read as follows:

49.001 Definitions.

* * * * *

Termination inventory includes parts, work in process, completed work, supplies, other material produced or acquired for the work terminated, completed or partially completed plans, drawings, or information, property that would have been delivered to the Government if the contract had been completed, and Government-furnished property.

* * * * *

49.105 [Amended]

36. Amend section 49.105 in the introductory text of paragraph (b)(4) by removing ''(see subpart 45.6)''.

37. Amend section 49.108–3 by revising paragraph (b)(1) to read as follows:

49.108–3 Settlement procedure.

* * * * *

(b) * * *

(1) All subcontractor termination inventory be disposed of and accounted for in accordance with the procedures contained in paragraph (g) of the clause at 52.245–2, Government Property; and

* * * * *

38. Amend section 49.108–4 by revising paragraphs (a)(1)(ii) and (b) to read as follows:

49.108–4 Authorization for subcontract settlements without approval or ratification.

(a)(1) * * *

(ii) Any termination inventory included in determining the amount of the settlement will be disposed of as directed by the prime contractor, except that the disposition of the inventory shall not be subject to—

(A) Review by the TCO under 49.108–3(c); or

(B) The screening requirements in 45.504; and

* * * * *

(b) Section 45.504 shall apply to disposal of completed end items allocable to the terminated subcontract. However, these items may be disposed of without review by the TCO under 49.108–3 and without screening under 45.504, if the items do not require demilitarization and the total amount (at the subcontract price) when added to the amount of the settlement does not exceed the amount authorized under this subsection.

* * * * *

49.202 [Amended]

39. Amend section 49.202 in paragraph (b)(3)(iii) by removing ''materials, facilities,'' and adding ''property'' in its place.

49.204 [Amended]

40. Amend section 49.204 in paragraph (a) by removing the words ''materials sold that have'' and adding ''property sold that has'' in its place.

41. Revise the section heading and text of 49.206–3 to read as follows:

49.206–3 Submission of inventory disposal schedules.

Subject to the terms of the termination clause, and whenever termination inventory is involved, the contractor shall submit complete inventory disposal schedules to the TCO reflecting inventory that is allocable to the terminated portion of the contract. The inventory disposal schedules shall be submitted within 120 days from the effective date of termination unless otherwise extended by the TCO based on a written justification to support the extension. The inventory schedules shall be prepared on SF 1428.

42. Revise the section heading and text of 49.303–2 to read as follows:

49.303–2 Submission of inventory disposal schedules.

Subject to the terms of the termination clause, and whenever termination inventory is involved, the contractor shall submit complete inventory disposal schedules to the TCO reflecting inventory that is allocable to the terminated portion of the contract. The inventory disposal schedules shall be submitted within 120 days from the effective date of termination unless otherwise extended by the TCO based on a written justification to support the extension. The inventory disposal schedules shall be prepared on SF 1428.

49.505 [Amended]

43. Amend section 49.505 by removing paragraphs (a) and (c); and by redesignating paragraphs ''(b)'', ''(d)'', and ''(e)'' as ''(a)'', ''(b)'', and ''(c)'', respectively.

44. Revise the section heading and text of 49.602–2 to read as follows:

49.602–2 Inventory forms.

Standard Form (SF) 1428, Inventory Disposal Schedule, and SF 1429, Inventory Disposal Schedule—Continuation Sheet, must be used to support settlement proposals submitted on the forms specified in 49.602–1(a), (b), and (c).

PART 51—USE OF GOVERNMENT SOURCES BY CONTRACTORS

45. Revise section 51.106 to read as follows:

51.106 Title.

Title to all property acquired by the contractor under the contracting officer's authorization shall vest in the parties as provided in the contract.

46. Revise section 51.107 to read as follows:

51.107 Contract clause.

Insert the clause at 52.251–1, Government Supply Sources, in solicitations and contracts when the contracting officer may authorize the contractor to acquire supplies or services from a Government supply source.

51.200 [Amended]

47. Amend section 51.200 at the end of the second sentence by removing ''(see 45.304)''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

48. Amend section 52.216–7 by revising the date of the clause; in paragraph (b)(3) by removing ''paragraph (g)'' and ''paragraph (d)'' and adding in their places ''paragraph (h)'' and ''paragraph (e)'', respectively; by redesignating paragraphs (c) through (h) as (d) through (i), respectively, and adding a new paragraph (c); and in newly designated paragraph (i)(1) by revising ''paragraph (d)(4)'' to read ''paragraph (e)(4)''. The new paragraph (c) reads as follows:

52.216–7 Allowable Cost and Payment.

* * * * *

ALLOWABLE COST AND PAYMENT (DATE)

* * * * *

(c) *Title*—(1) *Government title.* Except as provided in paragraph (c)(3) of this clause, title to all property acquired or produced by the Contractor for performance of this contract, the costs of which are allocable to this contract as direct costs, shall vest in the Government when the cost of the property is or should have been allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices.

(2) *Relationship to Government-furnished property.* Property to which the Government has obtained title solely under this clause is not ''Government-furnished property.''

(3) *Contractor title.* The Contractor shall have title to special test equipment items that do not contain general purpose test equipment and special tooling items, provided such items—

(i) Were acquired or produced for this contract;

(ii) Have an acquisition cost less than $5,000 that was allocated to this contract as direct cost; and

(iii) Are not identified in the contract as deliverable items.

(4) *Lien.* By execution of this contract, the Contractor grants to the Government a security lien paramount to any other on the property to which the Contractor has title under paragraph (c)(3) of this clause. During performance of this contract, the Contractor shall not offer or provide such property as collateral for any purpose and shall not encumber in any manner title to that property.

* * * * *

52.216–11 [Amended]

49. Amend section 52.216–11 in the first sentence of the introductory paragraph by removing ''or a facilities contract''.

52.216–12 [Amended]

50. Amend section 52.216–12 in the first sentence of the introductory paragraph by removing the parenthetical ''(other than a facilities contract)''.

52.216–13 and 52.216–14 [Removed and Reserved]

51. Remove and reserve sections 52.216–13 and 52.216–14.

52.222–17 Labor Standards for Construction Work—Government-Furnished Real Property.

52. Revise the section heading of 52.222–17 and the clause heading to read as follows:

* * * * *

LABOR STANDARDS FOR CONSTRUCTION WORK—GOVERNMENT-FURNISHED REAL PROPERTY (FEB 1988)

* * * * *

53. Amend section 52.232–16 by revising the date of the clause and paragraphs (d), (e), and (h) of the clause to read as follows:

52.232–16 Progress Payments.

* * * * *

PROGRESS PAYMENTS (DATE)

* * * * *

(d) *Title.* (1) Title to all property acquired or produced by the Contractor for performance of this contract, the costs of which are allocable to this contract, shall vest in the Government when the property is or should have been allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices. Upon liquidation of all progress payments, the Contractor shall have title to property acquired or produced for this contract that is not required to be delivered to the Government.

(2) Property to which the Government has obtained title solely under this clause is not ''Government-furnished property.''

(3) The procedures for the disposal of Government-furnished property that is scrap are contained in the Government Property clause, 52.245–2, Government Property, of this contract. The Contractor may sell all other scrap resulting from production or testing under this contract without Government approval if the scrap does not contain precious metals, hazardous materials or wastes, nuclear materials, classified materials, or does not require demilitarization. The proceeds shall be credited against the costs of performance.

(4) The Contractor shall not use property to which title is vested in the Government under this clause to perform other contracts, transfer the property to another contract or dispose of the property unless authorized to do so by the Contracting Officer or paragraph (d)(3) of this clause. When transfer or disposal is authorized, the Contractor shall—

(i) Exclude the allocable costs of the property from the costs of contract performance; and

(ii) Repay to the Government any amount of unliquidated progress payments allocable to the property.

(e) *Liability.* The Contractor is liable for loss, theft, or destruction of, or damage to, property acquired or produced for performance of this contract unless the Government has expressly assumed such risks or accepted the property. The Contractor shall repay the Government an amount equal to the unliquidated progress payments that are based on costs allocable to property that is damaged, lost, stolen, or destroyed.

* * * * *

(h) *Special terms regarding default.* If this contract is terminated under the Default clause of this contract—

(1) The Contractor shall, on demand, repay to the Government the amount of unliquidated progress payments.

(2) Upon full liquidation of progress payments, the Contractor shall have title to all property acquired or produced for performance of this contract, except such property required to be delivered to the Government under the Default clause of this contract or the clause at 52.245–3, Delivery—Special Tooling and Special Test Equipment (Fixed-Price Contracts), if applicable and included in the contract.

* * * * *

52.232–21 [Removed and Reserved]

54. Remove and reserve section 52.232–21.

55. Amend section 52.232–32 by revising the date of the clause and paragraphs (f), (g), and (j) to read as follows:

52.232–32 Performance-Based Payments.

* * * * *

PERFORMANCE-BASED PAYMENTS (DATE)

* * * * *

(f) *Title.* (1) Title to all property acquired or produced by the Contractor for performance of this contract, the costs of which are allocable to this contract, shall vest in the Government when the property is or should have been allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices. Except as provided in the clause at 52.245–3, Delivery—Special Tooling and Special Test Equipment (Fixed-Price Contracts), upon liquidation of all performance-based payments, the Contractor shall have title to property acquired or produced for this contract that is not required to be delivered to the Government.

(2) Property to which the Government has obtained title solely under this clause is not ''Government-furnished property.''

(3) The procedures for the disposal of Government-furnished property that is scrap are contained in the clause 52.245–2, Government Property, of this contract. The Contractor may sell all other scrap resulting from production or testing under this contract without Government approval provided that—

(i) Any significant reduction in the value of the property to which the Government has

title under this clause is reported to the Contracting Officer; and

(ii) The scrap does not contain precious metals, hazardous materials or wastes, nuclear materials, classified materials, or does not require demilitarization. The proceeds shall be credited against the costs of performance.

(4) The Contractor shall not use property to which title is vested in the Government under this clause to perform other contacts, transfer the property to another contract, or dispose of the property unless authorized to do so by the Contracting Officer or paragraph (d)(3) of this clause.

(g) *Liability.* The Contractor is liable for loss, theft, or destruction of, or damage to, property acquired or produced for performance of this contract unless the Government has expressly assumed such risks or accepted the property.

* * * * *

(j) *Special terms regarding default.* If this contract is terminated under the Default clause—

(1) The Contractor shall, on demand, repay to the Government the amount of unliquidated performance-based payments; and

(2) Upon full liquidation of performance-based payments, the Contractor shall have title to all property acquired or produced for performance of this contract except such property required to be delivered to the Government under the Default clause or the clause at 52.245–3.

* * * * *

52.243–2 [Amended]

56. Amend section 52.243–2 by removing Alternate IV and redesignating ''Alternate V'' as ''Alternate IV'' of the clause.

57. Amend section 52.243–4 by revising the date of the clause and paragraph (a)(3) of the clause to read as follows:

52.243–4 Changes.

* * * * *

CHANGES (DATE)

(a) * * *

(3) In the Government property or services furnished for contract performance; or

* * * * *

58. Revise sections 52.245–1 through 52.245–8 to read as follows:

52.245–1 Government Property Availability and Information required from Offerors.

As prescribed in 45.207–1(a), insert the following solicitation provision:

GOVERNMENT PROPERTY AVAILABILITY AND INFORMATION REQUIRED FROM OFFERORS (DATE)

(a) *Definitions.*

Government-furnished property means Government property that a Contracting Officer authorizes a Contractor to use for performance of a Government contract.

Government property means property the Government owns or leases.

Personal property means property of any kind or interest in it except real property, battleships, cruisers, aircraft carriers, destroyers, submarines, and records of the Federal Government.

Property means real and personal property.

Property administrator means a person appointed to perform property administration for the Government.

Real property means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or equipment.

Special test equipment means—

(1) Test equipment designed specifically to conduct testing required by a Government contract provided such equipment cannot be used for other purposes;

(2) General purpose test equipment or modifications thereof that are interconnected and interdependent to form a new functional entity that can only be used to perform testing required by a contract while so interconnected and interdependent; or

(3) Any combination of specifically designed, general purpose, or modified general purpose test equipment that is so interconnected and interdependent to form a new functional entity that can only be used to perform special purpose testing required by a contract while so interconnected and interdependent.

Special tooling means items such as jigs, dies, fixtures, molds, patterns, taps, gauges, or other equipment and manufacturing aids, that are of such a specialized nature that without substantial modification or alteration their use is limited to the development, production, repair, or maintenance of particular supplies or components thereof, or to the performance of particular services.

(b) *Property available for contract performance.* (1) The property listed below, or in an attachment to this provision, is available for performance of the contract contemplated by this solicitation and is in a condition suitable for use.

(2) The property listed below, or in an attachment to this provision, is available for use on an ''as is'' basis.

(i) Offerors are responsible for assuring that Government property made available on an ''as is'' basis is suitable for the offerors' purposes. Such property will be furnished f.o.b. at the location specified in the solicitation or contract. Costs incurred to transport, install, modify, or otherwise make such property suitable for the successful offeror's intended use and any cost incurred to return such property to the Government shall not increase the price or fee of any Government contract. Amendments to property furnished ''as is'' require the Contracting Officer's prior written approval.

(ii) The Government makes no warranty whatsoever with respect to property furnished ''as is'' except that the property will be in the same condition when placed at the specified f.o.b. location as when inspected by the offeror or, if not inspected by the offeror, as of the last date for inspection specified in the solicitation. The offeror is responsible for verifying that the property's condition has not changed during that period and shall notify the Contracting Officer promptly identifying any changed condition that will adversely affect the offeror. If the Contracting Officer concurs that the property's condition has changed, the Contracting Officer may restore the property, substitute other Government property, or withdraw the property's availability. A substitution or withdrawal shall be reflected in a modification to the solicitation. The Government has no liability for changes in the property's condition discovered after removal from the specified f.o.b. location.

(iii) Special tooling or special test equipment will be furnished ''as is'' if the successful offeror acquired or produced the tooling and test equipment and the Government obtained title to the tooling or test equipment under a Government contract.

(c) *Government title.* The Government retains title to any property furnished for performance of the contract contemplated by this solicitation. Contractor repairs to or modifications of that property do not affect the Government's title to the property.

(d) *Property administration considerations.* The successful offeror will be responsible for the care, maintenance, and preservation of Government property accountable under a contract resulting from this solicitation, including property the successful offeror permits a subcontractor to use for performance of that contract.

(1) The clauses at 52.245–2, Government Property, and 52.245–5, Government Property Administration, will be included in a contract resulting from this solicitation unless a successful offeror elects to use, by inserting the offeror's name on the line provided in paragraph (d)(3) of this provision, the clauses at 52.245–7, Government Property—Alternate Procedures, and 52.245–8, Government Property Administration—Alternate Procedures. Generally, under the Government Property clause at 52–245–2, the Government is liable for loss, theft, or destruction of, or damage to, the Government property accountable under the contract (hereinafter referred to as property losses), and the Contractor must maintain a Government property management system that includes the processes specified in the Government Property Administration clause at 52.245–5. The clause at 52.245–7 generally makes a successful offeror responsible for property losses and the clause at 52.245–8 generally permits a successful offeror(s) to manage Government property using the same procedures that are used to manage the offeror's property.

(2) An offeror should make the election in paragraph (d)(3) of this provision only if the election is consistent with the offeror's property management practices under other Government contracts performed or to be performed at the location at which the contract resulting from this solicitation will be performed.

(3) *Alternate Clause Election.* The offeror, , elects to have the clauses at 52.245–7, Government Property—Alternate Procedures, and 52.245–8, Government Property Administration—Alternate Procedures, included in a contract

resulting from this solicitation in lieu of the corresponding clauses at 52.245–2 and 52.245–5.

(e) *Information required from all offerors.* Offers shall—

(1) List or describe all Government property the offeror or its potential subcontractors propose to use on a rent-free basis, including—

(i) Property offered for use in this solicitation; and

(ii) Property already in possession of the offeror or its prospective subcontractors under other contracts.

(2) Identify the contracts or other instruments under which the property listed or described in paragraph (d)(1) is accountable; and

(3) Identify the estimated period during which the property will be used, the estimated hours of use within that period, and the offeror's estimated costs to acquire, produce, lease, or rent the property if it is not furnished by the Government.

(f) *Additional information required from offerors that do not make the election available in paragraph (d)(3) of this provision.* (1) The offeror shall state—

(i) Whether the offeror has an approved property management system;

(ii) The date the system was last reviewed; and

(iii) The name and address of the Property Administrator who performed the last review.

(2) Offers shall include a proposed Government property management system if—

(i) The offeror does not have a property system that has been approved by a Property Administrator;

(ii) The offeror's property system was last approved or validated by a Property Administrator more than 2 years prior to the date of this offer;

(iii) A Property Administrator has requested corrections to the offeror's system and such corrections have not been made; or

(iv) Approval of the offeror's system has been withdrawn.

(3) Offerors should propose and use an existing property management system or a modification thereof when the existing or modified system satisfies the requirements of the Government Property and Government Property Administration clauses identified in this solicitation.

(4) A successful offeror whose property system has been approved or validated by the Government no more than 2 years prior to the date of its offer is required only to submit to the Property Administrator, within 90 days following contract award, the changes required to conform the system to the requirements of the successful offeror's contract.

(5) As provided in the clause at 52.245–5, Government Property Administration, the Property Administrator might require a successful offeror to make changes to a proposed or previously approved system if deemed necessary for contract compliance.

(g) *Liability for loss, theft, damage, or destruction.* (Not applicable when the election in paragraph (d)(3) of this provision is made.) Notwithstanding any other provision of this solicitation regarding liability for loss, theft, or destruction of, or damage to Government property, the successful offeror shall be liable for such loss, theft, destruction, or damage until its Government property system is approved by the Property Administrator.

(h) *Overseas contracts.* In a contract to be performed outside the United States, its territories, or possessions, the words ''Government'' and ''Government-furnished'', as used in this provision, mean ''United States Government'' and ''United States Government-furnished,'' respectively.

(End of provision)

Alternate I (*Date*). As prescribed in 45.207–1(b), replace paragraphs (b) through (g) of the basic clause with the following paragraphs (b) through (d) and renumber paragraph (h) of the basic clause as paragraph (e).

(b) *Property administration considerations.* The successful offeror will be responsible for the care, maintenance, and preservation of Government property accountable under a contract resulting from this solicitation, including property the successful offeror permits a subcontractor to use for performance of that contract.

(1) The clauses at 52.245–2, Government Property, and 52.245–5, Government Property Administration, will be included in a contract resulting from this solicitation unless a successful offeror elects to use, by inserting the offeror's name on the line provided in paragraph (b)(3) of this provision, the clauses at 52.245–7, Government Property—Alternate Procedures, and 52.245–8, Government Property Administration—Alternate Procedures. Generally, under the Government Property clause at 52–245–2, the Government is liable for loss, theft, or destruction of, or damage to, the Government property accountable under the contract (hereinafter referred to as property losses), and the Contractor must maintain a Government property management system that includes the processes specified in the Government Property Administration clause at 52.245–5. The clause at 52.245–7 generally makes a successful offeror responsible for property losses and the clause at 52.245–8 generally permits a successful offeror to manage Government property using the same procedures that are used to manage the offeror's property.

(2) An offeror should make the election in paragraph (b)(3) of this provision only if the election is consistent with the offeror's property management practices under other Government contracts performed or to be performed at the location at which the contract resulting from this solicitation will be performed.

(3) *Alternate Clause Election* The offeror, , elects to have the clauses at 52.245–7, Government Property—Alternate Procedures and 52.245–8, Government Property Administration—Alternate Procedures, included in a contract resulting from this solicitation in lieu of the corresponding clauses at 52.245–2 and 52.245–5.

(c) *Information required from offerors that do not make the election available in paragraph (b)(3) of this provision.* (1) The offeror shall state whether the offeror has an approved property management system, the date the system was last reviewed, and the name and address of the Property Administrator who performed the last review.

(2) Offers shall include a proposed Government property management system if—

(i) The offeror does not have a property system that has been approved by a Property Administrator;

(ii) The offeror's property system was last approved or validated by a Property Administrator more than 2 years prior to the date of this offer;

(iii) A Property Administrator has requested corrections to the offeror's system and such corrections have not been made; or

(iv) Approval of the offeror's system has been withdrawn.

(3) Offerors should propose and use an existing property management system or a modification thereof when the existing or modified system satisfies the requirements of the Government Property and Government Property Administration clauses identified in this solicitation.

(4) A successful offeror whose property system has been approved or validated by the Government no more than 2 years prior to the date of its offer is required only to submit to the Property Administrator, within 90 days following contract award, the changes required to conform the system to the requirements of the successful offeror's contract.

(5) As provided in the clause at 52.245–5, Government Property Administration, the Property Administrator might require a successful offeror to make changes to a proposed or previously approved system if deemed necessary for contract compliance.

(d) *Liability for loss, theft, damage, or destruction.* (Not applicable when the election in paragraph (b)(3) of this provision is made.) Notwithstanding any other provision of this solicitation regarding liability for loss, theft, or destruction of, or damage to Government property, the successful offeror shall be liable for such loss, theft, destruction, or damage until its Government property system is approved by the Property Administrator.

52.245–2 Government Property.

As prescribed in 45.207–2, insert the following clause:

GOVERNMENT PROPERTY (DATE)

(a) *Definitions.* As used in this clause—

Commercial purpose means any purpose other than performance of a U.S. Government contract or subcontract thereunder.

Contractor's managerial personnel means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the Contractor's business or the Contractor's operations at a site connected with performance of a Government contract.

Demilitarization means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

Equipment means nonexpendable, tangible personal property. The term does not include property that satisfies the definition in this clause of material, unique Federal property, special tooling, or special test equipment.

Expendable property means property that is customarily consumed during design, manufacture, or testing of a product or performance of a service.

General purpose equipment means equipment items that can be used, or with only minor modification could be used, to develop, produce, test, or maintain more than one type of item or perform more than one type of service.

Government-furnished property means Government property that a Contracting Officer authorizes a Contractor to use for performance of a Government contract.

Government property means property the Government owns or leases.

Low value property means equipment, special tooling, or special test equipment that has an acquisition cost less than $5,000 and is not sensitive property.

Material means expendable property and property incorporated into or attached to an end item.

Natural disaster means a sudden and unusual natural occurrence causing catastrophic damage, including floods, hurricanes, tornadoes, cyclones, atmospheric electrical storms, tidal waves, avalanches, mudslides, landslides, volcanic eruptions, earthquakes, and other similar perils. The term does not include fire or explosion, unless directly or indirectly caused by a covered peril.

Nonprofit organization means a business entity organized and operated exclusively for charitable, scientific, or educational purposes, the net earnings of which do not inure to the benefit of any private shareholder or individual, that is exempt from Federal income taxation under section 501 of the Internal Revenue Code and does not conduct a substantial portion of its activities carrying on propaganda or otherwise attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office.

Personal property means property of any kind or interest in it except real property, battleships, cruisers, aircraft carriers, destroyers, submarines, and records of the Government.

Plant clearance officer means a person appointed to disposition property accountable under Government contracts.

Precious metals means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.

Property means real and personal property.

Property administrator means a person appointed to perform property administration for the Government.

Real property means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or equipment.

Rental period means the calendar period during which Government property is made available for commercial purposes.

Rental time means the number of hours, to the nearest whole hour, rented property is actually used for commercial purposes. It includes time to set up the property for such purposes, perform required maintenance, and restore the property to its condition prior to rental (less normal wear and tear).

Scrap means personal property that has no value except its basic metallic, mineral, or organic content.

Sensitive property means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that must be subject to exceptional physical security, protection, control, and accountability such as classified property, weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

Special test equipment means—

(1) Test equipment designed specifically to conduct testing required by a Government contract, provided such equipment cannot be used for other purposes;

(2) General purpose test equipment, or modifications thereof, that are interconnected and interdependent to form a new functional entity that can only be used to perform testing required by a contract while so interconnected and interdependent; or

(3) Any combination of specifically designed, general purpose, or modified general purpose test equipment that is so interconnected and interdependent to form a new functional entity that can only be used to perform special purpose testing required by a contract while so interconnected and interdependent.

Special tooling means items such as jigs, dies, fixtures, molds, patterns, taps, gauges, or other equipment and manufacturing aids, that are of such a specialized nature that without substantial modification or alteration their use is limited to the development, production, repair, or maintenance of particular supplies or components thereof, or to the performance of particular services.

Unique Federal property means Government-owned personal property, or components thereof, that is specially designed to perform or support the mission of one or more Federal agencies and is not available to the public. The term does not include property that is incorporated into or attached to an item deliverable under a contract.

Work in process means bench stock materials, complete or incomplete fabricated parts, subassemblies, assemblies, and similar items that are created during production of deliverable end items, or are required to construct special tooling or special test equipment needed to produce deliverable end items, or are otherwise needed for design or testing required by a contract.

(b) *General.* (1) This clause is applicable to Government-furnished property; Government property stored by the Contractor at the Government's direction; items accepted by the Government at origin that are in the Contractor's possession; and under cost-reimbursement or time-and-materials contracts, property acquired or produced by a Contractor to which the Government has title under the Allowable Cost and Payment clause of this contract. For purposes of this clause, such property and items are collectively referred to as ''Government property.'' The clause does not apply to property to which the Government has obtained title, a lien, or other security interest solely as a result of financing arrangements under fixed-price contracts.

(2) Except as provided in paragraph (c) of this clause, the Contractor shall use its own property to perform this contract.

(3) The Contractor is responsible for the maintenance, protection, and preservation of Government property accountable under this contract, including property in the possession of a subcontractor, and shall account for such property as required by this contract.

(4) The Contractor shall not—

(i) Use Government property for commercial purposes without the Contracting Officer's prior approval. Unless otherwise permitted by law, commercial use shall be on a rental basis. The terms and conditions of the Rental Charges for Commercial Use clause of this contract shall apply to each rental; or

(ii) Permit a subcontractor or supplier to use property furnished for the performance of this contract unless the Contractor has verified that the subcontractor or supplier has a property management system that has been approved by the cognizant Property Administrator.

(5) If this contract is a cost-reimbursement or time-and-materials contract, the Contractor shall not acquire general purpose equipment to which the Government will have title under the clause at 52.216–7, Allowable Cost and Payment, or real property for performance of this contract unless the general purpose equipment or real property is specified as a deliverable end item.

(6) If this contract is a fixed-price or labor-hour contract, property acquired or produced by the Contractor for performance of the contract is not Government-furnished property. Property identified as a deliverable item becomes Government property upon acceptance by the Government.

(c) *Government-furnished property.* The property identified in this contract as Government-furnished property is furnished to the Contractor on a rent-free basis for performance of this contract.

(1) *Title.* The Government retains title to Government-furnished property, including Government-furnished property that is incorporated into or attached to any property owned by the Contractor. Government-furnished property does not become a fixture or lose its identity as personal property by being attached to real property.

(2) *Suitability for intended use.* (i) Government-furnished property, other than property furnished ''as is'', shall be in a condition suitable for the property's intended use at the time the property is furnished to the Contractor. The Government shall, when requested by the Contractor, provide information reasonably required for the intended use of such property to the extent the Government has the right to release or disclose the information.

(ii) The contract delivery or performance dates are based upon the expectation that Government-furnished property, except

property furnished ''as is'', will be suitable for its intended use and delivered to the Contractor at the times stated in the contract. If a time is not stated, the property shall be furnished in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

(iii) If Government-furnished property is received in a condition not suitable for its intended use, the Contractor shall notify the Contracting Officer as soon as the unsuitability is known and shall take corrective action or dispose of the property as directed by the Contracting Officer. The contract shall be equitably adjusted in accordance with paragraph (c)(7) of this clause.

(iv) The Contractor may request an equitable adjustment when Government-furnished property is not delivered to the Contractor by the required time and such untimely delivery has affected contract performance.

(v) If the Contractor commingles Contractor-acquired or produced material with Government-furnished material, the provisions of this clause regarding suitability for intended use shall not apply to the commingled Government-furnished material. Notwithstanding any other provision of this contract, the Contractor shall be responsible for any failure to comply with contract requirements attributable to material that was commingled.

(3) *Authorized use.* The Contractor may request, in writing, the Contracting Officer to authorize use of the property furnished for performance of this contract to perform other Government contracts at the same location. Rent-free use is authorized if the Contracting Officer does not object to such use, either in whole or in part, within 30 days following confirmed receipt of the Contractor's request. Costs incurred by the Contractor to relocate, modify, or adapt the property for performance of other Government contracts or to restore the property to a condition suitable for intended use under this contract shall not increase the price or fee of any Government contract.

(4) *Real property restrictions.* The Contractor shall not improve or make structural alterations to real property furnished for performance of this contract unless the contract specifically identifies the alterations or improvements as work to be performed under the contract or unless expressly authorized to do so in writing by the Contracting Officer. Title to improvements or alterations to Government-furnished real property shall vest in the Government.

(5) *Property furnished ''as is''.* (i) The Contractor is responsible for assuring that Government property furnished on an ''as is'' basis is suitable for the Contractor's purposes. Such property is furnished f.o.b. at the location specified in the solicitation or contract. Costs incurred by the Contractor to transport, install, modify, or otherwise make such property suitable for the Contractor's intended use and any cost incurred to return such property to the Government shall not increase the price or fee of any Government contract. Modifications to property furnished ''as is'' require the Contracting Officer's prior written approval.

(ii) Special tooling or special test equipment is furnished ''as is'' for performance of this contract if the Contractor-acquired or produced, and the Government obtained title to, such tooling or test equipment under this or another Government contract.

(iii) The Government makes no warranty whatsoever with respect to property furnished ''as is'' except that the property will be in the same condition when placed at the specified f.o.b. location as when inspected by the Contractor or, if not inspected by the Contractor, as of the last date identified in the solicitation or contract for Contractor inspection. The Contractor is responsible for verifying that the property's condition has not changed during that period. If the Contractor determines the property's condition has changed and such change will adversely affect the Contractor, the Contractor shall notify the Contracting Officer promptly and identify the changed condition. If the Contracting Officer concurs that the property's condition has changed, the Contracting Officer may restore the property or substitute other Government property at no change in the contract's price or fee; permit the Contractor to restore the property subject to an equitable adjustment; or decline to provide the property subject to an equitable adjustment. The foregoing provisions for adjustment are the exclusive remedies available to the Contractor. The Government has no liability for changes in the property's condition discovered after removal from the specified f.o.b. location.

(iv) Repairs to or modifications of property furnished ''as is'' do not affect the Government's title to such property.

(6) *Changes in Government-furnished property.* (i) The Contracting Officer may increase, decrease, or substitute other Government property for the property furnished or to be furnished for performance of this contract or require use of Government-furnished property in lieu of Contractor property.

(ii) Any increase in the amount of property furnished for performance of this contract shall result in an equitable reduction in contract price or fee and appropriate adjustment of the contract delivery or performance dates.

(iii) The Contractor may request an equitable adjustment for a decrease in or substitution for the property identified in the contract or withdrawal of authority to use property accountable under another contract in performance of this contract provided such decrease, substitution, or withdrawal increases contract costs or schedule.

(iv) If the Contracting Officer directs the Contractor to use Government-furnished property in lieu of Contractor property in performance of this contract, any adjustment to the contract shall be made in accordance with paragraph (c)(7) of this clause.

(7) *Equitable adjustments.* Equitable adjustments shall be the Contractor's exclusive remedy for Government actions under this clause and shall be made in accordance with the procedures of the Changes clause of this contract.

(i) Equitable adjustments may include an amount for the restoration and rehabilitation of the Contractor's premises caused by Government-furnished property that is not in a condition suitable for intended use, the withdrawal or substitution of Government-furnished property, or the Government's abandonment of hazardous property (see paragraph (h)(1) of this clause).

(ii) The Government shall not be liable for breach of contract for—

(A) Any delay in delivery of Government-furnished property;

(B) Delivery of Government-furnished property in a condition not suitable for its intended use;

(C) An increase or decrease in, or substitution of, Government-furnished property; or

(D) Failure to repair or replace Government-furnished property.

(8) *Return of Government-furnished property.* If this contract requires Government-furnished property to be returned directly to a Government activity—

(i) The property, including property furnished ''as is'', shall be returned to the Government in the same condition, less normal wear and tear, or better condition than when furnished to the Contractor except—

(A) Lost, stolen, or destroyed property that the Government has determined will not be replaced; and

(B) Damaged property that the Government has elected not to have repaired or replaced.

(ii) The Contractor shall notify the contract administration office of its intent to return Government-furnished property at least 10 working days prior to return. Notices shall identify the contracts under which the items are accountable and shall provide each item's name, description, national stock number (if known), and part number or identification number.

(d) *Property loss liability.* As used in this clause, the terms loss and losses include, either individually or in any combination, the physical misplacement of, the theft of, the destruction of, or damage to, Government property accountable under this contract.

(1) *Limited liability.* (i) The Contractor is not liable for property losses that occur while the Contractor is maintaining a property management system that satisfies the requirements of this contract, except losses for which the Contractor expressly is liable under the terms of this contract.

(ii) The Contractor's liability for a loss that results from a risk expressly required to be insured under this contract is limited to the extent of the insurance required to be purchased and maintained, or to the extent of the insurance actually purchased and maintained, whichever is greater.

(2) *Full liability.* The Contractor is liable for all property losses that—

(i) Occur at a time when the Contractor has not established a property management system that satisfies the requirements of this contract;

(ii) Occur on or after the date of a written or electronic notice from the Property Administrator that the Government has withdrawn approval of the Contractor's property management system, unless the Contractor can establish by clear and convincing evidence that a loss did not result

from the Contractor's failure to maintain an approved system;

(iii) Occur on or after the first calendar day following the Contractor's failure to correct a property system deficiency by the date specified by the Property Administrator for such correction or such other mutually agreed upon date for correction;

(iv) Result from the Contractor's failure to take reasonable and prudent steps to avoid losses resulting from acts of war, civil insurrection, or natural disasters; or (v) Result from the willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

(3) *Property in the possession of subcontractors or suppliers.* The Contractor's transfer of Government property to a subcontractor or supplier does not affect the Contractor's liability for property losses.

(4) *Contractor required actions following a property loss.* The Contractor shall—

(i) Take all reasonable action to protect damaged Government property from further damage and to physically separate such property from all other property;

(ii) Notify the Contracting Officer as required by the Government Property Administration clause of this contract (52.245–5(f)(4));

(iii) Not repair, replace, or substitute other property, for the property suffering a loss unless authorized to do so by the Contracting Officer; and

(iv) Do nothing to prejudice the Government's rights to recover against third parties for any property loss. When requested by the Contracting Officer, furnish to the Government at Government expense all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(5) *Insurance charges or reserves.* The Contractor shall not include in the contract price or fee, or any adjustment thereof, any charge or reserve for insurance (including any self-insurance fund or reserve) covering Government property losses, except to the extent this contract expressly requires the Contractor to carry such insurance.

(e) *Property loss remedies.* (1) Following receipt of a property loss notification from the Contractor, the Contracting Officer may—

(i) Replace or substitute other property for the Government property suffering a loss;

(ii) Authorize the Contractor to repair, or replace the property or take other appropriate action; or

(iii) Negotiate an equitable adjustment in lieu of repair or replacement when the Government is liable for the property loss.

(2) The Contracting Officer's authorization to remedy a loss for which the Contractor is liable under this clause shall not increase the contract price or fee.

(3) The Contractor may request an equitable adjustment to remedy a loss for which the Government is liable under this clause.

(4) The extent of the Government's liability for a property loss shall be reduced by the amount of any reimbursement the Contractor receives for that loss from a source other than the Government. The Contractor shall use any reimbursement for a property loss from a source other than the Government to repair, rehabilitate, or replace the property that suffered a loss, or equitably reimburse the Government, as directed by the Contracting Officer.

(f) *Government property maintenance.* The contract price or fee includes an amount for performance of the maintenance actions required by paragraphs (f)(1) and (f)(2) of this clause. If maintenance of stored items is required, the Contractor might be entitled to an equitable adjustment.

(1) *Government-furnished property.* The Contractor shall maintain Government-furnished property in a condition suitable for its intended use. The Contractor shall—

(i) Maintain real property, special tooling, and special test equipment in accordance with the specific maintenance instructions contained in this contract. If maintenance instructions are not specified, the Contractor shall use sound business practices to maintain that property.

(ii) Maintain unique Federal property as specified in this contract, or if not specified, agency instructions for the maintenance of such property.

(iii) Preserve, protect, and care for material and general purpose equipment in accordance with the property manufacturer's standards of care for such items, or when the manufacturer has not released standards of care, the Contractor's standard business practices for comparable Contractor-owned material and equipment.

(iv) Promptly notify the contract administration office when the maintenance actions required by paragraphs (f)(1)(i) through (f)(1)(iii) are not sufficient to sustain a Government-furnished property item's suitability for its intended use and request direction regarding repair, rehabilitation, or replacement. The Contractor shall not repair, rehabilitate, or replace such items unless authorized to do so by the Contracting Officer.

(2) *Property to which the Government obtains title under a cost-reimbursement or time-and-materials contract.* The Contractor shall maintain property to which the Government obtains title under a cost-reimbursement or time-and-materials contract in a condition suitable for the property's intended use until the Contractor determines the property is no longer needed for continued performance of this contract. Promptly following that determination, the Contractor shall enter the items into the property disposal process.

(3) *Additional maintenance actions.* When the Contractor's diligent performance of the maintenance actions required by paragraphs (f)(1) and (f)(2) of this clause is not sufficient to sustain a Government-furnished property item's suitability for its intended use, the Contracting Officer may—

(i) Replace or substitute other property for such property;

(ii) Direct the Contractor to repair, rehabilitate, or replace the property;

(iii) Direct the Contractor to take other appropriate action; or

(iv) Negotiate an equitable adjustment in lieu of repair, replacement, or other action.

(4) *Equitable adjustment.* The Contractor may request an equitable adjustment for performance of a property repair, rehabilitation, or replacement directed by the Contracting Officer pursuant to paragraph (f)(3) of this clause.

(5) *Stored Government property.* The Contractor shall store Government property only if specifically directed to do so by the Contracting Officer. Stored property shall be maintained in accordance with instructions provided by the Contracting Officer. Except as provided in the clause 52.245–3, Delivery—Special Tooling and Special Test Equipment, of this contract, and paragraph (g)(7) of this clause, the price or fee of the contract does not include an amount for such maintenance.

(g) *Government property disposal.* Except as provided in paragraphs (c)(8), (g)(2), and (g)(8) of this clause, the Contractor shall not dispose of Government property until authorized to do so by the Plant Clearance Officer.

(1) *Scrap*—(i) *Production Scrap.* Contractors may dispose of scrap resulting from production or testing under this contract without Government approval if the scrap does not require demilitarization or does not contain precious metals, hazardous materials or wastes, nuclear materials or classified materials.

(ii) *Scrap lists.* Contractors that have Government-approved scrap procedures may prepare scrap lists in lieu of inventory disposal schedules (provided such lists are consistent with the approved scrap procedures) except for scrap that—

(A) Requires demilitarization;

(B) Is a classified item;

(C) Is generated from classified items;

(D) Contains hazardous materials or hazardous wastes;

(E) Contains precious metals; or

(F) Is dangerous to the public health, safety, or welfare.

(iii) *Other scrap.* The Contractor shall use an inventory disposal schedule to identify scrap that is not production scrap or is not reportable on a scrap list.

(2) *Pre-disposal requirements.* When the Contractor determines that a property item acquired or produced by the Contractor is no longer needed for performance of this contract, the Contractor shall—

(i) Make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices) and credit the price or estimated cost of this contract with the proceeds of such returns; and

(ii) List property that could not be returned to a supplier or used in the performance of other Government contracts on Standard Form 1428, Inventory Disposal Schedule.

(3) *Inventory disposal schedules.* (i) The Contractor shall use Standard Form 1428, Inventory Disposal Schedule, to identify—

(A) Government-furnished property that is no longer required for performance of this contract, provided the terms of another Government contract do not require the Government to furnish that property for performance of that contract; and

(B) Property acquired or produced by the Contractor, to which the Government has obtained title under a cost-reimbursement or time-and-materials contract, that is no longer required for performance of that contract.

(ii) The Contractor may annotate inventory disposal schedules to identify property the Contractor wishes to purchase from the Government.

(iii) Unless the Plant Clearance Officer has agreed otherwise, or the contract requires electronic submission of inventory disposal schedules, the Contractor shall prepare separate inventory disposal schedules for—

(A) Special test equipment with general purpose components;

(B) Special test equipment that does not contain general purpose components;

(C) Printing equipment;

(D) Computers, components thereof, peripheral equipment, and related equipment;

(E) Precious Metals;

(F) Nonnuclear hazardous materials or hazardous wastes; or

(G) Nuclear materials or nuclear wastes.

(iv) Property with the same description, condition code, and reporting location may be grouped in a single line item. Special test equipment shall be described in sufficient detail to permit an understanding of the special test equipment's intended use.

(4) *Submission requirements.* Inventory disposal schedules shall be submitted to the Plant Clearance Officer no later than—

(i) Thirty days following the Contractor's determination that a Government property item is no longer required for performance of the contract;

(ii) Sixty days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or

(iii) One hundred twenty days, or such longer period as may be approved by the Plant Clearance Officer, following contract termination in whole or in part.

(5) *Corrections.* The Plant Clearance Officer may require the Contractor to correct an inventory disposal schedule or may reject a schedule if the property identified on the schedule is not accountable under this contract or is not in the quantity or condition indicated.

(6) *Postsubmission adjustments.* The Contractor shall provide the Plant Clearance Officer at least 10 working days advance written notice of its intent to remove a property item from an approved inventory disposal schedule. Unless the Plant Clearance Officer objects to the intended schedule adjustment within the notice period, the Contractor may make the adjustment upon expiration of the notice period.

(7) *Storage.* (i) The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government's failure to provide disposal instructions within 120 days following receipt of an acceptable inventory disposal schedule, might entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 121st day following receipt of an acceptable schedule.

(ii) The Contractor must obtain the Plant Clearance Officer's approval to remove Government property from the premises at which the property is currently located prior to receipt of final disposition instructions. If approval is granted, any costs incurred by the Contractor to transport or store the property shall not increase the price or fee of any Government contract. The storage facility must be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of any liability under this contract for such property.

(8) *Disposition instructions.* (i) If the Government does not provide disposition instructions to the Contractor within 60 days following receipt of an acceptable scrap list, the Contractor may dispose of the listed scrap in accordance with the Contractor's Government-approved scrap procedures.

(ii) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Government property as directed by the Plant Clearance Officer. The Contractor shall remove and destroy any markings identifying the property as Government property prior to disposing of the property.

(iii) The Contracting Officer may require the Contractor to demilitarize the property prior to shipment or disposal. Any equitable adjustment incident to the Contracting Officer's direction to demilitarize Government property shall be made in accordance with paragraph (c)(7) of this clause.

(9) *Disposal proceeds.* The Contractor shall credit the net proceeds from the disposal of Government property in accordance with instructions received from the Plant Clearance Officer.

(10) *Subcontractor inventory disposal schedules.* The Contractor shall require a subcontractor that is using property accountable under this contract at a subcontractor-managed site to submit inventory disposal schedules to the Contractor in sufficient time for the Contractor to comply with the requirements of paragraph (g)(4) of this clause.

(h) *Abandonment of Government property at a Contractor-owned location.* (1) The Government shall not abandon at a Contractor-owned location Government property that is or contains a hazardous material without the Contractor's written concurrence. The Contractor may request an equitable adjustment incident to such agreement.

(2) The Government, upon notice to the Contractor, may abandon any nonhazardous Government-furnished property in place at which time all obligations of the Government regarding such abandoned property shall cease. Except as provided in paragraph (c)(7)(i) of this clause, the Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances.

(i) *Overseas contracts.* In a contract performed outside the United States, its territories, or possessions, the words ''Government'' and ''Government-furnished'' (wherever they appear in this clause) shall be construed as ''United States Government'' and ''United States Government-furnished,'' respectively.

(End of clause)

Alternate I (*Date*). As prescribed in 45.207–2(b), replace paragraph (d)(1) of the basic clause with the following paragraph (d)(1), remove paragraph (d)(2), renumber paragraphs (d)(3), (d)(4), and (d)(5) as (d)(2), (d)(3), and (d)(4), respectively, and modify the references to ''Government property'' in the renumbered paragraphs (d)(2), (d)(3), and (d)(4) to read ''Government-furnished property'':

(d)(1) The Contractor is liable for Government-furnished property losses, except losses resulting from acts of war, civil insurrection, or natural disasters, provided the Contractor has taken reasonable and prudent steps to avoid or mitigate such losses.

Alternate II (*Date*). As prescribed in 45.207–2(c), replace paragraph (b) of the basic clause with the following paragraph (b) and add the following paragraph (j) to the basic clause:

(b) *General.* (1) Except as provided in paragraph (c) of this clause, the Contractor shall use its own property to perform this contract.

(2) The Contractor is responsible for the maintenance, protection, and preservation of Government property accountable under this contract that is in the Contractor's or its subcontractors' possession and shall account for such property as required by this contract.

(3) Property acquired or produced by the Contractor for performance of this contract that the Government obtains title to under the clause at 52.216–7, Allowable Cost and Payment, is Government property accountable under this contract.

(j) *Title to Contractor-acquired or produced property, nonprofit organizations or nonprofit institutions.* (1) Notwithstanding any other provision of this contract regarding title to property acquired or produced by a Contractor, the Contractor shall have title to equipment and other tangible property purchased with Government funds provided for the conduct of basic or applied research under this contract, if—

(i) The Contracting officer has agreed, prior to the Contractor's purchase of such property, that the Contractor shall have title to that property; and

(ii) The Contractor has agreed that depreciation or amortization costs for such property shall not be allocated to any existing or future Government contract and that such property may be used by the Government or its subcontractors without charge in performance of any Government contract or subcontract thereunder.

(2) As a condition for obtaining title to property under this clause, the Contractor, by signing this contract, agrees that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to equipment or other tangible personal property) (41 U.S.C. 2000d).

52.245–3 Delivery—Special Tooling and Special Test Equipment (Fixed-Price Contracts)

As prescribed in 45.305, insert the following clause:

DELIVERY—SPECIAL TOOLING AND SPECIAL TEST EQUIPMENT (FIXED-PRICE CONTRACTS) (DATE)

(a) *Definitions.* When a term defined in the clause at 52.245–2, Government Property, is used in this clause, the term has the same meaning as when used in 52.245–2.

(b) *Contractor notice.* (1) The Contractor shall notify the Contracting Officer of special tooling or special test equipment acquired or produced by the Contractor for performance of this contract that is not scheduled for delivery under the contract, as soon as practicable during contract performance but not later than the earlier of—

(i) One hundred twenty days prior to completion of scheduled deliveries (other than technical data) under this contract; or

(ii) Thirty days following the Contractor's determination that such special tooling or special test equipment is no longer required for contract performance.

(2) For each special tooling or special test equipment item, or groups of identical items, the Contractor's notice shall identify the item's or group's—

(i) Nomenclature;

(ii) Quantity;

(iii) Acquisition cost (by item);

(iv) Part number(s) with which the special tooling or special test equipment is used; and

(v) Identification number.

(c) *Storage.* The Contractor shall store the special tooling or special test equipment identified in the Contractor's notice at no change in contract price (or target price and ceiling amount) until expiration of the Government notice period or until the Government notifies the Contractor that delivery of a special tooling or test equipment item or items is required, whichever occurs first. Items shall be stored in a manner sufficient to preserve capability and provide protection from damage. If the Government requires items to be stored subsequent to the Government's delivery notice, the Contractor might be entitled to an equitable adjustment as provided in paragraph (f) of this clause.

(d) *Government notice.* (1) The Government must notify the Contractor in writing within 120 days, or such other period mutually agreed upon, following receipt of the notice required by paragraph (b) of this clause that delivery of a special tooling or special test equipment item or items is required.

(2) The Government's notice shall identify the special tooling or special test equipment item(s), and shall—

(i) Provide packing, packaging, marking, and shipping instructions;

(ii) Direct the Contractor to prepare the property for storage at the Contractor's facility or a Government facility; or

(iii) Provide instructions when accountability is to be transferred to another contract.

(3) The Contractor's storage obligations are not diminished if the Government notice period, or any extension thereof, extends beyond the date contract deliveries are completed.

(e) *Repair or rehabilitation.* The Contracting Officer may require the Contractor to repair or rehabilitate the special tooling or special test equipment identified in the Government's notice to the extent necessary to return an item to a condition suitable for its intended use at no change in price.

(f) *Equitable adjustment.* The contract may be equitably adjusted for costs incurred by the Contractor to prepare the tooling or test equipment for storage or shipment. Equitable adjustments shall be made in accordance with the procedures of the Changes clause of this contract and only to the extent the Contracting Officer's actions under paragraph (d) of this clause required the Contractor to incur costs that it would not have incurred under customary commercial practices.

(g) *Liability.* The Contractor is liable for any loss, theft, or destruction of, or damage to, special tooling or special test equipment delivered to the Government under this clause during the period commencing upon the Government's acceptance of the items and ending upon placement aboard a carrier's conveyance (f.o.b. origin) or delivery at the specified f.o.b. destination point.

(h) *Flow down.* The Contractor shall insert this or a substantially similar clause in all contracts and similar instruments with its first-tier subcontractors or suppliers, other than subcontractors or suppliers of commercial items, that will fabricate or acquire special tooling or special test equipment for performance of this contract.

(End of clause)

§ 52.245–4 Liability for Government Property (Demolition Services Contracts).

As prescribed in 45.403, insert the following clause:

LIABILITY FOR GOVERNMENT PROPERTY (DEMOLITION SERVICES CONTRACTS) (DATE)

Except for reasonable wear and tear incident to the removal and delivery of property to the Government, the Contractor is liable for any loss or destruction of or damage to property—

(a) Required to be delivered to the Government; and

(b) Title to which is vested in the Contractor but that under the termination clauses of this contract reverts to the Government upon notice of termination.

(End of clause)

§ 52.245–5 Government Property Administration.

As prescribed in 45.510(a), insert the following clause:

GOVERNMENT PROPERTY ADMINISTRATION (DATE)

(a) *Definitions.* When a term defined in the clause at 52.245–2, Government Property, is used in this clause, the term has the same meaning as when used in 52.245–2.

(b) *General.* (1) This clause is applicable to Government-furnished property; Government property stored by the Contractor at the Government's direction; and, under cost-reimbursement or time-and-materials contracts, property acquired or produced by a Contractor to which the Government has title under the Allowable Cost and Payment clause of this contract.

(2) If the Contractor does not have a property management system that has been approved by the Property Administrator, the Contractor shall submit a proposed system to the Property Administrator within 90 days following contract award (or such other mutually agreed to period).

Notwithstanding any other provision of this contract regarding liability for Government property losses, the Contractor shall be liable for such losses until its property management system is approved by the Property Administrator. The system shall be maintained during the period Government property is accountable under this contract.

(3) The Contractor should use an existing property management system or a modification thereof when the existing or modified system satisfies the requirements of this contract.

(c) *Property system requirements.* The property management system shall include written processes to assure compliance with contract requirements and to provide for system assessment. At a minimum, the system shall contain processes for—

(1) Assessing the system's efficiency and effectiveness, recommending corrective action or general improvements, and implementing appropriate changes;

(2) Inspecting property acquired by the Contractor or furnished by the Government for performance of this contract upon receipt;

(3) Promptly entering all Government property into the property management system;

(4) Assuring Government property is used only as authorized by the Contracting Officer;

(5) Controlling the distribution and return of pilferable property;

(6) Scheduling and monitoring Government property maintenance to assure timely performance and recording of all maintenance actions;

(7) Accurately recording by type and quantity Government material consumed during contract performance;

(8) Performing, reporting, and recording all inventories required by this contract;

(9) Assuring subcontractors have adequate procedures for the control and protection of Government property;

(10) Justifying the continued need for Government property to perform this contract;

(11) Moving and storing Government property in a manner commensurate with the property's handling and storage requirements; and

(12) Disposing of Government property in accordance with the requirements of this contract.

(d) *Property Management system review and approval.* (1) A Contractor whose property management system has been approved or validated by the Government no more than 2 years prior to the date of its offer is required only to submit to the Property Administrator, within 90 days following contract award, the changes required to conform the system to requirements in this contract. The submission date may be extended by the Property Administrator if an extension is in the Government's interests.

(2) The Property Administrator shall review the Contractor's proposed or modified system within 90 days following receipt and may approve or require corrections to the system. The Contractor shall accomplish the required corrections at no change in price or fee.

(3) The Property Administrator may review the Contractor's system at any time during contract performance to assure compliance with contract requirements. The Property Administrator may validate approval of, require corrections to, or, with the Administrative Contracting Officer's concurrence, withdraw approval of the Contractor's system. The Contractor shall implement corrections required by the Property Administrator by the date specified by the Property Administrator, or such other date agreed upon, at no change in price or fee. The Contractor's failure to implement corrections in a timely manner might result in the Contractor's assumption of liability for property losses for which the Government might otherwise be liable.

(4) The Contractor shall make available to the Property Administrator all records and related information reasonably required to verify that the Contractor's Government property management system conforms to contract requirements. Any disagreement as to the amount or type of information required for such verification shall be referred to the Administrative Contracting Officer for resolution.

(e) *Records and supporting information*—(1) *Property records.* (i) Except as provided in paragraph (e)(1)(ii) of this clause, the Contractor shall establish or maintain and keep current a property record for each Government property item accountable under this contract. Identical items may be consolidated in a single property record if the consolidated record provides the information required by this clause. The Contractor shall identify useable components permanently removed from Government property as Government property items and establish and maintain appropriate property records. Property records created by a subcontractor that has a property management system that has been approved by a Property Administrator may be used in lieu of creating new records.

(ii) Property records are not required for work in process or for property specifically acquired or constructed for tests that will destroy the property.

(iii) Contractors that use a material requirements planning system, manufacturing resource planning system, material management accounting system, or an enterprise resource planning system, may use the records generated by those systems as the records for material items provided such records otherwise satisfy the requirements in paragraph (e)(2) of this clause.

(iv) The Contractor shall close a Government property item's record when the item is replaced and create a new property record for the replacement item if that item is Government property.

(v) The Contractor shall enter the property's acquisition cost into the record for each Government property item that was acquired or produced by the Contractor during performance of this contract. For each item having an acquisition cost of (insert the agency capitalization threshold amount) or more, the Contractor also shall enter the date the item was acquired or produced.

(vi) The Contractor shall notify the Contracting Officer promptly if the contract does not identify a Government-furnished property item's nomenclature or acquisition cost.

(vii) Property records shall legibly and conspicuously identify sensitive property.

(viii) The property records for items requiring maintenance shall identify the dates maintenance actions (including calibration if required) were performed and any deficiencies discovered. The maintenance information may be kept separately if the Contractor has a direct link between the information and the affected property records.

(2) *Standard information.* Except as provided in paragraphs (e)(4) and (e)(5) of this clause, each property control record shall contain the following information:

(i) The item's name, description, and national stock number. If the item does not have a national stock number and the item's acquisition cost is (insert the agency capitalization threshold amount) or more, enter the four digit federal supply classification code.

(ii) Contract number or equivalent code designation.

(iii) Quantity received or fabricated, issued, and on hand.

(iv) The date of the most recent physical inventory or other posting reference.

(v) Acquisition cost and, for items having an acquisition cost of (insert the agency capitalization threshold amount) or more, the date the items were acquired or produced.

(vi) Current location (for low value property, identify the initial location only).

(vii) The property's classification. Use only one of the following for each property item—land, buildings, other real property, equipment, special test equipment, special tooling, unique Federal property, or material.

(3) *Additional information.* In addition to the information required by paragraph (e)(2) of this clause, the property records for—

(i) Special tooling and special test equipment shall identify each part number with which a special tool or special test equipment item is used;

(ii) Special test equipment that includes general purpose equipment shall include the information required by paragraph (e)(2) of this clause for each removable or reusable general purpose component if removal and reuse is economically feasible;

(iii) Equipment shall include the manufacturer's name, serial number, and model or part number; and

(iv) Scrap shall identify the material content, contract from which the scrap was derived, and the scrap's disposition and disposition date(s).

(4) *Real property.* (i) Real property records must contain a description of the property, its location, original acquisition cost, a description of property alterations made or construction work performed by the Contractor, including an identification of the construction sites supporting such alterations or construction, and must separately identify the cost of such alterations or construction. Supporting documentation shall include maps, drawings, plans, specifications, and, if necessary, supplementary data needed to completely describe and value the property.

(ii) Costs incurred by the Government or the Contractor, to acquire, construct, alter, or improve Government-owned or leased real property, including additions, expansions, extensions, or conversions thereof, shall be added to the property's acquisition cost if they increase the value, life, utility, capability, or serviceability of the property.

(iii) A real property record shall be annotated with a statement of the pertinent facts when the property is sold, transferred, donated, destroyed, abandoned by the Government, or condemned.

(5) *Property returned under warranty.* The Contractor shall establish a property record for each item returned for correction under a warranty and maintain the records on a contract-by-contract basis. The records shall identify the date received, and the date the item is returned to the Government. Once a property record has been established, identical items received for corrective action shall be added to the established record and the information required by this paragraph maintained for each item.

(f) *Reports and notices*—(1) *Annual Government property report.* The Contractor shall report all Government property accountable under this contract that is in its or its subcontractors' possession as of September 30 of each calendar year or upon completion of all property disposal actions under this contract, whichever is sooner. Unless otherwise stated in this contract, the report shall be prepared using Standard Form 1450, U.S. Government Property in the Possession of Contractors, and submitted to the Property Administrator no later than October 31 of each calendar year.

(2) *Misdirected Government property.* The Contractor shall notify the Property Administrator in writing immediately following receipt of Government property

intended for another person or Government property not required for performance of a Government contract with the Contractor and shall request disposition instructions. To the extent practical, the Contractor shall identify the shipment's content, intended recipient, carrier that made delivery, the Government activity from which the shipment originated, and the shipment's current location.

(3) *Late Government-furnished property.* The Contractor shall notify promptly the Contracting Officer of a failure to receive Government-furnished property at the time stated in the contract or, when a time is not stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates. Each notice shall forward the Contractor's estimate of the extent to which such failure has affected or might affect contract performance.

(4) *Property losses.* Except as provided in paragraph (f)(5) of this clause, the Contractor shall notify the Property Administrator in writing promptly upon learning that a Government property loss has occurred. The notice shall identify the property by item and include—

(i) The item's description, contract number, national stock number (if known), and either part number or identification number;

(ii) The date a physical loss or theft was discovered or damage or destruction occurred and, if known, the circumstances;

(iii) The item's acquisition cost;

(iv) The contracts affected;

(v) All known interests in commingled property of which the Government property is a part; and

(vi) The insurance, if any, covering any part of or interest in the property.

(5) *Low value property losses.* The Contractor is not required to provide a property loss notice for low value property until contract completion or termination, except low value property that the Contractor needs for continued performance of this contract or low value Government-furnished property that the Government is contractually obligated to provide to the Contractor for performance of another contract. Notice of such loss shall be provided in accordance with paragraph (f)(4) of this clause.

(g) *Inventories.* The Contractor shall assure that the location of each Government property item is accurately established and the records and reports required by this clause are complete and accurate.

(1) *Contract termination inventories.* The Contractor shall inventory all property accountable under this contract immediately following a notice of termination or partial termination of the contract. Electronic, optical, electro-magnetic, or similar systems may be used.

(2) *Contract completion inventory.* Promptly following completion of deliveries or performance under the contract, the Contractor shall inventory all Government property accountable under this contract that the Government is not contractually obligated to furnish to the Contractor for performance of another Government contract.

(h) *Markings*—(1) *Contractor-acquired or produced property (other than material).* As soon as practicable following the assumption of title to property acquired or produced for performance of a cost-reimbursement or time-and-materials contract, the Contractor shall legibly and conspicuously mark such property with the phrase ''U.S. Government Property'' (or a similar phrase that conveys Government ownership) and a control number that links the property to the property records maintained by the Contractor.

(2) *Government-furnished property (other than material).* Promptly following receipt of Government-furnished property, the Contractor shall determine whether the property bears a Government ownership marking, mark unmarked property with the markings identified in paragraph (g)(1) of this clause, and replace any control numbers affixed by other Contractors with the Contractor's control number.

(3) *Exceptions.* (i) The Contractor is not required to mark Government-furnished or Contractor-acquired or produced material.

(ii) In lieu of the requirements in paragraph (h)(1) or (h)(2) of this clause, the Contractor shall contact promptly the Property Administrator for alternate instructions when marking would damage a property item or the Contractor considers a physical marking to be impractical.

(i) *Overseas contracts.* In a contract performed outside the United States, its territories, or possessions, the words ''Government'' and ''Government-furnished'', as used in this clause, mean ''United States Government'' and ''United States Government-furnished,'' respectively.

(End of clause)

Alternate I (*Date*) As prescribed in 45.510(b), substitute the following paragraphs (e) and (f) for paragraphs (e) and (f) of the basic clause:

(e) *Property records.* The Contractor shall establish a property record for each Government property item returned for correction under a warranty and shall maintain the records on a contract-by-contract basis. The records shall identify the item's name, description, property classification, national stock number, the date received and the date the item is returned to the Government. For items having an acquisition cost greater than (insert the agency capitalization threshold), the Contractor shall enter the item's four-digit federal supply classification code. Once a property record has been established, identical items received for corrective action shall be added to the established record and the information required by this paragraph maintained for each item.

(f) *Notices*—(1) *Misdirected Government property.* The Contractor shall notify the Property Administrator, promptly following receipt of Government property intended for another person or Government property not required for performance of a Government contract, and shall request disposition instructions. To the extent practical, the Contractor shall identify the shipment's content, intended recipient, carrier that made delivery, the Government activity from which the shipment originated, and the shipment's current location.

(2) *Late Government-furnished property.* The Contractor shall notify promptly the Contracting Officer of a failure to receive Government-furnished property at the time stated in the contract or, when a time is not stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates. Each notice shall forward the Contractor's estimate of the extent to which such failure has affected or might affect contract performance.

(3) *Property losses.* Except as provided in paragraph (f)(4) of this clause, the Contractor shall notify the Property Administrator in writing promptly upon learning that a Government property loss has occurred. The notice shall identify the property by item and include—

(i) The item's description, contract number, national stock number (if known), and either part number or identification number;

(ii) The date a physical loss or theft was discovered or damage or destruction occurred and, if known, the circumstances;

(iii) The item's acquisition cost;

(iv) The contracts affected;

(v) All known interests in commingled property of which the Government property is a part; and

(vi) The insurance, if any, covering any part of or interest in the property.

(4) *Low value property losses.* The Contractor is not required to provide a property loss notice for low value property until contract completion or termination, except low value property that the Contractor needs for continued performance of this contract or low value Government-furnished property that the Government is contractually obligated to provide to the Contractor for performance of another contract. The notice shall contain the information required by paragraph (f)(3) of this clause.

52.245–6 Rental Charges for Commercial Use.

As prescribed in 45.602 insert the following clause:

RENTAL CHARGES FOR COMMERCIAL USE (DATE)

(a) *Definitions.* (1) When a term defined in the clause at 52.245–2, Government Property, is used in this clause, the term has the same meaning as when used in 52.245–2.

(2) As used in this clause—

Base cost means the acquisition cost recorded in the Contractor's property control system or, in the absence of such record, the value attributed by the Government to a Government property item for purposes of determining a reasonable rental charge.

(b) *General.* (1) Rental requests must be submitted to the Administrative Contracting Officer, identify the property for which rental is requested, propose a rental period, and calculate an estimated rental charge by using the Contractor's best estimate of rental time in the formulae described in paragraph (c) of this clause.

(2) The Contractor shall not use Government property for commercial purposes, including independent research and development, until a rental charge for real property, or estimated rental charge for other property, is agreed upon. Rented property shall be used only on a noninterference basis.

(c) *Rental charge*—(1) *Real property and associated fixtures.* (i) The Contractor shall obtain, at no cost to the Government, a property appraisal from an independent, licensed, accredited or certified appraiser that computes a monthly, daily, or hourly rental rate for comparable commercial property. The appraisal may be used to compute rentals under this clause throughout its effective period or, if an effective period is not stated in the appraisal, for 1 year following the date the appraisal was performed. The Contractor shall submit the appraisal to the Administrative Contracting Officer at least 30 days prior to the date the property is needed for commercial use. Except as provided in paragraph (c)(1)(iii) of this clause, the Administrative Contracting Officer shall use the appraisal rental rate to determine a reasonable rental charge.

(ii) Rental charges shall be determined by multiplying the rental time by the appraisal rental rate expressed as a rate per hour. Monthly or daily appraisal rental rates shall be divided by 720 or 24, respectively, to determine an hourly rental rate.

(iii) When the Administrative Contracting Officer has reason to believe the appraisal rental rate is not reasonable, the Administrative Contracting Officer shall promptly notify the Contractor and provide the rationale. The parties may agree on an alternate means for computing a reasonable rental charge.

(2) *Other Government property.* The Contractor may elect to calculate the final rental charge using the appraisal method described in paragraph (c)(1) of this clause subject to the constraints therein or the following formula in which rental time shall be expressed in increments of not less than 1 hour with portions of hours rounded to the next higher hour:

Rental charge = *(Rental time in hours) (.02 per month) (Base cost)* 720 hours per month

(3) *Alternate methodology.* The Contractor may request consideration of an alternate basis for computing the rental charge if it considers the monthly rental rate or a time based rental unreasonable or impractical.

(d) *Rental payments.* (1) Rent is due at the time and place specified by the Contracting Officer. If a time is not specified, the rental is due 60 days following completion of the rental period. The Contractor shall calculate the rental due and furnish records or other supporting data in sufficient detail to permit the Administrative Contracting Officer to verify the rental time and computation. Unless otherwise permitted by law, payment shall be made by check payable to the Treasurer of the United States and sent to an office designated by the Administrative Contracting Officer to receive rental payments or by electronic funds transfer to that office.

(2) Interest will be charged if payment is not made by the specified payment date or, in the absence of a specified date, the 61st day following completion of the rental period. Interest will accrue at the Renegotiation Board Interest Rate (published in the **Federal Register** semiannually on or about January 1st and July 1st) for the period in which the rent is due.

(3) The Government's acceptance of any rental payment under this clause, in whole or in part, shall not be construed as a waiver or relinquishment of any rights it may have against the Contractor stemming from the Contractor's unauthorized use of Government property or any other failure to perform this contract according to its terms.

(e) *Liability for loss, theft, damage, or destruction.* When Government property is used for commercial purposes, the Contractor shall be liable for, and shall reimburse the Government for, any damage to or loss, theft, or destruction of such property except damage resulting from wear and tear reasonable for the period during which use for commercial purposes was authorized. The Contractor shall indemnify the Government against claims for injury to persons or damage to the Contractor's or a third party's property arising from the Contractor's use or possession of the Government property for commercial purposes.

(f) *Use revocation.* (1) At any time during the rental period, the Government may revoke commercial use authorization. When practical, the Government may provide the reason of revocation in a reasonable period of time prior to such revocation.

(2) Promptly following a use revocation, the Contractor shall restore the property to its pre-rental condition (less normal wear and tear) and return the property to the Government. Such return and restoration shall be accomplished at no cost to the Government.

(g) *Unauthorized use.* The unauthorized use of Government property can subject a person to fines, imprisonment, or both, under 18 U.S.C. 641.

(End of clause)

52.245–7 Government Property—Alternate Procedures.

As prescribed in 45.207–2(d), insert the following clause:

GOVERNMENT PROPERTY—ALTERNATE PROCEDURES (DATE)

(a) Definitions. As used in this clause—

Commercial purpose means any purpose other than performance of a U.S. Government contract or subcontract thereunder.

Contractor's managerial personnel means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the Contractor's business or the Contractor's operations at a site connected with performance of a Government contract.

Demilitarization means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

Equipment means nonexpendable, tangible personal property. The term does not include property that satisfies the definition in this clause of material, unique Federal property, special tooling, or special test equipment.

Expendable property means property that is customarily consumed during design, manufacture, or testing of a product or performance of a service.

General purpose equipment means equipment items that can be used, or with only minor modification could be used, to develop, produce, test, or maintain more than one type of item or perform more than one type of service.

Government-furnished property means Government property that a Contracting Officer authorizes a Contractor to use for performance of a Government contract.

Government property means property the Government owns or leases.

Low value property means equipment, special tooling, or special test equipment that has an acquisition cost less than $5,000 and is not sensitive property.

Material means expendable property and property incorporated into or attached to an end item.

Natural disaster means a sudden and unusual natural occurrence causing catastrophic damage, including floods, hurricanes, tornadoes, cyclones, atmospheric electrical storms, tidal waves, avalanches, mudslides, landslides, volcanic eruptions, earthquakes, and other similar perils. The term does not include fire or explosion, unless directly or indirectly caused by a covered peril.

Nonprofit organization means a business entity organized and operated exclusively for charitable, scientific, or educational purposes, the net earnings of which do not inure to the benefit of any private shareholder or individual, that is exempt from Federal income taxation under section 501 of the Internal Revenue Code and does not conduct a substantial portion of its activities carrying on propaganda or otherwise attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office.

Personal property means property of any kind or interest in it except real property, battleships, cruisers, aircraft carriers, destroyers, submarines, and records of the Government.

Plant clearance officer means a person appointed to disposition property accountable under Government contracts.

Precious metals means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.

Property means real and personal property.

Property administrator means a person appointed to perform property administration for the Government.

Real property means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or equipment.

Rental period means the calendar period during which Government property is made available for commercial purposes.

Rental time means the number of hours, to the nearest whole hour, rented property is actually used for commercial purposes. It includes time to set up the property for such purposes, perform required maintenance, and restore the property to its condition prior to rental (less normal wear and tear).

Scrap means personal property that has no value except its basic metallic, mineral, or organic content.

Sensitive property means property potentially dangerous to the public safety or

security if stolen, lost, or misplaced, or that must be subject to exceptional physical security, protection, control, and accountability such as classified property, weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

Special test equipment means—

(1) Test equipment designed specifically to conduct testing required by a Government contract, provided such equipment cannot be used for other purposes;

(2) General purpose test equipment or modifications thereof that are interconnected and interdependent to form a new functional entity that can only be used to perform testing required by a contract while so interconnected and interdependent; or

(3) Any combination of specifically designed, general purpose, or modified general purpose test equipment that is so interconnected and interdependent to form a new functional entity that can only be used to perform special purpose testing required by a contract while so interconnected and interdependent.

Special tooling means items such as jigs, dies, fixtures, molds, patterns, taps, gauges, or other equipment and manufacturing aids, that are of such a specialized nature that without substantial modification or alteration their use is limited to the development, production, repair, or maintenance of particular supplies or components thereof, or to the performance of particular services.

Unique Federal property means Government-owned personal property, or components thereof, that is specially designed to perform or support the mission of one or more Federal agencies and is not available to the public. The term does not include property that is incorporated into or attached to an item deliverable under a contract.

Work in process means bench stock materials, complete or incomplete fabricated parts, subassemblies, assemblies, and similar items that are created during production of deliverable end items, or are required to construct special tooling or special test equipment needed to produce deliverable end items, or are otherwise needed for design or testing required by a contract.

(b) *General.* (1) This clause is applicable to Government-furnished property; Government property stored by the Contractor at the Government's direction; items accepted by the Government at origin that are in the Contractor's possession; and under cost-reimbursement or time-and-materials contracts, property acquired or produced by a Contractor to which the Government has title under the clause 52.216–7, Allowable Cost and Payment, of this contract. For purposes of this clause, such property and items are collectively referred to as ''Government property.'' The clause does not apply to property to which the Government has obtained title, a lien, or other security interest solely as a result of financing arrangements under fixed-price contracts.

(2) Except as provided in paragraph (c) of this clause, the Contractor shall use its own property to perform this contract.

(3) The Contractor is responsible for the maintenance, protection, and preservation of Government property accountable under this contract, including property in the possession of a subcontractor, and shall account for such property as required by this contract.

(4) The Contractor shall not use Government property for commercial purposes without the Contracting Officer's prior approval. Unless otherwise permitted by law, commercial use shall be on a rental basis. The terms and conditions of the Rental Charges for Commercial Use clause of this contract shall apply to each rental.

(5) If this contract is a cost-reimbursement or time-and-materials contract, the Contractor shall not acquire general purpose equipment to which the Government will have title under the clause at 52.216–7, Allowable Cost and Payment, or real property for performance of this contract, unless the general purpose equipment or real property is specified as a deliverable end item.

(6) If this contract is a fixed-price or labor-hour contract, property acquired or produced by the Contractor for performance of the contract is not Government property. Property identified as a deliverable item becomes Government property upon acceptance by the Government.

(c) *Government-furnished property.* The property identified in this contract as Government-furnished property is furnished to the Contractor on a rent-free basis for performance of this contract. The Contractor shall use sound business practices to protect, maintain, and account for the property and shall repair, replace, and dispose of the property in accordance with this clause.

(1) *Title.* The Government retains title to Government-furnished property including Government-furnished property that is incorporated into or attached to any property owned by the Contractor. Government-furnished property does not become a fixture or lose its identity as personal property by being attached to real property.

(2) *Suitability for intended use.* (i) Government-furnished property, other than property furnished ''as is'', shall be in a condition suitable for the property's intended use at the time the property is furnished to the Contractor. The Government shall, when requested by the Contractor, provide information reasonably required for the intended use of such property to the extent the Government has the right to release or disclose the information.

(ii) The contract delivery or performance dates are based upon the expectation that Government-furnished property, except property furnished ''as is'', will be suitable for its intended use and delivered to the Contractor at the times stated in the contract. If a time is not stated, the property shall be furnished in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

(iii) If Government-furnished property is received in a condition not suitable for its intended use, the Contractor shall notify the Contracting Officer as soon as the unsuitability is known and shall take corrective action or dispose of the property as directed by the Contracting Officer. The contract shall be equitably adjusted in accordance with paragraph (c)(7) of this clause.

(iv) The Contractor may request an equitable adjustment when Government-furnished property is not delivered to the Contractor by the required time and such untimely delivery has affected contract performance.

(v) If the Contractor commingles Contractor acquired or produced material with Government-furnished material, the provisions of this clause regarding suitability for intended use shall not apply to the commingled Government-furnished material. Notwithstanding any other provision of this contract, the Contractor shall be responsible for any failure to comply with contract requirements attributable to material that was commingled.

(3) *Authorized use.* The Contractor may request, in writing, the Contracting Officer to authorize use of the property furnished for performance of this contract to perform other Government contracts at the same location. Rent-free use is authorized if the Contracting Officer does not object to such use, either in whole or in part, within 30 days following confirmed receipt of the Contractor's request. Costs incurred by the Contractor to relocate, modify, or adapt the property for performance of other Government contracts or to restore the property to a condition suitable for intended use under this contract shall not increase the price or fee of any Government contract.

(4) *Real Property restrictions.* The Contractor shall not improve or make structural alterations to real property furnished for performance of this contract, unless the contract specifically identifies the alterations or improvements as work to be performed under the contract or unless expressly authorized to do so in writing by the Contracting Officer. Title to improvements or alterations to Government-furnished real property shall vest in the Government.

(5) *Property furnished ''as is''.* (i) The Contractor is responsible for assuring that Government property furnished on an ''as is'' basis is suitable for the Contractor's purposes. Such property is furnished f.o.b. at the location specified in the solicitation or contract. Costs incurred by the Contractor to transport, install, modify, or otherwise make such property suitable for the Contractor's intended use and any cost incurred to return such property to the Government shall not increase the price or fee of any Government contract. Modifications to property furnished ''as is'' require the Contracting Officer's prior written approval.

(ii) Special tooling or special test equipment is furnished ''as is'' for performance of this contract if the Contractor acquired or produced, and the Government obtained title to, such tooling or test equipment under this or another Government contract.

(iii) The Government makes no warranty whatsoever with respect to property furnished ''as is'', except that the property will be in the same condition when placed at the specified f.o.b. location as when inspected by the Contractor or, if not inspected by the Contractor, as of the last date identified in the solicitation or contract for Contractor inspection. The Contractor is

responsible for verifying that the property's condition has not changed during that period. If the Contractor determines the property's condition has changed and such change will adversely affect the Contractor, the Contractor shall notify the Contracting Officer promptly and identify the changed condition. If the Contracting Officer concurs that the property's condition has changed, the Contracting Officer may restore the property or substitute other Government property at no change in the contract's price or fee; permit the Contractor to restore the property subject to an equitable adjustment; or decline to provide the property subject to an equitable adjustment. The foregoing provisions for adjustment are the exclusive remedies available to the Contractor. The Government has no liability for changes in the property's condition discovered after removal from the specified f.o.b. location.

(iv) Repairs to or modifications of property furnished ''as is'' do not affect the Government's title to such property.

(6) *Changes in Government-furnished property.* (i) The Contracting Officer may increase, decrease, or substitute other Government property for the property furnished or to be furnished for performance of this contract or require use of Government-furnished property in lieu of Contractor property.

(ii) Any increase in the amount of property furnished for performance of this contract shall result in an equitable reduction in contract price or fee and appropriate adjustment of the contract delivery or performance dates.

(iii) The Contractor may request an equitable adjustment for a decrease in or substitution for the property identified in the contract or withdrawal of authority to use property accountable under another contract in performance of this contract provided such decrease, substitution, or withdrawal increases contract costs or schedule.

(iv) If the Contracting Officer directs the Contractor to use Government-furnished property in lieu of Contractor property in performance of this contract, any adjustment to the contract shall be made in accordance with paragraph (c)(7) of this clause.

(7) *Equitable adjustments.* Equitable adjustments shall be the Contractor's exclusive remedy for Government actions under this clause and shall be made in accordance with the procedures of the Changes clause of this contract.

(i) Equitable adjustments may include an amount for the restoration and rehabilitation of the Contractor's premises caused by Government-furnished property that is not in a condition suitable for intended use, the withdrawal or substitution of Government-furnished property, or the Government's abandonment of hazardous property (see paragraph (h)(1) of this clause).

(ii) The Government shall not be liable for breach of contract for—

(A) Any delay in delivery of Government-furnished property;

(B) Delivery of Government-furnished property in a condition not suitable for its intended use;

(C) An increase or decrease in, or substitution of, Government-furnished property; or

(D) Failure to repair or replace Government-furnished property.

(8) *Return of Government-furnished property.* If this contract requires Government-furnished property to be returned directly to a Government activity—

(i) The property, including property furnished ''as is'', shall be returned to the Government in the same condition, less normal wear and tear, or better condition than when furnished to the Contractor except—

(A) Lost, stolen, or destroyed property that the Government has determined will not be replaced; and

(B) Damaged property that the Government has elected not to have repaired or replaced.

(ii) The Contractor shall notify the contract administration office of its intent to return Government-furnished property at least 10 working days prior to return. Notices shall identify the contracts under which the items are accountable and shall provide each item's name, description, national stock number (if known), and part number or identification number.

(d) *Property loss liability.* As used in this clause, the terms loss and losses include, either individually or in any combination, physical misplacement of, theft of, destruction of, or damage to, Government property accountable under this contract.

(1) *Contractor liability.* The Contractor is liable for property losses, except losses for which the Government is liable under paragraph (d)(2) of this clause.

(2) *Government liability.* The Government is liable for losses—

(i) Caused by acts of war, civil insurrection, or natural disasters, regardless of property value, except a loss or portion thereof caused by or attributable to the Contractor's or a subcontractor's failure to take reasonable and prudent steps to avoid or reduce such losses; and

(ii) To Government property items that have an acquisition cost greater than $1,000,000 per item, except a loss or portion thereof caused by willful misconduct or lack of good faith on the part of the Contractor's or a subcontractor's managerial personnel.

(3) *Reduced Government liability.* The Government's liability for a property loss shall be reduced by the amount of any reimbursement the Contractor receives from a third party for the loss.

(4) *Property in the possession of a subcontractor.* The Contractor's transfer of Government property to the possession and control of a subcontractor does not affect the Contractor's liability for property losses.

(5) *Contractor required actions following a property loss.* The Contractor shall—

(i) Take all reasonable action to protect damaged Government property from further damage and to physically separate such property from all other property;

(ii) Notify the Contracting Officer as required by the Government Property Administration—Alternate Procedures clause of this contract (52.245–8(e)(4));

(iii) Not repair, replace, or otherwise remedy a loss for which the Government is liable under paragraph (d)(2) of this clause, unless authorized to do so by the Contracting Officer; and

(iv) Do nothing to prejudice the Government's rights to recover against third parties for any Government property loss. When requested by the Contracting Officer, the Contractor shall, at Government expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(6) *Insurance charges or reserves.* Unless expressly required by this contract, the Contractor shall not include in the contract price, fee, or any adjustment thereof, any charge or reserve for insurance (including any self-insurance fund or reserve) covering losses for which the Government is liable under paragraph (d)(2) of this clause.

(e) *Property loss remedies.* Following notification that a property loss has occurred—

(1) If the Government is liable for the loss, the Contracting Officer may—

(i) Elect to repair, replace, substitute other property for such property, or negotiate an equitable adjustment in lieu of repair, replacement, or substitution; or

(ii) Authorize the Contractor to repair or replace the property or take other appropriate action. If authorized, the Contractor may request an equitable adjustment.

(2) If the Contractor is liable for the loss, the Contracting Officer may—

(i) Authorize the Contractor to repair or replace the property or take other appropriate action at no change in price or fee; or

(ii) Elect to receive an equitable reduction in contract price or fee in lieu of requiring the Contractor to remedy the loss.

(3) The Contractor shall use any reimbursement for a property loss from a source other than the Government to repair, or replace the property that suffered a loss, or equitably reimburse the Government, as directed by the Contracting Officer.

(f) *Government property maintenance.* The contract price or fee includes an amount for performance of the maintenance actions required by paragraphs (f)(1) and (f)(2) of this clause.

(1) *Government-furnished property.* The Contractor shall maintain Government-furnished property in a condition suitable for its intended use. The Contractor shall—

(i) Use sound business practices to maintain real property, special tooling, and special test equipment;

(ii) Maintain unique Federal property as specified in this contract, or if not specified, agency instructions for the maintenance of such property;

(iii) Preserve, protect, and care for material and general purpose equipment in accordance with the property manufacturer's standards of care for such items, or when the manufacturer has not released standards of care, the Contractor's standard business practices for comparable Contractor-owned material and equipment; and

(iv) Promptly notify the contract administration office when the maintenance actions required by paragraphs (e)(1)(i) through (e)(1)(iii) are not sufficient to sustain a Government-furnished property item's suitability for its intended use and request direction regarding repair, rehabilitation, or

replacement. The Contractor shall not repair, rehabilitate, or replace such items unless authorized to do so by the Contracting Officer.

(2) *Property to which the Government obtains title under a cost-reimbursement or time-and-materials contract.* The Contractor shall maintain property to which the Government obtains title under a cost-reimbursement or time-and-materials contract in a condition suitable for the property's intended use until the Contractor determines the property is no longer needed for continued performance of this contract. Promptly following that determination, the Contractor shall enter the items into the property disposal process.

(3) *Additional maintenance actions.* When the Contractor's diligent performance of the maintenance actions required by paragraph (f)(1) and (f)(2) of this clause is not sufficient to sustain a Government-furnished property item's suitability for its intended use, the Contracting Officer may—

(i) Repair, rehabilitate, replace, or substitute other property for the property requiring additional maintenance; or

(ii) Authorize the Contractor to repair, rehabilitate, or replace, the property.

(4) *Equitable adjustment.* The Contractor may request an equitable adjustment for property repair, rehabilitation, or replacement authorized by the Contracting Officer.

(5) *Stored Government property.* The Contractor shall store Government property only if specifically directed to do so by the Contracting Officer. Stored property shall be maintained in accordance with instructions provided by the Contracting Officer. Except as provided in the clause 52.245–3, Delivery—Special Tooling and Special Test Equipment, of this contract and paragraph (g)(7) of this clause, the price or fee of the contract does not include an amount for such maintenance.

(g) *Government property disposal.* Except as provided in paragraphs (c)(8), (g)(1), and (g)(2) of this clause, the Contractor shall not dispose of Government property until authorized to do so by the Plant Clearance Officer.

(1) *Scrap.* (i) Contractors may dispose of scrap that results from production or testing under this contract without Government approval if the scrap does not contain precious metals, hazardous materials or wastes, nuclear materials, classified materials, or does not require demilitarization. All other scrap must be disposed of in accordance with paragraphs (g)(3) through (g)(8) of this clause.

(ii) The Contractor and the Plant Clearance Officer may agree to expedited scrap procedures for nonproduction scrap without consideration by either party.

(2) *Predisposal requirements.* When the Contractor determines that a property item acquired or produced by the Contractor is no longer needed for performance of this contract, the Contractor shall—

(i) Make reasonable efforts to return unused property to the appropriate supplier at acquisition cost (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices) and credit the price or estimated cost of this contract with the proceeds of such returns; and

(ii) List property that could not be returned to a supplier or used in the performance of other Government contracts on Standard Form 1428, Inventory Disposal Schedule.

(3) *Inventory disposal schedules.* (i) The Contractor shall use Standard Form 1428, Inventory Disposal Schedule, to identify—

(A) Government-furnished property that is no longer required for performance of this contract provided the terms of another Government contract do not require the Government to furnish that property for performance of that contract; and

(B) Property acquired or produced by the Contractor, to which the Government has obtained title under cost-reimbursement or time-and-materials contracts, that is no longer required for performance of that contract.

(ii) The Contractor may annotate inventory disposal schedules to identify property the Contractor wishes to purchase from the Government.

(iii) Unless the Plant Clearance Officer has agreed otherwise, or the contract requires electronic submission of inventory disposal schedules, the Contractor shall prepare separate inventory disposal schedules for—

(A) Special test equipment with general purpose components;

(B) Special test equipment that does not contain general purpose components;

(C) Printing equipment;

(D) Computers, components thereof, peripheral equipment, and related equipment;

(E) Precious metals;

(F) Nonnuclear hazardous materials or hazardous wastes; or

(G) Nuclear materials or nuclear wastes;

(iv) Property with the same description, condition code, and reporting location may be grouped in a single line item. Special test equipment shall be described in sufficient detail to permit an understanding of the special test equipment's intended use.

(4) *Submission requirements.* Inventory disposal schedules shall be submitted to the Plant Clearance Officer no later than—

(i) Thirty days following the Contractor's determination that a Government property item is no longer required for performance of the contract;

(ii) Sixty days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or

(iii) One hundred twenty days, or such longer period as may be approved by the Plant Clearance Officer, following contract termination in whole or in part.

(5) *Corrections.* The Plant Clearance Officer may require the Contractor to correct an inventory disposal schedule or may reject a schedule if the property identified on the schedule is not accountable under this contract or is not in the quantity or condition indicated.

(6) *Postsubmission adjustments.* The Contractor shall provide the Plant Clearance Officer at least 10 working days advance written notice of its intent to remove a property item from an approved inventory disposal schedule. Unless the Plant Clearance Officer objects to the intended schedule adjustment within the notice period, the Contractor may make the adjustment upon expiration of the notice period.

(7) *Storage.* (i) The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government's failure to provide disposal instructions within 120 days following receipt of an acceptable inventory disposal schedule, might entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 121st day following receipt of an acceptable schedule.

(ii) The Contractor must obtain the Plant Clearance Officer's approval to remove Government property from the premises at which the property is currently located prior to receipt of final disposition instructions. If approval is granted, any costs incurred by the Contractor to transport or store the property shall not increase the price or fee of any Government contract. The storage facility must be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of any liability under this contract for such property.

(8) *Disposition instructions.* (i) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Government property as directed by the Plant Clearance Officer. The Contractor shall remove and destroy any markings identifying the property as Government property prior to disposing of the property.

(ii) The Contracting Officer may require the Contractor to demilitarize the property prior to shipment or disposal. Any equitable adjustment incident to the Contracting Officer's direction to demilitarize Government property shall be made in accordance with paragraph (c)(7) of this clause.

(9) *Disposal proceeds.* The Contractor shall credit the net proceeds from a disposal of Government property in accordance with instructions received from the Plant Clearance Officer.

(10) *Subcontractor inventory disposal schedules.* The Contractor shall require a subcontractor that is using property accountable under this contract at a subcontractor-managed site to submit inventory disposal schedules to the Contractor in sufficient time for the Contractor to comply with the requirements of paragraph (g)(4) of this clause.

(h) *Abandonment of Government property at a Contractor-owned location.* (1) The Government shall not abandon at a Contractor-owned location Government property that is or contains a hazardous material without the Contractor's written concurrence. The Contractor may request an equitable adjustment incident to such agreement.

(2) The Government, upon notice to the Contractor, may abandon any nonhazardous Government-furnished property in place at which time all obligations of the Government regarding such abandoned property shall cease. Except as provided in paragraph

(c)(7)(i) of this clause, the Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances.

(i) *Overseas contracts.* In a contract performed outside the United States, its territories, or possessions, the words ''Government'' and ''Government-furnished'' (wherever they appear in this clause) shall be construed as ''United States Government'' and ''United States Government-furnished,'' respectively.

(End of clause)

Alternate I (*Date*). As prescribed in 45.207–2(d)(1), replace paragraph (d)(1) of the basic clause with the following paragraph (d)(1) and modify the references to ''Government property'' in paragraphs (d)(2), (d)(3), and (d)(4) to read ''Government-furnished property'':

(d)(1) *Contractor liability.* Except as provided in paragraph (d)(2) of this clause, the Contractor is liable for losses to Government-furnished property during the times the property is in the Contractor's possession.

Alternate II (*Date*). As prescribed in 45.207–2(d)(2), replace paragraph (b) of the basic clause with the following paragraph (b) and add the following paragraph (j) to the basic clause:

(b) *General.* (1) Except as provided in paragraph (c) of this clause, the Contractor shall use its own property to perform this contract.

(2) The Contractor is responsible for the maintenance, protection, and preservation of Government property accountable under this contract that is in the Contractor's or its subcontractors' possession and shall account for such property as required by this contract.

(3) Property acquired or produced by the Contractor for performance of this contract that the Government obtains title to under the clause at 52.216–7, Allowable Cost and Payment, is Government property accountable under this contract.

(j) *Title to Contractor-acquired or produced property, nonprofit organizations or nonprofit institutions.* (1) Notwithstanding any other provision of this contract regarding title to property acquired or produced by a Contractor, the Contractor shall have title to equipment and other tangible property purchased with Government funds provided for the conduct of basic or applied research under this contract, if—

(i) The Contracting officer has agreed, prior to the Contractor's purchase of such property, that the Contractor shall have title to that property; and

(ii) The Contractor has agreed that depreciation or amortization costs for such property shall not be allocated to any existing or future Government contract and that such property may be used by the Government or its subcontractors without charge in performance of any Government contract or subcontract thereunder.

(2) As a condition for obtaining title to property under this clause, the Contractor, by signing this contract, agrees that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to equipment or other tangible personal property) (41 U.S.C. 2000d).

52.245–8 Government Property Administration—Alternate Procedures.

As prescribed in 45.510(d), insert the following clause:

GOVERNMENT PROPERTY ADMINISTRATION—ALTERNATE PROCEDURES (DATE)

(a) *Definitions.* When a term defined in the clause at 52.245–7, Government Property—Alternate Procedures, is used in this clause, the term has the same meaning as when used in 52.245–7.

(b) *Applicability.* This clause is applicable to Government-furnished property; Government property stored by the Contractor at the Government's direction; and under cost-reimbursement or time-and-materials contracts, property acquired or produced by a Contractor to which the Government has title under the Allowable Cost and Payment clause of this contract.

(c) *Access.* The Government shall have access, at all reasonable times, to all premises at which Government property accountable under this contract is located and to applicable property records and supporting information.

(d) *Records and supporting information*—(1) *Property records.* (i) Except as provided in paragraph (d)(1)(ii) of this clause, the Contractor shall establish or maintain and keep current a property record for each Government property item accountable under this contract that is in the Contractor's or its subcontractors' possession. Identical items may be consolidated in a single property record if the consolidated record provides the information required by this clause. The Contractor shall identify useable components permanently removed from Government property as Government property items and establish and maintain appropriate property records. Property records created by a subcontractor that uses sound business practices to control, maintain, and account for property may be used in lieu of creating new records.

(ii) Property records are not required for work in process or for property specifically acquired or constructed for tests that will destroy the property.

(iii) Contractors that use a material requirements planning system, manufacturing resource planning system, material management accounting system, or an enterprise resource planning system, may use the records generated by those systems as the records for material items provided such records otherwise satisfy the requirements in paragraph (d)(2) of this clause.

(iv) The Contractor shall close a Government property item's record when the item is replaced and create a new property record for the replacement item if that item is Government property.

(v) The Contractor shall enter the property's acquisition cost into the record for each Government property item that was acquired or produced by the Contractor during performance of this contract. For each item having an acquisition cost of (insert the agency capitalization threshold amount) or more, the Contractor also shall enter the date the item was acquired or produced.

(vi) The Contractor shall notify the Contracting Officer promptly if the contract does not identify a Government-furnished property item's nomenclature or acquisition cost.

(vii) Property records shall legibly and conspicuously identify sensitive property.

(viii) The property records for items requiring maintenance shall identify the dates maintenance actions (including calibration if required) were performed and any deficiencies discovered. The maintenance information may be kept separately if the Contractor has a direct link between the information and the affected property records.

(2) *Standard information.* Except as provided in paragraphs (d)(4) and (d)(5) of this clause, each property control record shall contain the following information—

(i) The item's name, description, and national stock number. If the item does not have a national stock number and the item's acquisition cost is (insert the agency capitalization threshold amount) or more, enter the four digit federal supply classification code;

(ii) Contract number or equivalent code designation;

(iii) Quantity received or fabricated, issued, and on hand;

(iv) The date of the most recent physical inventory or other posting reference;

(v) Acquisition cost and, for items having an acquisition cost of (insert the agency capitalization threshold amount) or more, the date the items were acquired or produced;

(vi) Current location (for low value property, identify the initial location only); and

(vii) The property's classification. Use only one of the following for each property item: Land, buildings, other real property, equipment, special test equipment, special tooling, unique Federal property, or material.

(3) *Additional information.* In addition to the information required by paragraph (d)(2) of this clause, the property records for—

(i) Special tooling and special test equipment shall identify each part number with which a special tool or special test equipment item is used;

(ii) Special test equipment that includes general purpose equipment shall include the information required by paragraph (f)(2) of this clause for each removable or reusable general purpose component if removal and reuse is economically feasible;

(iii) Equipment shall include the manufacturer's name, serial number, and model or part number; and

(iv) Scrap shall identify the material content, contract from which the scrap was derived, and the scrap's disposition and disposition date(s).

(4) *Real property.* (i) Real property records must contain a description of the property, its location, original acquisition cost, a description of property alterations made or construction work performed by the Contractor including an identification of the

construction sites supporting such alterations or construction, and must separately identify the cost of such alterations or construction. Supporting documentation shall include maps, drawings, plans, specifications, and, if necessary, supplementary data needed to completely describe and value the property.

(ii) Costs incurred by the Government or the Contractor, to acquire, construct, alter, or improve Government-owned or leased real property, including additions, expansions, extensions, or conversions thereof, shall be added to the property's acquisition cost if they increase the value, life, utility, capability, or serviceability of the property.

(iii) A real property record shall be annotated with a statement of the pertinent facts when the property is sold, transferred, donated, destroyed, abandoned by the Government, or condemned.

(5) *Property returned under warranty.* The Contractor shall establish a property record for each item returned for correction under a warranty and maintain the records on a contract-by-contract basis. The records shall identify the date received, and the date the item is returned to the Government. Once a property record has been established, identical items received for corrective action shall be added to the established record and the information required by this paragraph maintained for each item.

(e) *Reports and notices*—(1) *Annual Government property report.* The Contractor shall report all Government property accountable under this contract that is in its or its subcontractors' possession as of September 30 of each calendar year or upon completion of all property disposal actions under this contract, whichever is sooner. Unless otherwise stated in this contract, the report shall be prepared using Standard Form 1450, U.S. Government Property in the Possession of Contractors, and submitted to the Property Administrator no later than October 31 of each calendar year.

(2) *Misdirected Government property.* The Contractor shall notify the Property Administrator in writing immediately following receipt of Government property intended for another person or Government property not required for performance of a Government contract with the Contractor and shall request disposition instructions. To the extent practical, the Contractor shall identify the shipment's content, intended recipient, carrier that made delivery, the Government activity from which the shipment originated, and the shipment's current location.

(3) *Late Government-furnished property.* The Contractor shall notify promptly the Contracting Officer of a failure to receive Government-furnished property at the time stated in the contract or, when a time is not stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates. Each notice shall forward the Contractor's estimate of the extent to which such failure has affected or might affect contract performance.

(4) *Property losses.* Except as provided in paragraph (e)(5) of this clause, the Contractor shall notify the Property Administrator in writing promptly upon learning that a Government-furnished property loss has occurred. The notice shall identify the property by item and include—

(i) The item's description, contract number, national stock number (if known), and either part number or identification number;

(ii) The date the physical loss or theft was discovered or damage or destruction occurred and, if known, the circumstances;

(iii) The item's acquisition cost;

(iv) The contracts affected;

(v) All known interests in commingled property of which the Government property is a part; and

(vi) The insurance, if any, covering any part of or interest in the property.

(5) *Low value Government-furnished property losses.* The Contractor is not required to provide a property loss notice for low value Government-furnished property until contract completion or termination, except low value Government-furnished property that the Contractor needs for continued performance of this contract or low value Government-furnished property that the Government is contractually obligated to provide to the Contractor for performance of another contract. The notice shall contain the information required by paragraph (e)(4) of this clause.

(f) *Inventories.* The Contractor shall assure that the location of each Government property item is accurately established and the records and reports required by this clause are complete and accurate.

(1) *Contract termination inventories.* The Contractor shall inventory all property accountable under this contract immediately following a notice of termination or partial termination of the contract. Electronic, optical, electro-magnetic, or similar systems may be used.

(2) *Contract completion inventory.* Promptly following completion of deliveries or performance under the contract, the Contractor shall inventory all Government property accountable under this contract that the Government is not contractually obligated to furnish to the Contractor for performance of another Government contract.

(g) *Markings*—(1) *Contractor-acquired or produced property (other than material).* As soon as practicable following the Government's assumption of title to property acquired or produced for performance of a cost-reimbursement or time-and-materials contract, the Contractor shall legibly and conspicuously mark such property with the phrase ''U.S. Government Property'' (or a similar phrase that conveys Government ownership) and a control number that links the property to the property records maintained by the Contractor.

(2) *Government-furnished property (other than material).* Promptly following receipt of Government-furnished property, the Contractor shall determine whether the property bears a Government ownership marking, mark unmarked property with the markings identified in paragraph (g)(1) of this clause, and replace any control numbers affixed by other Contractors with the Contractor's control number.

(3) *Exceptions.* (i) The Contractor is not required to mark Government-furnished or Contractor-acquired or produced material.

(ii) In lieu of the requirements in paragraph (g)(1) or (g)(2) of this clause, the Contractor shall contact promptly the Property Administrator for alternate instructions when marking would damage a property item or the Contractor considers a physical marking to be impractical.

(h) *Overseas contracts.* In a contract performed outside the United States, its territories, or possessions, the words ''Government'' and ''Government-furnished'', as used in this clause, mean ''United States Government'' and ''United States Government-furnished,'' respectively.

(End of clause)

Alternate I (*Date*) As prescribed in 45.510(b), substitute the following paragraphs (d) and (e) for paragraphs (d) and (e) of the basic clause:

(d) *Property records.* The Contractor shall establish a property record for each Government property item returned for correction under a warranty and shall maintain the records on a contract-by-contract basis. The records shall identify the item's name, description, property classification, national stock number, the date received, the contract number under which the item was returned, the corrective action performed, and the date the item is returned to the Government. For items having an acquisition cost greater than (insert the agency capitalization threshold), the Contractor shall enter the item's four-digit federal supply classification code. Once a property record has been established, identical items received for corrective action shall be added to the established record and the information required by this paragraph maintained for each item.

(e) *Notices*—(1) *Misdirected Government property.* The Contractor shall notify the Property Administrator, promptly following receipt of Government property intended for another person or Government property not required for performance of a Government contract, and shall request disposition instructions. To the extent practical, the Contractor shall identify the shipment's content, intended recipient, carrier that made delivery, the Government activity from which the shipment originated, and the shipment's current location.

(2) *Late Government-furnished property.* The Contractor shall notify promptly the Contracting Officer of a failure to receive Government-furnished property at the time stated in the contract or, when a time is not stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates. Each notice shall forward the Contractor's estimate of the extent to which such failure has affected or might affect contract performance.

(3) *Government-furnished property losses.* Except as provided in paragraph (e)(4) of this clause, the Contractor shall notify the Property Administrator in writing promptly upon learning that a Government-furnished property loss has occurred. The notice shall identify the property by item and include—

(i) The item's description, contract number, national stock number, if known, and either part number or identification number;

(ii) The date the physical loss or theft was discovered or damage or destruction occurred and, if known, the circumstances;

(iii) The item's acquisition cost;

(iv) The contracts affected;

(v) All known interests in commingled property of which the Government-furnished property is a part; and

(vi) The insurance, if any, covering any part of or interest in such commingled property.

(4) *Low value Government-furnished property losses.* The Contractor is not required to provide a property loss notice for low value Government-furnished property until contract completion or termination, except low value Government-furnished property that the Contractor needs for continued performance of this contract or low value Government-furnished property that the Government is contractually obligated to furnish to the Contractor for performance of another Government contract. The notice shall contain the information required by paragraph (e)(3) of this clause.

52.245–9 through 52.245–19 [Removed]

59. Remove sections 52.245–9 through 52.245–19.

52.246–18 [Amended]

60. Amend section 52.246–18 by revising the date of the clause; and in the first sentence of paragraph (b)(3) by removing the word ''facilities'' and adding ''Government property'' in its place.

61. Amend section 52.249–2 by revising the date of the clause and paragraph (b)(2); by removing paragraph (d); and by redesignating paragraphs ''(e)'' through ''(n)'' as ''(d)'' through ''(m)'', respectively. The revised text reads as follows:

52.249–2 Termination for Convenience of the Government (Fixed-Price).

* * * * *

Termination for Convenience of the Government (Fixed-Price) (Date)

* * * * *

(b) * * *

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.

* * * * *

62. Amend section 52.249–3 by revising the date of the clause and paragraph (b)(2); by removing paragraph (d); and by redesignating paragraphs ''(e)'' through ''(n)'' as ''(d)'' through ''(m)'', respectively. The revised text reads as follows:

52.249–3 Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).

* * * * *

Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements) (Date)

* * * * *

(b) * * *

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.

* * * * *

52.249–6 [Amended]

63. Amend section 52.249–6 by revising the date of the clause; by removing paragraph (e); and by redesignating paragraphs ''(f)'' through ''(n)'' as ''(e)'' through ''(m)'', respectively.

52.249–11 [Removed and Reserved]

64. Remove and reserve section 52.249–11.

52.249–13 [Removed and Reserved]

65. Remove and reserve section 52.249–13.

66. Amend section 52.249–14 by revising the second and fourth sentences of the introductory paragraph to read as follows:

52.249–14 Excusable Delays.

* * * Also insert the clause in time-and-materials contracts and labor-hour contracts. * * * When used in construction contracts, substitute the words ''completion time'' for ''delivery schedule'' in the last sentence of the clause.

* * * * *

67. Amend section 52.251–1 by revising the clause to read as follows:

52.251–1 Government Supply Sources.

* * * * *

Government Supply Sources (Date)

(a) The Contracting Officer may authorize the Contractor to use Government supply sources in the performance of this contract. Such property is not ''Government-furnished property.''

(b) Title to property acquired by the Contractor under paragraph (a) of this clause shall vest for—

(1) Fixed-price contracts, as provided in the contract financing provisions and the Delivery—Special Tooling and Special Test Equipment (Fixed-Price Contracts) clause of this contract.

(2) Cost-type contracts, as provided in the Allowable Cost and Payment clause of this contract.

(End of clause)

PART 53—FORMS

68. Revise section 53.245 to read as follows:

53.245 Government property.

The following forms are prescribed, as specified in this section for use in reporting, redistribution, and disposal of Government property and in accounting for this property:

(a) *SF 120 (GSA), Report of Excess Personal Property, and SF 120–A (GSA), Continuation Sheet (Report of Excess Personal Property).* (See 45.504–5(a) and 41 CFR 101–43.)

(b) *SF 126 (GSA), Report of Personal Property for Sale, and SF 126–A (GSA), Report of Personal Property for Sale* (*Continuation Sheet*).

(c) *SF 1423 (Rev. DATE), Inventory Verification Survey.* (See 45.304–3(b).)

(d) *SF 1424 (Rev. 7/89), Inventory Disposal Report.* SF 1424 is authorized for local reproduction and a copy is furnished for this purpose in part 53 of the looseleaf edition of the FAR.

(e) *SF 1428 (Rev. DATE), Inventory Disposal Schedule, and SF 1429 (Rev. DATE), Inventory Disposal Schedule-Continuation Sheet.* (See 52.245–2(g)(2) and 52.245–7(g)(2).) SF 1428 and SF 1429 are authorized for local reproduction and copies are furnished for this purpose in part 53 of the looseleaf edition of the FAR.

(f) *SF 1450 (DATE), U.S. Government Property in the Possession of Contractors.* (See 52.245–6(g)(1).) SF 1450 is authorized for local reproduction and a copy is furnished for this purpose in part 53 of the looseleaf edition of the FAR.

69. Amend section 53.249 by revising paragraph (b) to read as follows:

53.249 Termination of contracts.

* * * * *

(b) Standard Form 1428 (Rev. DATE), Inventory Disposal Schedule, and Standard Form 1429 (Rev. DATE), Inventory Disposal Schedule—Continuation Sheet, must be used to support termination settlement proposals listed in paragraph (a) of this section, as specified in 49.602–2.

BILLING CODE 6820–EP–P

70. Revise section 53.301–1423 to read as follows:

53.301–1423 Inventory Verification Survey.

INVENTORY VERIFICATION SURVEY
(See FAR 45.505-2(b))

DATE

SECTION I - GENERAL

1. FROM: *(Include ZIP Code)*

2. TO: *(Include ZIP Code)*

3. CONTRACT NUMBER AND TYPE

4. CONTRACTOR/SUBCONTRACTOR

5A. SCHEDULES OF INVENTORY TO BE INSPECTED AND VERIFIED

REFERENCE NUMBER	PAGES		AMOUNT ($)
	START NO.	END NO.	

5B. PLANT CLEARANCE CASE NUMBER/DOCUMENT NUMBER

SECTION II - TECHNICAL VERIFICATION

	YES	NO
6. IS PROPERTY LISTED ON THE INVENTORY SCHEDULES ON HAND AND IN THE QUANTITIES INDICATED?		*
7. IS THE PROPERTY CORRECTLY DESCRIBED ON THE INVENTORY SCHEDULES?		*
8. IS THE PROPERTY SEGREGATED OR ADEQUATELY PROTECTED?		*
9. IS THE PROPERTY PROPERLY TAGGED?		*
10. ARE THE CONDITION CODES ACCURATE?		*
11. IS THE PROPERTY CLASSIFICATION CORRECTLY IDENTIFIED?		*
12. ARE THE WEIGHTS OF THE ITEMS APPROXIMATELY CORRECT? IF WEIGHTS ARE NOT SHOWN, GIVE ESTIMATE OF WEIGHT BY BASIC MATERIAL CONTENT: _____		*
13. DO THE ITEMS APPEAR TO HAVE COMMERCIAL VALUE OTHER THAN SCRAP?	*	*
14. IF COST TYPE CONTRACT, DID CONTRACTOR COMPLETE THE ACTIONS REQUIRED BY 52.245-2(g)(2) OR -7(g)(2)?	*	
15. DO ANY ITEMS REQUIRE DEMILITARIZATION OR SPECIAL PROCESSING *(sensitive items)*?	*	
16. ARE COMMON ITEMS INCLUDED ON THE INVENTORY SCHEDULE?	*	

SECTION III - TERMINATION INVENTORY

COMPLETION OF THIS SECTION ☐ IS ☐ IS NOT REQUIRED *(Requester, check one)*

	YES	NO
17. DID WORK STOP PROMPTLY UPON RECEIPT OF THE TERMINATION NOTICE?		*
DATE OF NOTICE: _____		
18a. DO THE QUANTITIES OF MATERIAL EXCEED THE AMOUNTS THAT WOULD HAVE BEEN REQUIRED TO COMPLETE THE TERMIINATED PORTION OF THE CONTRACT?	*	
b. CAN THE ITEMS OF TERMINATION INVENTORY BE USED ON THE CONTINUING PORTION OF THE CONTRACT?	*	
19. ARE ALL ITEMS AND QUANTITIES ALLOCABLE TO THE TERMINATION PORTION OF THIS CONTRACT OR ORDER?		*
20. DOES THE INVENTORY INCLUDE REJECTS? IF YES, EXPLAIN SPECIFIC LINE ITEM ENTRIES. OBTAIN FROM CONTRACTOR ESTIMATED COST OF REWORKING REJECTS ON SPECIFIC LINE ITEM BASIS.	*	
21a. HAVE COMPLETED ARTICLES BEEN INSPECTED AS TO QUALITY AND CONFORMANCE TO SPECIFICATIONS?		*
b. DO THE COMPLETED ITEMS INSPECTED CONFORM TO CONTRACT SPECIFICATIONS?		*
c, DO OTHER THAN COMPLETED ITEMS CONFORM WITH TECHNICAL REQUIREMENTS OF THE CONTRACT OR ORDER?		*
22. FOR WORK-IN-PROCESS, IS THE PERCENTAGE OF COMPLETION ACCURATE?		*

23. REQUESTING OFFICE REMARKS *(Where the answer to any question is placed in a block containing an asterisk (*) detailed comments of the verifier shall be included on the reverse of this form and identified by section and item number.)*

24. SIGNATURE OF REQUESTER

INVENTORY VERIFICATION

The above information is based on a physical verification of inventory listed under Item 5.

25. NAME AND TITLE	26. SIGNATURE OF VERIFIER	27. DATE

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STANDARD FORM 1423 (REV.)
Prescribed by GSA-FAR (48 CFR) 53.245(c)

71. Revise section 53.301–1424 to read as follows:

§ 43.301–1424 Inventory Disposal Report.

INVENTORY DISPOSAL REPORT
(See FAR 45.509)

PLANT CLEARANCE CASE NUMBER

TO: *(Include ZIP Code)*

FROM: *(Include ZIP Code)*

1. DATE PLANT CLEARANCE CASE OPENED	2. DATE PLANT CLEARANCE CASE CLOSED	3. NUMBER OF DAYS BETWEEN OPENING AND CLOSING

4. NAME AND ADDRESS OF CONTRACTOR/SUBCONTRACTOR *(Include ZIP Code)*

5. IF SUBCONTRACTOR, STATE NAME AND ADDRESS OF PRIME CONTRACTOR *(Include ZIP Code)*

6. LOCATION OF PROPERTY *(City and State)*	7. CONTRACT NUMBER	8. DOCKET NUMBER *(Termination only)*
	9. SUBCONTRACT NUMBER	10. CONTRACTOR REFERENCE NUMBER

DISPOSITION OF PROPERTY

ITEM DESCRIPTION	LINE ITEMS	ACQUISITION COST	PROCEEDS
11. **TOTAL INVENTORY AS SUBMITTED**			
12. ADJUSTMENTS (*Pricing errors, shortages, etc.)*			
13. ADJUSTED INVENTORY *(Line 11 + or - Line 12)*			
14. PURCHASE OR RETENTION AT COST			
15. RETURN TO SUPPLIERS *(Net Proceeds)*			
16. REDISTRIBUTIONS			
A. WITHIN OWNING AGENCY			
B. OTHER AGENCIES			
TOTAL			
17. DONATIONS			
18. SALES			
19. SALES - PROCEEDS TO OVERHEAD			
20.			
21.			
22. TOTAL PROCEEDS CREDIT *(Total Lines 14, 15, and 18)*			
23. ABANDONED			
24. DESTROYED/ABANDONED			
25. DESTROYED/SCRAPPED			
26. OTHER *(Explain in Item 28, Remarks)*			
27. TOTAL DISPOSITIONS			

28. REMARKS *(Identify contract number in which proceeds were applied, or disbursing office where proceeds were deposited)*

To the best of my knowledge, disposition of all property on this case has been effected in accordance with existing regulations, all property has been accounted for and all disposal credits properly applied.

CONTRACT ADMINISTRATION OFFICE *(Authorized signature and title)*	DATE

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STANDARD FORM 1424 (REV.)
Prescribed by GSA - FAR (48 CFR) 53.245(d)

72. Revise section 53.301–1428 to read as follows:

53.301–1428 Inventory Disposal Schedule.

INVENTORY DISPOSAL SCHEDULE (See Reverse for Instructions) (See FAR 45.505-1(b))	1. TYPE *(Check block(s) when applicable)* ☐ TERMINATION INVENTORY ☐ FINAL SCHEDULE	2. SCHEDULE REFERENCE NUMBER	PAGE NO.	NO. OF PAGES	OMB No.: **9000-0151** Expires: 05/31/2000

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

3. PRIME CONTRACT NO.	4. SUBCONTRACTOR/P.O. NO.	5. CONTRACT TYPE	6. TERM DOCKET NUMBER	7. TOTAL LINE ITEMS	8. TOTAL ACQUISITION COST

9a. CAGE CODE	9b. PRIME CONTRACTOR *(Point of Contact)*	10a. CAGE CODE	10b. SUBCONTRACTOR *(Point of Contact)*

9c. STREET ADDRESS	10c. STREET ADDRESS

9d. CITY, STATE, AND ZIP CODE	10d. CITY, STATE AND ZIP CODE

11a. LOCATION OF PROPERTY	11b. POINT OF CONTACT FOR PROPERTY	12. PRODUCT COVERED BY CONTRACT/ORDER

13. ITEM NO.	14. ITEM DESCRIPTION	15. GOVT. FURNISHED/ CONTRACTOR ACQUIRED	16. DML CODE	17. PROPERTY CLASSIFI-CATION	18. GOVERNMENT PART OR DRAWING NUMBER AND REVISION NUMBER	19. CONDITION CODE	20. QUAN-TITY	21. UNIT OF MEASURE	22. COST		23. CONTRACTOR'S OFFER
									UNIT (a)	TOTAL (b)	

24a. SIGNATURE OF CONTRACTOR SUBMITTING SCHEDULE	24b. NAME OF CONTRACTOR SUBMITTING SCHEDULE	24c. TITLE	24d. DATE

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STANDARD FORM 1428 (REV.)
Prescribed by GSA-FAR (48 CFR) 53.245(e) and 53.249(b)

INSTRUCTIONS

The Contractor shall submit all schedules to the Plant Clearance Officer.

Manual submissions. Prepare a separate schedule for items in each property classification (block 17) and a separate schedule for scrap. Submit an original and 2 copies of each scrap schedule and continuation sheet (SF 1429). For other schedules, an original and 7 copies are required.

Electronic submissions. Group all items of the same property classification. Submit separate schedules for scrap.

General Instructions.

BLOCKS 1, 2 & 4 - Self-explanatory.

BLOCK 3 - PRIME CONTRACT NO. ***(For contract modifications and BOAs).*** If the property applies solely to one contract modification indicate the modification number after the contract number. For task orders and orders under basic ordering agreements, enter the contract number or BOA number followed by the order number under which the property is accountable.

BLOCK 5 - CONTRACT TYPE. Use one of the following codes:

J - Fixed-Price
O - Other
S - Cost-Reimbursement
Y - Time-and-Material
Z - Labor-Hour
9 - Task Order Contracts and Orders under Basic Ordering Agreements (BOAs)

BLOCKS 6-8 - Self-explanatory.

BLOCKS 9a and 10a - CAGE CODE. Enter the Commercial and Government Entity code when applicable.

BLOCKS 9b-d, 10b-d, and 11a-13 - Self-explanatory.

BLOCK 14 - ITEM DESCRIPTION. Describe each item in sufficient detail to permit the Government to determine its appropriate disposition. Scrap may be described as a lot including metal content, estimated weight and estimated acquisition cost. For all other property, provide the information required by FAR Part 52.245-5(e)(2) or 52.245-8(d)(2). List the national stock number (NSN) first. For the following, also provide:

Special tooling and special test equipment. Identify each part number with which the item is used.
Computers, components thereof, peripheral and related equipment. The manufacturer's name, model and serial number, and date manufactured.
Work in process. The estimated percentage of completion.
Precious metals. The metal type and estimated weight.
Hazardous material or property contaminated with hazardous material. The type of hazardous material.
Metals in mill product form. The form, shape, treatments, hardness, temper, specification (commercial or Government), and dimensions (thickness, width, and length).

BLOCK 15 - GOVERNMENT FURNISHED/CONTRACTOR ACQUIRED. Per line item, enter one of the following:

GF - Government furnished
CA - Contractor acquired

BLOCK 16 - DML CODE. ***(Demilitarization code).*** If applicable, enter the code specified in DoD 4160.21-M-1.

BLOCK 17 - PROPERTY CLASSIFICATION. Use one of the following classifications for each line item:

EQ - Equipment
M - Material
STE - Special test equipment
ST - Special tooling
UFP - Unique Federal property

In addition, when applicable, list one of the following sub classifications for each line item below the property classification:

COM - Computers, peripherals, etc.
AAE - Arms, ammunition and explosives
PM - Precious metals
HAZ - Hazardous materials
ME - Metals in mill product form
WIP - Work in process
CL - Classified

BLOCK 18 - Self-explanatory.

BLOCK 19 - CONDITION CODE. Assign one of the following codes to each item:

Code 1. Property which is in new condition or unused condition and can be used immediately without modifications or repairs.

Code 4. Property which shows some wear, but can be used without significant repair.

Code 7. Property which is unusable in its current condition but can be economically repaired.

Code X. Property which has value in excess of its basic material content, but repair or rehabilitation is impractical and/or uneconomical.

Code S. Property has no value except for its basic material content.

BLOCKS 20-22 - Self-explanatory.

BLOCK 23 - CONTRACTOR'S OFFER. The Contractor's offer to purchase the item if it survives screening.

73. Revise section 53.301–1429 to read as follows:

53.301–1429 Inventory Disposal Schedule—Continuation Sheet.

INVENTORY DISPOSAL SCHEDULE - CONTINUATION SHEET

2. SCHEDULE REFERENCE NUMBER | PAGE NO. | NO. OF PAGES | OMB No.: 9000-0151 Expires: 05/31/2000

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

13. ITEM NO.	14. ITEM DESCRIPTION	15. GOVT. FURNISHED/ CONTRACTOR ACQUIRED	16. DML CODE	17. PROPERTY CLASSIFICATION	18. GOVERNMENT PART OR DRAWING NUMBER AND REVISION NUMBER	19. CONDITION CODE	20. QUANTITY	21. UNIT OF MEASURE	22. COST UNIT (a)	22. COST TOTAL (b)	23. CONTRACTOR'S OFFER

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STANDARD FORM 1429 (REV.)
Prescribed by GSA-FAR (48 CFR) 53.245(e) and 53.249(b)

74. Revise section 53.301–1436 to read as follows:

53.301–1436 Settlement Proposal (Total Cost Basis).

SETTLEMENT PROPOSAL (TOTAL COST BASIS)

OMB No.: 9000-0012
Expires: 05/31/2001

Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

FOR USE BY A FIXED-PRICE PRIME CONTRACTOR OR FIXED-PRICE SUBCONTRACTOR

THIS PROPOSAL APPLIES TO *(Check one)*
☐ A PRIME CONTRACT WITH THE GOVERNMENT ☐ SUBCONTRACT OR PURCHASE ORDER

SUBCONTRACT OR PURCHASE ORDER NO(S).

CONTRACTOR WHO SENT NOTICE OF TERMINATION

NAME

ADDRESS *(Include ZIP Code)*

If moneys payable under the contract have been assigned, give the following:

NAME OF ASSIGNEE

ADDRESS *(Include ZIP Code)*

COMPANY

STREET ADDRESS

CITY AND STATE *(Include ZIP Code)*

NAME OF GOVERNMENT AGENCY

GOVERNMENT PRIME CONTRACT NO. | CONTRACTOR'S REFERENCE NO.

EFFECTIVE DATE OF TERMINATION

PROPOSAL NO. | CHECK ONE ☐ INTERIM ☐ FINAL

SF 1439, SCHEDULE OF ACCOUNTING INFORMATION ☐ IS ☐ IS NOT ATTACHED *(If not, explain below)*

SECTION I - STATUS OF CONTRACT OR ORDER AT EFFECTIVE DATE OF TERMINATION

PRODUCTS COVERED BY TERMINATED CONTRACT OR PURCHASE ORDER (a)		FINISHED			UNFINISHED OR NOT COMMENCED		TOTAL COVERED BY CONTRACT OR ORDER (g)
		PREVIOUSLY SHIPPED AND INVOICED (b)	ON HAND: PAYMENT TO BE RECEIVED THROUGH INVOICING (c)	ON HAND: PAYMENT NOT TO BE RECEIVED THROUGH INVOICING (d)	SUBSEQUENTLY COMPLETED AND INVOICED* (e)	NOT TO BE COMPLETED (f)	
	QUANTITY						
	$						
	QUANTITY						
	$						
	QUANTITY						
	$						

SECTION II - PROPOSED SETTLEMENT

NO.	ITEM (a)	(Use Columns (b) and (c) only where previous proposal has been filed) TOTAL PREVIOUSLY PROPOSED (b)	INCREASE OR DECREASE BY THIS PROPOSAL (c)	TOTAL PROPOSED TO DATE (d)	FOR USE OF CONTRACTING AGENCY ONLY (e)
1	DIRECT MATERIAL				
2	DIRECT LABOR				
3	INDIRECT FACTORY EXPENSE *(from Schedule A)*				
4	SPECIAL TOOLING AND SPECIAL TEST EQUIPMENT *(SF 1428)*				
5	OTHER COSTS *(from Schedule B)*				
6	GENERAL AND ADMINISTRATIVE EXPENSES *(from Schedule C)*				
7	**TOTAL COSTS *(Items 1 thru 6)***				
8	PROFIT *(Explain in Schedule D)*				
9	**TOTAL *(Items 7 and 8)***				
10	DEDUCT FINISHED PRODUCT INVOICED OR TO BE INVOICED*				
11	**TOTAL *(Item 9 less Item 10)***				
12	SETTLEMENT EXPENSES *(from Schedule E)*				
13	**TOTAL *(Items 11 and 12)***				
14	SETTLEMENTS WITH SUBCONTRACTORS *(from Schedule F)*				
15	GROSS PROPOSED SETTLEMENT *(Items 13 thru 14)*				
16	DISPOSAL AND OTHER CREDITS *(from Schedule G)*				
17	NET PROPOSED SETTLEMENT *(Item 15 less 16)*				
18	ADVANCE, PROGRESS & PARTIAL PAYMENTS *(from Schedule H)*				
19	**NET PAYMENT REQUESTED *(Item 17 less 18)***				

*Column (e), Section I, should only be used in the event of a partial termination, in which the total cost reported in Section II should be accumulated to date of completion of the continued portion of the contract and the deduction for finished product (Item 10, Section II) should be the contract price of finished product in Column (b), (c), and (e), Section I.

NOTE: File inventory schedule (SF 1428) for allocable inventories on hand at date of termination (See 49.206).

(When the space provided for any information is insufficient, continue on a separate sheet.)

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STANDARD FORM 1436 (REV.)
Prescribed by GSA - FAR (48 CFR) 53.249(a)(3)

SCHEDULE A - INDIRECT FACTORY EXPENSE *(Item 3)*

DETAIL OF EXPENSES	METHOD OF ALLOCATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

NOTE: Individual items of small amounts may be grouped into a single entry in Schedules B, C, D, E, and G.

SCHEDULE B - OTHER COSTS *(Item 5)*

ITEM	EXPLANATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

SCHEDULE C - GENERAL AND ADMINISTRATIVE EXPENSES *(Item 6)*

DETAIL OF EXPENSES	METHOD OF ALLOCATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

SCHEDULE D - PROFIT *(Item 8)*

EXPLANATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

(Where the space provided for any information is insufficient, continue on a separate sheet.)

SCHEDULE E - SETTLEMENT EXPENSES *(Item 12)*

ITEM	EXPLANATION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

SCHEDULE F - SETTLEMENTS WITH IMMEDIATE SUBCONTRACTORS AND SUPPLIERS *(Item 14)*

NAME AND ADDRESS OF SUBCONTRACTOR	BRIEF DESCRIPTION OF PRODUCT CANCELED	AMOUNT OF SETTLEMENT	FOR USE OF CONTRACTING AGENCY ONLY

SCHEDULE G - DISPOSAL AND OTHER CREDITS *(Item 16)*

DESCRIPTION	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

(If practicable, show separately amount of disposal credits applicable to acceptable finished product included on SF 1428.)

(Where the space provided for any information is insufficient, continue on a separate sheet.)

SCHEDULE H - ADVANCE, PROGRESS AND PARTIAL PAYMENTS *(Item 19)*			
DATE	TYPE OF PAYMENT	AMOUNT	FOR USE OF CONTRACTING AGENCY ONLY

(Where the space provided for any information is insufficient, continue on a separate sheet.)

CERTIFICATE

This is to certify that the undersigned, individually, and as an authorized representative of the Contractor, has examined this termination settlement proposal and that, to the best knowledge and belief of the undersigned:

(a) AS TO THE CONTRACTOR'S OWN CHARGES. The proposed settlement (exclusive of charges set forth in Item 14) and supporting schedules and explanations have been prepared from the books of account and records of the Contractor in accordance with recognized commercial accounting practices; they include only those charges allocable to the terminated portion of this contract; they have been prepared with knowledge that they will, or may, be used directly or indirectly as the basis of settlement of a termination settlement proposal or claim against an agency of the United States; and the charges as stated are fair and reasonable.

(b) AS TO THE SUBCONTRACTORS' CHARGES. (1) The Contractor has examined, or caused to be examined, to an extent it considered adequate in the circumstances, the termination settlement proposals of its immediate subcontractors (exclusive of proposals filed against these immediate subcontractors by their subcontractors); (2) The settlements on account of immediate subcontractors own charges are fair and reasonable, the charges are allocable to the terminated portion of this contract, and the settlements were negotiated in good faith and are not more favorable to its immediate subcontractors than those that the Contractor would make if reimbursement by the Government were not involved; (3) The Contractor has received from all its immediate subcontractors appropriate certificates with respect to their termination settlement proposals, which certificates are substantially in the form of this certificate; and (4) The Contractor has no information leading it to doubt (i) the reasonableness of the settlements with more remote subcontractors or (ii) that the charges for them are allocable to this contract. Upon receipt by the Contractor of amounts covering settlements with its immediate subcontractors, the Contractor will pay or credit them promptly with the amounts so received, to the extent that it has not previously done so. The term "subcontractors," as used above, includes suppliers.

NOTE: The Contractor shall, under conditions stated in FAR 15.403, be required to submit a Certificate of Current Cost or Pricing Data (see FAR 15.406-2 and 15.408 Table 15-2).

NAME OF CONTRACTOR	BY *(Signature of authorized official)*	
	TITLE	DATE
NAME OF SUPERVISORY ACCOUNTING OFFICIAL	TITLE	

75. Revise section 53.301–1438 to read as follows:

53.301–1438 Settlement Proposal (Short Form).

SETTLEMENT PROPOSAL (SHORT FORM)

OMB No.: 9000-0012
Expires: 05/31/2001

Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

For Use by a Prime Contractor or Subcontractor in Settlement of a Fixed Price Terminated Contract When Total Charges Claimed Are Less Than $10,000.

THIS PROPOSAL APPLIES TO *(Check one)*
☐ A PRIME CONTRACT WITH THE GOVERNMENT ☐ SUBCONTRACT OR PURCHASE ORDER

SUBCONTRACT OR PURCHASE ORDER NO.(S)

CONTRACTOR WHO SENT NOTICE OF TERMINATION

NAME

ADDRESS *(Include ZIP Code)*

If moneys payable under the contract have been assigned, give the following:

NAME OF ASSIGNEE

ADDRESS *(Include ZIP Code)*

COMPANY *(Prime or Subcontractor)*

STREET ADDRESS

CITY AND STATE *(Include ZIP code)*

NAME OF GOVERNMENT AGENCY

GOVERNMENT PRIME CONTRACT NO.

CONTRACTOR'S REFERENCE NO.

EFFECTIVE DATE OF TERMINATION

SECTION I - STATUS OF CONTRACT OR ORDER AT EFFECTIVE DATE OF TERMINATION

PRODUCTS COVERED BY TERMINATED CONTRACT OR PURCHASE ORDER (a)		FINISHED: PREVIOUSLY SHIPPED AND INVOICED (b)	FINISHED: ON HAND: PAYMENT TO BE RECEIVED THROUGH INVOICING (c)	FINISHED: ON HAND: INCLUDED IN THIS PROPOSAL (d)	UNFINISHED OR NOT COMMENCED: TO BE COMPLETED *(Partial termination only)* (e)	UNFINISHED OR NOT COMMENCED: NOT TO BE COMPLETED (f)	TOTAL COVERED BY CONTRACT OR ORDER (g)
	QUANTITY						
	$						
	QUANTITY						
	$						
	QUANTITY						
	$						

SECTION II - PROPOSED SETTLEMENT

NO.	ITEM *(Include only items allocable to the terminated portion of contract)*	AMOUNT OF CHARGE ($)
1	CHARGE FOR ACCEPTABLE FINISHED PRODUCT NOT COVERED BY INVOICING *(from SF 1428)*	
2	CHARGE FOR WORK-IN-PROGRESS, RAW MATERIAL, ETC. ON HAND *(from SF 1428)*	
3	OTHER CHARGES INCLUDING PROFIT AND SETTLEMENT EXPENSES	
4	CHARGES FOR SETTLEMENT(S) WITH SUBCONTRACTORS	
5	GROSS PROPOSED SETTLEMENT *(Sum of Items 1 thru 4)*	
6	DISPOSAL AND OTHER CREDITS *(from SF 1424, B1.27, Col. 3)*	
7	NET PROPOSED SETTLEMENT *(Item 5 less 6)*	
8	ADVANCE, PROGRESS, AND PARTIAL PAYMENTS	
9	NET PAYMENT REQUESTED *(Item 7 less 8)*	

List your inventory on SF 1428 and attach a copy thereto. Retain for the applicable period specified in the prime contract all papers and records relating to this proposal for future examination.

GIVE A BRIEF EXPLANATION OF HOW YOU ARRIVED AT THE AMOUNTS SHOWN IN ITEMS 3, 4, 6, AND 7

I CERTIFY that the above proposed settlement includes only charges allocable to the terminated portion of the contract or purchase order, that the total charges (Item 5) and the disposal credits (Item 6) are fair and reasonable, and that this proposal has been prepared with knowledge that it will, or may, be used directly or indirectly as a basis for reimbursement under a settlement proposal(s) against agencies of the United States.

NAME OF YOUR COMPANY

BY *(Signature of authorized official)*

TITLE

DATE

(Where the space provided for any information is insufficient, continue on a separate sheet.)

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STANDARD FORM 1438 (REV.)
Prescribed by GSA-FAR (48 CFR) 53.249(a)(5)

INSTRUCTIONS

1. This settlement proposal should be submitted to the contracting officer, if you are a prime contractor, or to your customer, if you are a subcontractor. The term contract as used hereinafter includes a subcontract or a purchase order.

2. Proposals that would normally be included in a single settlement proposal, such as those based on a series of separate orders for the same item under one contract should be consolidated wherever possible, and must not be divided in such a way as to bring them below $10,000.

3. You should review any aspects of your contract relating to termination and consult your customer or contracting officer for further information. Government regulations pertaining to the basis for determining a fair and reasonable termination settlement are contained in Part 49 of the Federal Acquisition Regulation. Your proposal for fair compensation should be prepared on the basis of the costs shown by your accounting records. Where your costs are not so shown, you may use any reasonable basis for estimating your costs which will provide for fair compensation for the preparations made and work done for the terminated portion of the contract, including a reasonable profit on such preparation and work.

4. Generally your settlement proposal may include under Items 2, 3, and 4, the following:

a. COSTS - Costs incurred which are reasonably necessary and are properly allocable to the terminated portion of your contract under recognized commerical accounting practices, including direct and indirect manufacturing, selling and distribution, administrative, and other costs and expenses incurred.

b. SETTLEMENT WITH SUBCONTRACTORS - Reasonable settlements of proposals of subcontractors allocable to the terminated portion of the subcontract. Copies of such settlements will be attached hereto.

c. SETTLEMENT EXPENSES - Reasonable costs of protecting and preserving termination inventory in your possession and preparing your proposal.

d. PROFIT - A reasonable profit with respect to the preparations you have made and work you have actually done for the terminated portion of your contract. No profit should be included for work which has not been done, nor shall profit be included for settlement expenses, or for settlement with subcontractors.

5. If you use this form, your total charges being proposed (line 5), must be less than $10,000. The Government has the right to examine your books and records relative to this proposal, and if you are a subcontractor, your customer must be satisfied with your proposal.

76. Add section 53.301–1450 to read as follows:

53.301–1450 U.S. Government Property in the Possesssion of Contractors.

U.S. GOVERNMENT PROPERTY IN THE POSSESSION OF CONTRACTORS

(See instructions and public burden statement on reverse before completing this form.)

REPORT AS OF: SEPT. 30 *(Year)* | OR *(Date)*

OMB No.: 9000-0151
Expires: 06/30/2000

1. TO:	2. FROM:
3. REMARKS	4. ADDRESS OF PRIMARY PROPERTY LOCATION

5. CONTRACT NUMBER	6. CONTRACT PURPOSE	7. BUSINESS TYPE	8. NUMBER OF SUBCONTRACTORS/ALTERNATE LOCATIONS

PROPERTY CLASSIFICATION a.	BALANCE BEGINNING OF PERIOD b.		ADDITIONS *(in dollars)* c.		DELETIONS *(in dollars)* d.		BALANCE END OF PERIOD e.	
	ACQUISITION COST *(in dollars)* (1)	QUANTITY *(in units or acres)* (2)	GOVERNMENT FURNISHED (1)	CONTRACTOR ACQUIRED OR FABRICATED (2)	GOVERNMENT FURNISHED (1)	CONTRACTOR ACQUIRED OR FABRICATED (2)	ACQUISITION COST *(in dollars)* (1)	QUANTITY *(in units or acres)* (2)
9. LAND								
10. BUILDINGS								
10a. See Instructions								
11. OTHER REAL PROPERTY								
11a. See Instructions								
12. EQUIPMENT								
12a. See Instructions								
13. SPECIAL TEST EQUIPMENT								
13a. See Instructions								
14. SPECIAL TOOLING								
14a. See Instructions								
15. UNIQUE FEDERAL PROPERTY								
16. MATERIAL - GOVERNMENT FURNISHED								
16a. MATERIAL - CONTRACTOR ACQUIRED								
17. TOTALS								

18. CONTRACTOR REPRESENTATIVE

a. TYPED NAME *(Last, First, Middle Initial)*	b. SIGNATURE	c. DATE *(MM/DD/YYYY)*
d. TELEPHONE NUMBER *(DSN if available)*	e. E-MAIL ADDRESS	

19. TO BE COMPLETED BY THE GOVERNMENT'S PROPERTY ADMINISTRATOR

a. TYPED NAME *(Last, First, Middle Initial)*	b. SIGNATURE	c. DATE *(MM/DD/YYYY)*
d. TELEPHONE NUMBER *(DSN if available)*	e. E-MAIL ADDRESS	

f. CURRENT PROPERTY SYSTEM STATUS	g. LAST PERFORMED PROPERTY SYSTEM ANALYSIS ▶	TYPE	DATE	RESULT ☐ SATISFACTORY ☐ UNSATISFACTORY

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STANDARD FORM 1450 (f)
Prescribed by GSA - FAR (48 CFR)53.245(f)

REPORTING INSTRUCTIONS

INSTRUCTIONS FOR THE CONTRACTOR.

GENERAL. Contractors shall report annually all Government property accountable to a contract, including property in the possession of subcontractors, as of September 30th of the reporting year. In addition, a final report is required for contracts completed prior to that date *(see below)*. List property in the classifications indicated using one form for each contract. Use the Government property records as the source data. Each annual report is due at the Government office specified in block 1 no later than October 31 of each year. Final reports are due at that office as specified below. Report zero end of period balances when no Government property remains accountable to the contract.

RETURN COMPLETED FORM TO THE ADDRESS IN BLOCK 1.

ANNUAL REPORT AS OF SEPTEMBER 30. Fill in the appropriate year (as a four digit number) (or other date - as mm/dd/yyyy).

FINAL REPORT. A final report, clearly marked "FINAL" shall be submitted within 30 days after disposition of all property subject to reporting, if the contract performance period is complete.

BLOCK 1 - TO. Enter the name of the Government's Property Administrator, unless otherwise designated in the contract. Include the full mailing address *(including City, State and ZIP Code)*.

BLOCK 2 - FROM. Enter the full name and address of the reporting Contractor with the Division name stated after the Corporate name. Use the name as it appears on the contract but omit articles and insert spaces between company names that are made up of letters like A B C International Inc., for example. Also enter the Commercial and Government Entity (CAGE) Code *(if applicable)*.

BLOCK 3 - REMARKS. Enter any remarks or additional information required by the contracting agency. Additional plain sheets may be attached, if required.

BLOCK 4 - ADDRESS OF PRIMARY PROPERTY LOCATION. Enter the primary location of the property if different from Block 2.

BLOCK 5 - CONTRACT NUMBER. Enter the contract number under which the government property is accountable. Use the correct format for the agency.

BLOCK 6 - CONTRACT PURPOSE. Enter one of the following 1- character alphabetic codes to identify the general purposes of the contract:

a. RDT & E

b. Supplies *(deliverable end items)*

c. Services, except for d.

d. Operation of a Government-Owned Plant or Facilities including test sites, ranges, installations

e. Contract for storage of Government Property

f. OM&R Contracts

g. Others

BLOCK 7 - BUSINESS TYPE. Enter a 1-character alphabetic code indicating the type of business concern:

L = Large S = Small N = Non-profit

(See FAR Part 19 for definition of Small Business and FAR 52.245-2 OR 52.245-7 for definition of Non-profit Organizations).

BLOCK 8 - NUMBER OF SUBCONTRACTOR/ALTERNATE LOCATIONS. Enter the number of locations of subcontract property and/or property at alternate sites of the prime Contractor (one total for all).

BLOCKS 10a - 14a - AS PER AGENCY INSTRUCTIONS. These line items have been reserved for the contracting agency's specific reporting instructions. Such as items over $5,000, under $5,000, etc. Consult the contract for any agency-specific instructions.

BLOCKS 9b(1) - 16 b(1) - ACQUISITION COST (BALANCE AT THE BEGINNING OF THE FISCAL YEAR). The amounts reported must agree with the amounts reported in the previous year for BALANCE AT END OF PERIOD. Any variance must be explained in Block 3, Remarks.

BLOCKS 9b(2), 12b(2) - 15 b(2) - QUANTITY (BALANCE AT BEGINNING OF THE FISCAL YEAR). Enter the quantity for these blocks. The quantity reported must agree with the quantity reported in the previous year for BALANCE AT END OF PERIOD. Any variance must be explained in Block 3, Remarks.

BLOCKS 9c - 16c - ADDITIONS (IN DOLLARS). For the blocks not shaded, enter the acquisition cost of the additions to the contract during the fiscal year. Consult the contract for any agency-specific instructions.

BLOCKS 9d - 16d - DELETIONS (IN DOLLARS). For the blocks not shaded, enter the acquisition cost of the deletions to the contract during the fiscal year. Consult the contract for any agency-specific instructions.

BLOCKS 9e(1) - 16e(1) - ACQUISITION COST (BALANCE AT THE END OF THE FISCAL YEAR). Carry forward to reflect the balance at the beginning of the following year.

BLOCKS 9e(2), 12e(2) - 15e(2) - QUANTITY (BALANCE AT END OF FISCAL YEAR). Enter the quantity in each unshaded block. Carry forward to reflect the balance at the beginning of the following year.

BLOCK 17 - TOTALS. Enter the total for each column.

BLOCK 18 - CONTRACTOR REPRESENTATIVE. Type the name of the Contractor representative authorized by the property control system to sign this report. Include that individual's commercial area code, telephone number, DSN number (if one exists) and e-mail address. Sign and date.

INSTRUCTIONS FOR THE GOVERNMENT PROPERTY ADMINISTRATOR.

BLOCK 19 - GOVERNMENT'S PROPERTY ADMINISTRATOR. Identify contracts that contain the clause at 52.245-5. Complete blocks f and g. For Type, indicate initial (INT), limited without visit (LWOV), limited with visit (LWV), or standard (STND).

For contracts that contain the clause at 52.245-8, leave blocks f and g blank.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

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[FR Doc. 00–115 Filed 1–7–00; 8:45 am]

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Federal Register

Monday

January 10, 2000

Part III

Department of Energy

Federal Energy Regulatory Commission

18 CFR Parts 125, 225, and 356

Preservation of Records of Public Utilities and Licensees, Natural Gas Companies, and Oil Pipeline Companies; Proposed Rule

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 125, 225, and 356

[Docket No. RM99–8–000]

Preservation of Records of Public Utilities and Licensees, Natural Gas Companies, and Oil Pipeline Companies

December 21, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its records retention regulations for public utilities and licensees, natural gas companies, and oil pipeline companies (''regulated companies''). The Commission proposes to update its regulations and to eliminate unnecessary burdens on regulated companies as part of its ongoing program to reduce or eliminate burdensome and unnecessary regulatory requirements. If adopted, the burden of maintaining records on regulated companies would be significantly reduced.

DATES: Comments on the proposed rulemaking are due on or before March 10, 2000. The Commission will also permit interested persons to submit reply comments in response to the initial comments filed in this proceeding. Reply comments should not exceed 50 double-spaced pages and should include an executive summary. The original and 14 copies of the reply comments must be received on or before April 10, 2000.

ADDRESSES: File comments on the notice of proposed rulemaking with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. Comments should reference Docket No. RM99–8–000.

FOR FURTHER INFORMATION CONTACT:
Marybeth Schumann (Technical Information), Office of Finance, Accounting and Operations, 888 First Street, NE Washington, DC 20426 (202) 208–2332.
Julia A. Lake (Legal Information), Office of the General Counsel, 888 First Street, NE Washington, DC 20426 (202) 208–2019.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.fed.us*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.
—CIPS can be access using the CIPS link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.
—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (E-Mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208–1371 (E-Mail to public.referenceroom@ferc.fed.us).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend Parts 125, 225, and 356 [1] of its regulations to update, reduce, and clarify records retention requirements for jurisdictional public utilities and licensees, natural gas companies and oil pipeline companies. This proposed rule is part of the Commission's ongoing program to update and eliminate burdensome and unnecessary requirements and if adopted these changes would significantly reduce the burden of maintaining records for regulated companies. This process was also initiated to respond to requests made by the Office of Management and Budget (OMB) and the industry.

II. Background

Both the Federal Power Act [2] and the Natural Gas Act [3] require jurisdictional companies to keep records that the Commission may prescribe ''as necessary or appropriate for purposes of administration'' of these acts.[4] In 1977, the Commission assumed jurisdiction over transportation of oil by oil pipeline companies from the Interstate Commerce Commission by 705(a) of the Department of Energy Organization Act.[5] Section 20 of the Interstate Commerce Act [6] requires oil pipeline companies to keep records that the Commission determines are necessary to effectively regulate those companies. In 1983, the Commission last amended its records retention regulations applicable to the public utilities and licensees, natural gas companies, and oil pipeline companies.[7]

In response to the Office of Management and Budget (OMB) request during recertification of the information collection requirements of FERC Form 555, Preservation of Records of Public Utilities and Licensees, Natural Gas Companies, and Oil Pipeline Companies, the Commission agreed to review the media and records retention requirements for the public utilities and licensees, natural gas companies, and oil pipeline companies. OMB also requested that the Commission review the possibility of reducing the records retention requirements for general ledgers from 50 years to 10 years and plant ledgers from 50 years to 25 years. In January, the Commission updated the media requirements [8] and this notice of proposed rulemaking is the result of a review of the current records retention regulations for public utilities and licensees, natural gas companies, and oil pipeline companies.

III. Discussion

The Commission proposes to make modifications to the current public utilities and licensees, natural gas companies, and oil pipeline companies

[1] 18 CFR Parts 125, 225, and 356.

[2] Section 301, 16 U.S.C. 825(a)

[3] Section 8, 15 U.S.C. 717g(a)

[4] Section 402(a)(2) of the Department of Energy Organization Act transfers these Federal Power Act and Natural Gas Act responsibilities from the Federal Power Commission to the Federal Energy Regulatory Commission. 42 U.S.C. 7172(a)(2).

[5] 42 U.S.C. 7295.

[6] 49 App. U.S.C. 1 *et seq.*

[7] 48 FR 12722 (1983).

[8] 86 FERC ¶ 61,005 (1999).

records retention regulations.[9] These proposed changes to Parts 125, 225, and 356 include revising the general instructions, shortening various records retention periods, increasing retention periods for a few categories of records, and removing all but two retention reserve items.

A. Changes to Public Utilities and Licensees, and Natural Gas Companies General Instructions.

The following proposed changes to the general instructions of Parts 125 and 225 incorporate the Commission's new regulation on record storage media and clarify the Commission's regulations on keeping records used to support costs in rate cases and depreciation (see proposed schedules 125.2 and 225.2).

1. 125.2(d) and 225.2(d)—Incorporate the accounting issuance AI99–2–000 [10] on record storage media.

2. 125.2(k) and 225.2(k)—Incorporate the need to keep records that will be used for ''rate cases'' until the next rate case.

3. 125.2(l) and 225.2(l)—Incorporate a paragraph on life or mortality study data needed to be retained for depreciation purposes.

The Commission believes that these changes are needed to bring clarity to the Commission's records retention instructions and regulations.

B. Shortening of Public Utilities and Licensees, and Natural Gas Companies Records Retention Periods.

The Commission proposes to shorten certain retention periods in 18 CFR 125.3 and 225.3 to reduce the recordkeeping burden on the industries. The records retention periods for the following item numbers and description of records found in the regulations will be reduced for both the public utilities and licensees, and natural gas companies except where noted:

Item Number and Description

2. (a) of Organizational documents.
3. (a) of Contracts and agreements (public utilities and licensees only).
3. (b) of Contracts and agreements.
4. (a) and (b) of Accountants' and auditors' reports.
6. (a)(1), (a)(2), (b)(1), and (b)(2) of General and subsidiary ledgers.
7. Journals.
8. (a) of Journal vouchers and journal entries.
9. Cash books.
10. Voucher registers.
11. (a), (b), (c), (d) of Vouchers.
12.1. (b) of Production-Nuclear (public utilities and licensees only).
15. (a), (b), (c) of Maintenance work orders.
16. (a), (b) of Plant ledgers.
17. (a), (b), (c), (d), (e), (f) of Construction work in progress ledgers.
18. (a), (b) of Retirement work in progress ledgers, work orders, and supplemental records.
18. (c) of Retirement work in progress ledgers, work orders, and supplemental records (public utilities and licensees only).
19. Summary sheets, distribution sheets, reports, and statements.
20. (a) Appraisals and valuations.
33. (a) and (b) of Revenue summaries.
34. (a)(1), (3), (5), (6) and (b), (c) of Tax records.
36. (b) of Records of deposits with banks.
38. (a) of Statistics.
41. Reports to Federal and State regulatory commissions.
42. Advertising.

In addition, the Commission proposes to make a change to the public utilities and licensees and natural gas companies requirements that are tied to ''FERC audit reports.'' The Commission no longer audits on a three year cycle. Instead it conducts industry wide audits on specific Commission accounting issues. The Commissions proposed changes to its regulatory requirements regarding audits range between two and six years.

Item Number and Description

1. Annual reports or statements to stockholders.
26. Material ledgers.
29. Customers service applications and contracts.
30. Rate Schedules.

C. Additions to Public Utilities and Licensees and Natural Gas Companies Records Retention Periods.

To continue to meet its regulatory requirements the Commission proposes to add records retention requirements for the following public utilities and licensees, and natural gas companies record categories (see proposed schedules 125.3 and 225.3):

Item Number and Description

20. (b) Appraisals and valuations.
21. (a) The original or reproduction of engineering records, drawings and other supporting data.
35. Statement of funds and deposits.

Proposed retention item 20(b) is added to include property or investments that are written up or down as a result of mergers or acquisitions, asset impairments, and other basis. The records retention item 20(b) will be 10 years after the event. These added records retention requirements will allow the Commission adequate time to review these events as necessary.

Proposed retention item 21(a) maps, diagrams, profiles, photographs, field survey notes, plot plan, detail drawings, and records of engineering studies and similar records showing the location of proposed or as-constructed facilities is changed to include retention until retired. These records are needed for our environmental reviews, and therefore should be retained until the facilities are retired.

Proposed retention item 35, Statement of funds and deposits, is revised in response to FERC policy statement on Post-Employment Benefits Other Than Pension [11] (PBOP), to require retention of records until the fund is dissolved or terminated. This information is necessary to allow the Commission to ensure the proper disposition of rate payer contributions for PBOPs.

D. Removal of Public Utilities and Licensees, and Natural Gas Companies Reserve Accounts.

The Commission proposes to remove all but one reserve item in both public utilities and licensees, and natural gas companies (see proposed schedule 125.3). The removal of these reserve items allows the records retention schedule to reflect only the records the Commission needs to fulfill its mission. However, we will keep reserve item 37 as place holder in the public utilities and licensees records retention schedule in order to align the public utilities and licensees and natural gas companies item numbers.

E. Changes to Oil Pipeline Companies General Instructions.

The Commission proposes to reorganize the oil pipeline companies general instructions to better align them to the public utilities and licensees, and natural gas companies general instructions (see proposed schedule 356.2). This reorganization will make the general instructions for all three industries consistent.

F. Shortening of Oil Pipeline Companies Records Retention Periods.

The Commission proposes to shorten certain oil pipeline companies retention periods for seven of the twenty four item to three years for Part 356 (see proposed schedule 356.3). These proposed reductions represent a significant reduction in reporting

[9] See the tables in Appendices A, B, and C depicting the differences between the current and proposed records retention requirements.

[10] 86 FERC ¶ 61,005 (1999).

[11] 61 FERC ¶ 61,330 (1992).

burden on the oil industry. They are based on the statutory mandate that limits oil pipeline company's reparations recovery to three years from the time the cause of action accrues.[12] We are proposing that the following oil pipeline companies records retention requirements be reduced to three years:

Item Number and Description

2. Minutes of Directors and other corporate meetings.
4. (a) Contracts and related papers.
7. (a) and (b) Ledgers.
8. (a) and (b) Journals.
9. (a) and (b) Vouchers.
11. Records of accounting.
24. (a) Annual financial operating reports.

G. Additions to Oil Pipeline Companies Records Retention Periods.

The Commission proposes to revise records retentions requirements for the following oil pipeline companies record items (see proposed schedule 356.3):

Item Number and Description

12. (d)(1) Group method and depreciation rate.
12. (g) Files of detailed authorizations for expenditures.

Proposed records item 12(d)(1) is revised from 10 years to 3 years after disposition of property because the Commission needs to review these records at any time during the life of the asset. Proposed retention item 12 (g) is also revised to extend the period from 3 years from acquisition to 3 years after disposition of property because the Commission must be able to review any records related to property or equipment at any time during the life of the asset.

H. Miscellaneous

The Commission notes that OMB specifically requested the Commission review the possibility of reducing the records retention requirements for general ledgers to 10 years and plant ledgers to 25 years. In this proposed rulemaking, the Commission is reducing the records retention requirements for public utilities and licensees, and natural gas companies general and plant ledgers from 50 years to 25 years. The Commission is not currently proposing to further shorten the records retention requirements for public utilities and licensees, and natural gas companies. However, the Commission will consider whether to further shorten the records retention periods consistent with its regulatory obligations and public comments on this issue. The Commission is also proposing to reduce the records retention requirements for oil pipeline companies' general ledgers and plant ledgers from 50 years to 3 years respectively.

IV. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[13] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural or that does not substantially changes the effect of legislation or regulations being amended,[14] and also for information gathering, analysis, and dissemination.[15] The proposed rule changes do not substantially change the effect of the underlying legislation or change the forms. Accordingly, no environmental assessments are necessary.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[16] requires rulemakings to contain either a description and analysis of the effect that the proposed rule will have on small entities or a certification that the rule will not have a significant economic impact on a substantial number of small entities.

In *Mid-Tex Elect. Coop.* v. *FERC*, 773 F. 2d 327 (D.C. Cir. 1985), the court found that Congress, in passing the RFA, intended agencies to limit their consideration ''to small entities that would be directly regulated'' by proposed rules. *Id.* at 342. The court further concluded that ''the relevant 'economic impact' was the impact of compliance with the proposed rule on regulated small entities.'' *Id.* at 342.

The Commission does not believe that this proposed rule will have an adverse impact on small entities, nor will it impose upon them any significant costs of compliance. Rather, we anticipate that this rule will significantly reduce the record keeping burden on all jurisdictional entities, including small entities. Most entities regulated by the Commission do not fall within the RFA's definition of a small entity.[17] Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VI. Information Collection Statement

The following collection of information contained in this proposed rule is being submitted to the Office of Management and Budget (OMB) for review under 3507(d) of the Paperwork Reduction Act of 1995.[18] FERC identifies the information retained under Parts 125, 225, and 356 as FERC Form 555. The reporting burden to implement this proposed rule is as follows:

Data collection	No. of respondents	No. of responses	Hrs. per response	Total annual hours
FERC–555	515	1	1080	556,200

Total Annual Hours for Collection (Reporting + Recordkeeping (if appropriate) = 556,200). Based on the Commission's experience with current recordkeeping requirement practices, it is estimated that about 1,080 hours[19] are needed to retain records per year, for a total annual burden of 556,200 hours. The Commission estimates that if the proposed rule is adopted, it will significantly decrease the burden of the current regulations by shortening the retention periods for certain records.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for all respondents to be:

Annualized Capital/Startup Costs: $0.00.

Annualized Costs (Operations & maintenance): $29,274,430.

[12] 49 App. U.S.C. 1 *et seq.*.

[13] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987); FERC Stats. and Regs. ¶ 30,783 (Dec. 10, 1987).

[14] 18 CFR 380.4(a)(2)(ii).

[15] 18 CFR 380.4(a)(5).

[16] 5 U.S.C. 601–612.

[17] 5 U.S.C. 601(3), citing to 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a ''small-business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation.

[18] 44 U.S.C. 3507(d).

[19] Previous to this proposed rule, the reporting burden was estimated at approximately 2400 hours per response.

Total Annualized Costs: $29,274,430.

The OMB regulations require OMB to approve certain information collection requirements imposed by agency rule.[20] Accordingly, pursuant to OMB regulations the Commission is providing notice of its proposed information collection to OMB.

Title: FERC Form 555, Preservation of Records of Public Utilities, Natural Gas Companies, and Oil Pipeline Companies.

Action: Proposed Data Collection.

OMB Control No.: 1902–0098, the respondent shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

Respondents: Business or other for profit, including small businesses.

Frequency of Responses: On Occasion.

Necessity of Information: The proposed rule revises the requirements contained in 18 CFR parts 125, 225, and 356.

Internal Review: The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the recordkeeping. The official records maintained by the regulated companies in accordance with the Schedules provided in Parts 125, 225, and 356 are used by the companies as the basis of their required rate filings and reports to the Commission. The Federal Power Act, the Natural Gas Act, and Interstate Commerce Act, require regulated companies to keep such records as the Commission may prescribe ''as necessary or appropriate for purposes of administration'' of these acts. One of the Commission's most important functions under these acts is insuring that rates charged by regulated companies for certain transactions are ''just and reasonable.'' Almost all the records the Commission requires to be retained are for the purpose of providing an adequate base of information to make decisions on the ''reasonableness'' of rates. Similarly, the length of retention periods have been based on the time that information will be needed to make decisions on the impact of rates. The records are necessary as they are used by the Commission's staff during compliance reviews and special analyses performed as deemed necessary by the Commission. These requirements conform to the Commission's plan for efficient information collection within the public utilities and licensees, natural gas companies, and oil pipeline companies.

[20] 5 CFR 1320.11.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 208–2425, email: *mike.miller@ferc.fed.us*].

For submitting comments concerning the collection of information and the associated burden estimate, please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285].

VII. Public Comment Procedures

The Commission invites interested persons to submit written comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss.

The original and 14 copies of such comments must be received by the Commission before 5:00 p.m. on or before March 10, 2000. The Commission will also permit interested persons to submit reply comments in response to the initial comments filed in this proceeding. Reply comments should not exceed 50 double-spaced pages and should include an executive summary. The original and 14 copies of the reply comments must be received on or before April 10, 2000. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and should refer to Docket No. RM99–8–000.

In addition to filing paper copies, the Commission encourages the filing of comments either on computer diskette or via Internet E-mail. Comments may be filed in the following formats: WordPerfect 8.0 or lower version, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Docket No. RM99–8–000; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person.

For Internet E-mail submittal, comments should be submitted to ''*comment.rm@ferc.fed.us*'' in the following format. On the subject line, specify Docket No. RM99–8–000. In the body of the E-mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comments to the E-mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at (202) 501–8145, E-mail address *brooks.carter@ferc.fed.us*. Commenters should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Thereafter, any discrepancies between the paper and the electronic filing or the diskette will be resolved by reference to the paper filing.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, NE, Washington, DC 20426, during regular business hours. Additionally, comments may be viewed, printed or downloaded remotely via the Internet through FERC's Homepage using the RIMS or CIPS link. RIMS contain all comments but only those comments submitted in electronic format are available on CIPS. User assistance is available on CIPS. User assistance is available at (202) 208–2222, or by E-mail to *rimsmaster@ferc.fed.us*.

List of Subjects

18 CFR Part 125

Electric power, Electric utilities, Reporting and recordkeeping requirements.

18 CFR Part 225

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 356

Pipelines, Reporting and recordkeeping requirements.

By direction of the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Parts 125, 225, and 356 Chapter I, Title 18 of the *Code of Federal Regulations*, as follows:

PART 125—PRESERVATION OF RECORDS OF PUBLIC UTILITIES AND LICENSEES.

1. The authority for Part 125 is revised to read as follows:

Authority: 16 U.S.C. 825, 825c, and 825h; 44 U.S.C. 3501 *et seq.*

2. Section 125.1 is revised to read as follows:

§ 125.1 Promulgation.

This part is prescribed and promulgated as the regulations governing the preservation of records by public utilities subject to the jurisdiction of the Commission and by licensees holding licenses issued by the Commission, to the extent and in the manner set forth therein.

3. In § 125.2, paragraphs (a)(1) through (a)(3), and paragraphs (d) through (m) are revised to read as follows:

§ 125.2 General instructions.

(a) *Scope of this part.* (1) The regulations in this part apply to all books of account and other records prepared by or on behalf of the public utility or licensee. See item 40 of the schedule (§ 125.3) for those records that come into possession of the public utility or licensee in connection with the acquisition of property, such as purchase, consolidation, merger, etc.

(2) The regulations in this part should not be construed as excusing compliance with other lawful requirements of any other governmental body, Federal or State, prescribing other record keeping requirements or for preservation of records longer than those prescribed in this part.

(3) To the extent that any Commission regulations may provide for a different retention period, the records should be retained for the longer of the retention periods.

* * * * *

(d) *Record storage media.* Each public utility and licensee has the flexibility to select its own storage media subject to the following conditions.

(1) The storage media must have a life expectancy at least equal to the applicable record retention period provided in § 125.3 unless there is a quality transfer from one media to another with no loss of data.

(2) Each public utility and licensee is required to implement internal control procedures that assure the reliability of, and ready access to, data stored on machine readable media. Internal control procedures must be documented by a responsible supervisory official.

(3) Each transfer of data from one media to another must be verified for accuracy and documented. Software and hardware required to produce readable records must be retained for the same period the media format is used.

(e) *Destruction of records.* At the expiration of the retention period, public utilities and licensees may use any appropriate method to destroy records.

(f) *Premature destruction or loss of records.* When records are destroyed or lost before the expiration of the prescribed period of retention, a certified statement listing, as far as may be determined, the records destroyed and describing the circumstances of accidental or other premature destruction or loss must be filed with the Commission within ninety (90) days from the date of discovery of the destruction.

(g) *Schedule of records and periods of retention.* (1) Records related to plant in service must be retained until the facilities are permanently removed from utility service, all removal and restoration activities are completed, and all costs are retired from the accounting records unless accounting adjustments resulting from reclassification and original costs studies have been approved by the regulatory commission having jurisdiction. If the plant is sold, the associated records or copies thereof, must be transferred to the new owners.

(2) Records related to hydroelectric facilities and additions, retirements, and betterments thereto must be retained until:

(i) The Commission has determined the actual legitimate original cost of the facilities, or the licenses are surrendered. If the plant is sold, the associated records or copies thereof, must be transferred to the new owners.

(ii) Records related to the determination of amortization reserves pursuant to Section 10(d) of the Federal Power Act must be retained until a final determination and adjudication of the amortization reserves are made.

(h) *Retention periods designated ''Destroy at option''.* ''Destroy at option'' constitutes authorization for destruction of records at managements' discretion if it does not conflict with other legal retention requirements or usefulness of such records in satisfying pending regulatory actions or directives.

(i) *Records of services performed by associated companies.* Public utilities and licensees must assure the availability of records of services performed by and for associated or affiliated companies with supporting cost information for the periods indicated in § 125.3 as necessary to be able to readily furnish detailed information as to the nature of the transaction, the amounts involved, and the accounts used to record the transactions.

(j) *Index of records.* Public utilities and licensees must arrange, file, and index records so records may be readily identified and made available to Commission representatives.

(k) *Rate case.* Notwithstanding the minimum retention periods provided in these regulations, if public utilities or licensee wants to reflect costs in a current, future, or pending rate case, or if a public utilities or licensees has abandoned or retired a plant subsequent to the test period of the utility's rate case, the utility must retain the appropriate records to support the costs and adjustments proposed in the current or next rate case.

(l) *Pending complaint litigation or governmental proceedings.* Notwithstanding the minimum requirements, if a public utility or licensee is involved in pending litigation, complaint procedures, proceedings remanded by the court, or governmental proceedings, it must retain all relevant records.

(m) *Life or mortality study data.* Life or mortality study data for depreciation purposes must be retained for 25 years or for 10 years after plant is retired, whichever is longer.

* * * * *

4. Section 125.3 is revised to read as follows:

Section 125.3 Schedule of records and periods of retention.

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SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Item No.	Description	Retention period
	CORPORATE AND GENERAL	
1	Reports to stockholders: Annual reports or statements to stockholders.	5 years.
2	Organizational documents:	
	(a) Minute books of stockholders', directors', and directors' committee meetings.	5 years or termination of the corporation's existence, whichever occurs first.
	(b) Titles, franchises, and licenses: Copies of formal orders of regulatory commissions served upon the utility.	6 years after final non-appealable order.
3	Contracts, including amendments and agreements (except contracts provided for elsewhere):	
	(a) Service contracts, such as for management, accounting, and financial services.	All contracts, related memoranda, and revisions should be retained for 3 years after expiration or until the conclusion of any contract disputes pertaining to such contracts, whichever is later.
	(b) Contracts with others for transmission or the purchase, sale or interchange of product.	All contracts, related memoranda, and revisions should be retained for 4 years after expiration or until the conclusion of any contract disputes or governmental proceedings pertaining to such contracts, whichever is later.
	(c) Memoranda essential to clarifying or explaining provisions of contracts listed above, including requests for discounts.	For the same periods as contracts to which they relate.
	(d) Card or book records of contracts, leases, and agreements made, showing dates of expirations and of renewals, memoranda of receipts, and payments under such contracts.	For the same periods as contracts to which they relate.
4	Accountants' and auditors' reports:	
	(a) Reports of examinations and audits by accountants and auditors not in the regular employ of the utility (such as reports of public accounting firms and commission accountants).	5 years after the date of the report.
	(b) Internal audit reports and working papers	5 years after the date of the report.
	INFORMATION TECHNOLOGY MANAGEMENT	
5	Automatic data processing records (retain original source data used as input for data processing and data processing report printouts for the applicable periods prescribed elsewhere in the schedule): Program documentation and revisions thereto.	Retain as long as it represents an active viable program or for periods prescribed for related output data, whichever is shorter.
	GENERAL ACCOUNTING RECORDS	
6	General and subsidiary ledgers:	
	(a) Ledgers:	
	(1) General ledgers	25 years.
	(2) Ledgers subsidiary or auxiliary to general ledgers except ledgers provided for elsewhere.	25 years.
	(b) Indexes:	
	(1) Indexes to general ledgers	25 years.
	(2) Indexes to subsidiary ledgers except ledgers provided for elsewhere.	25 years.
	(c) Trial balance sheets of general and subsidiary ledgers	2 years.
7	Journals: General and subsidiary.	25 years.
8	Journal vouchers and journal entries including supporting detail	
	(a) Journal vouchers and journal entries	25 years.
	(b) Analyses, summarization, distributions, and other computations which support journal vouchers and journal entries:	
	(1) Charging plant accounts	25 years.
	(2) Charging all other accounts	6 years.
9	Cash books: General and subsidiary or auxiliary books	5 years after close of fiscal year.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No.	Description	Retention period
10	Voucher registers: Voucher registers or similar records when used as a source document.	5 years.
11	Vouchers:	
	(a) Paid and cancelled vouchers (one copy-analysis sheets showing detailed distribution of charges on individual vouchers and other supporting papers).	5 years.
	(b) Original bills and invoices for materials, services, etc., paid by vouchers.	5 years.
	(c) Paid checks and receipts for payments of specific vouchers	5 years.
	(d) Authorization for the payment of specific vouchers	5 years.
	(e) Lists of unaudited bills (accounts payable), list of vouchers transmitted, and memoranda regarding changes in audited bills.	Destroy at option.
	(f) Voucher indexes	Destroy at option.
	INSURANCE	
12	Insurance records:	
	(a) Records of insurance policies in force, showing coverage, premiums paid, and expiration dates.	Destroy at option after expiration of such policies.
	(b) Records of amounts recovered from insurance companies in connection with losses and of claims against insurance companies, including reports of losses, and supporting papers.	6 years.
	OPERATIONS AND MAINTENANCE	
13.1	Production—Electric (less Nuclear):	
	(a) Boiler-tube failure report	3 years.
	(b) Generation and output logs with supporting data:	3 years.
	(1) Hydro-electric	25 years.
	(2) Steam and others	6 years.
	(c) Generating high-tension and low-tension load records	3 years.
	(d) Load curves, temperature logs, coal, and water logs	3 years.
	(e) Gauge-reading reports	2 years, except river flow data collected in connection with hydro operation must be retained for life of corporation.
	(f) Recording instrumentation charts	1 year, except where the basic chart information is transferred to another record, the charts need only be retained 6 months provided the record containing the basic data is retained 1 year.
13.2	Production—Nuclear:	
	For informational purposes, refer to the document retention requirements of the Nuclear Regulatory Commission.	
14	Transmission and distribution—Electric:.	
	(a) Substation and transmission line logs	3 years.
	(b) System operator's daily logs and reports of operation	3 years.
	(c) Transformer history records	For life of transformer.
	(d) Records of transformer inspections, oil tests, etc	Destroy at option.
15	Maintenance work orders and job orders:	
	(a) Authorizations for expenditures for maintenance work to be covered by work orders, including memoranda showing the estimates of costs to be incurred.	5 years.
	(b) Work order sheets to which are posted in detail the entries for labor, material, and other charges in connection with maintenance, and other work pertaining to utility operations.	5 years.
	(c) Summaries of expenditures on maintenance and job orders and clearances to operating other accounts (exclusive of plant accounts).	5 years.
	PLANT AND DEPRECIATION	
16	Plant ledgers:	
	(a) Ledgers of utility plant accounts including land and other detailed ledgers showing the cost of utility plant by classes.	25 years.
	(b) Continuing plant inventory ledger, book or card records showing description, location, quantities, cost, etc., of physical units (or items) of utility plant owned.	25 years.
17	Construction work in progress ledgers, work orders, and supplemental records:	
	(a) Construction work in progress ledgers	5 years after clearance to plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No.	Description	Retention period
	(b) Work orders sheets to which are posted in summary form or in detail the entries for labor, materials, and other charges for utility plant additions and the entries closing the work orders to utility plant in service at completion.	5 years after clearance to plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.
	(c) Authorizations for expenditures for additions to utility plant, including memoranda showing the detailed estimates of cost, and the bases therefor (including original and revised or subsequent authorizations).	5 years after clearance to plant account except where there are ongoing Commission proceedings.
	(d) Requisitions and registers of authorizations for utility plant expenditures.	5 years after clearance to plant account except where there are ongoing Commission proceedings.
	(e) Completion or performance reports showing comparison between authorized estimates and actual expenditures for utility plant additions.	5 years after clearance to plant account except where there are ongoing Commission proceedings.
	(f) Analysis or cost reports showing quantities of materials used, unit costs, number of man-hours etc., in connection with completed construction project.	5 years after clearance to plant account except where there are ongoing Commission proceedings.
	(g) Records and reports pertaining to progress of construction work, the order in which jobs are to be completed, and similar records which do not form a basis of entries to the accounts.	Destroy at option.
18	Retirement work in progress ledgers, work orders, and supplemental records:	
	(a) Work order sheets to which are posted the entries for removal costs, materials recovered, and credits to utility plant accounts for cost of plant retirement.	5 years after plant is retired.
	(b) Authorizations for retirement of utility plant, including memoranda showing the basis for determination to be retired and estimates of salvage and removal costs..	5 years after plant is retired.
	(c) Registers of retirement work.	5 years.
19	Summary sheets, distribution sheets, reports, statements, and papers directly supporting debits and credits to utility plant accounts not covered by construction or retirement work orders and their supporting records.	5 years.
20	Appraisals and valuations:	
	(a) Appraisals and valuations made by the company of its properties or investments or of the properties or investments of any associated companies. (Includes all records essential thereto.).	3 years after appraisal.
	(b) Determinations of amounts by which properties or investments of the company or any of its associated companies will be either written up or written down as a result of:	
	(1) Mergers or acquisitions	10 years after completion of transaction or as ordered by the Commission.
	(2) Asset impairments	10 years after recognition of asset impairment.
	(3) Other bases	10 years after the asset was written up or down.
21	The original or reproduction of engineering records, drawings, and other supporting data for proposed or as-constructed utility facilities: Maps, diagrams, profiles, photographs, field survey notes, plot plan, detail drawings, records of engineering studies, and similar records showing the location of proposed or as-constructed facilities:	Retain until retired.
22	Contracts relating to utility plant:.	
	(a) Contracts relating to acquisition or sale of plant	6 years after plant is retired or sold.
	(b) Contracts and other agreements relating to services performed in connection with construction of utility plant (including contracts for the construction of plant by others for the utility and for supervision and engineering relating to construction work).	6 years after plant is retired or sold.
23	Records pertaining to reclassification of utility plant accounts to conform to prescribed systems of accounts including supporting papers showing the basis for such reclassifications.	6 years.
24	Records of accumulated provisions for depreciation and depletion of utility plant and supporting computation of expense:	
	(a) Detailed records or analysis sheets segregating the accumulated depreciation according to functional classification of plant.	25 years.
	(b) Records reflecting the service life of property and the percentage of salvage and cost of removal for property retired from each account for depreciable utility plant.	25 years.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No.	Description	Retention period
	PURCHASES AND STORES	
25	Procurement:	
	(a) Agreements entered into for the acquisition of goods or the performance of services. Includes all forms of agreements not specifically set forth in Subsection 7 such as but not limited to: Letters of intent, exchange of correspondence, master agreements, term contracts, rental agreements, and the various types of purchase orders:	
	(1) For goods or services relating to plant construction	6 years.
	(2) For other goods or services	6 years.
	(b) Supporting documents including accepted and unaccepted bids or proposals (summaries of unaccepted bids or proposals may be kept in lieu of originals) evidencing all relevant elements of the procurement.	6 years.
26	Material ledgers: Ledger sheets of materials and supplies received, issued, and on hand.	6 years after the date the records/ledgers were created.
27	Materials and supplies received and issued: Records showing the detailed distribution of materials and supplies issued during accounting periods.	6 years.
28	Records of sales of scrap and materials and supplies:.	
	(a) Authorization for sale of scrap and materials and supplies ..	3 years.
	(b) Contracts for sale of scrap materials and supplies	3 years.
	REVENUE ACCOUNTING AND COLLECTION	
29	Customers' service applications and contracts: Contracts, including amendments for extensions of service, for which contributions are made by customers and others.	4 years after expiration.
30	Rate schedules: General files of published rate sheets and schedules of utility service. Including schedules suspended or superseded.	6 years after published rate sheets and schedules are superseded or no longer used to charge for utility service.
31	Maximum demand, and demand meter record cards	1 year, except where the basic chart information is transferred to another record the charts need only be retained 6 months, provided the basic data is retained 1 year.
32	Miscellaneous billing data: Billing department's copies of contracts with customers (other than contracts in general files).	Destroy at option.
33	Revenue summaries: Summaries of monthly operating revenues according to classes of service. Including summaries of forfeited discounts and penalties.	5 years.
	TAX	
34	Tax records:.	
	(a) Copies of tax returns and supporting schedules filed with taxing authorities, supporting working papers, records of appeals of tax bills, and receipts for payment. See Subsection 11(b) for vouchers evidencing disbursements:	
	(1) Income tax returns	2 years after final tax liability is determined.
	(2) Property tax returns	2 years after final tax liability is determined.
	(3) Sales and other use taxes	2 years.
	(4) Other taxes	2 years after final tax liability is determined.
	(5) Agreements between associate companies as to allocation of consolidated income taxes.	2 years after final tax liability is determined.
	(6) Schedule of allocation of consolidated Federal income taxes among associate companies.	2 years after final tax liability is determined.
	(b) Filings with taxing authorities to qualify employee benefit plans.	5 years after discontinuance of plan.
	(c) Information returns and reports to taxing authorities	3 years after final tax liability is determined.
	TREASURY	
35	Statements of funds and deposits:	For nuclear decommissioning funds, retain records for all items listed for a period of 3 years after completion of final decommissioning is completed. If amortization reserve funds related to licensed projects are maintained, retain until the Commission makes a final determination of the disposition of amortization reserves.
	(a) Statements of periodic deposits with fund administrators or trustees.	Retain records for the most recent 3 years.
	(b) Statements of periodic withdrawals from fund	Retain records for the most recent 3 years.
	(c) Statements prepared by fund administrator or trustees of fund activity including:	Retain records until the fund is dissolved or terminated.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No.	Description	Retention period
	(1) Beginning of the year balance of fund; (2) Deposits with the fund; (3) Acquisition of investments held by the fund; (4) Disposition of investments held by the fund; (5) Disbursements from the fund, including party to whom disbursement was made; (6) End of year balance of fund.	
36		Records of deposits with banks and others:
	(a) Statements from depositories showing the details of funds received, disbursed, transferred, and balances on deposit.	Destroy at option after completion of audit by independent accountants.
	(b) Check stubs, registers, or other records of checks issued ...	3 years.
	MISCELLANEOUS	
37	Reserve	
38	Statistics: Financial, operating and statistical reports used for internal administrative or operating purposes.	5 years.
39	Budgets and other forecasts (prepared for internal administrative or operating purposes) of estimated future income, receipts and expenditures in connection with financing, construction and operations, including acquisitions and disposals of properties or investments.	3 years.
40	Records of predecessor companies	Retain consistent with the requirements for the same types of records of the utility.
41	Reports to Federal and State regulatory commissions including annual financial, operating and statistical reports.	5 years.
42	Advertising: Copies of advertisements by or for the company on behalf of itself or any associate company in newspapers, magazines, and other publications, including costs and other records relevant thereto (excluding advertising of appliances, employment opportunities, routine notices, and invitations for bids all of which may be destroyed at option).	2 years.

PART 225—PRESERVATION OF RECORDS OF NATURAL GAS COMPANIES

5. The authority for Part 225 is revised to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 792–828c; 42 U.S.C. 7101–7352; E. O. 12009, 3 CFR 1978 Comp. p. 142.

6. Section 225.1 is revised to read as follows:

§ 225.1 Promulgation.

This part is prescribed and promulgated as the regulations governing the preservation of records by natural gas companies subject to the jurisdiction of the Commission, to the extent and in the manner set forth therein.

7. In § 225.2, paragraphs (a)(1) through (a)(3) and paragraphs (d) through (m) are revised to read as follows:

§ 225.2 General instructions.

(a) *Scope of this part.* (1) The regulations in this part must apply to all books of account and other records prepared by or on behalf of the natural gas company. See item 40 of the schedule for those records that come into possession of the natural gas company in connection with the acquisition of property, such as purchases, consolidation, merger, etc.

(2) The regulations in this part should not be construed as excusing compliance with other lawful requirements of any other governmental body, Federal or State, prescribing other record keeping requirements, or for preservation of records for periods longer than those prescribed in this part.

(3) To the extent that any Commission regulations may provide for a different retention period, the records should be retained for the longer of the retention periods.

* * * * *

(d) *Record storage media.* Each natural gas company has the flexibility to select its own storage media subject to the following conditions.

(1) The storage media must have a life expectancy at least equal to the applicable record retention period provided in § 225.3 unless there is a quality transfer from one media to another with no loss of data.

(2) Each natural gas company is required to implement internal control procedures that assure the reliability of and ready access to data stored on machine readable media. Internal control procedures must be documented by a responsible supervisory official.

(3) Each transfer of data from one media to another must be verified for accuracy and documented. Software and hardware required to produce readable records must be retained for the same period the media format is used.

(e) *Destruction of records.* At the expiration of the records retention period, natural gas companies may use any appropriate method to destroy records.

(f) *Premature destruction or loss of records.* When records are destroyed or lost before the expiration of the prescribed period of retention, a certified statement listing, as far as may be determined, the records destroyed and describing the circumstances of accidental or other premature destruction or loss must be filed with the Commission within ninety (90) days from the date of discovery of the destruction.

(g) *Schedule of records and periods of retention.* (1) Records related to plant in service must be retained until the facilities are permanently removed from service, all removal and restoration activities are completed, and all costs are retired from the accounting records unless accounting adjustments resulting from reclassification and original costs studies have been approved by the

regulatory commission having jurisdiction. If the plant is sold, the associated records or copies thereof, must be transferred to the new owners.

(2) Records related to additions, retirements, and betterments thereto must be retained until the Commission has determined the actual legitimate original cost of the facilities.

(h) *Retention periods designated ''Destroy at option''.* ''Destroy at option'' constitutes authorization for destruction of records at managements' discretion if it does not conflict with other legal retention requirements or usefulness of such records in satisfying pending regulatory actions or directives.

(i) *Records of services performed by associated companies.* The natural gas companies must assure the availability of records of services performed by associated or affiliated companies with supporting cost information for the periods indicated in § 225.3 as necessary to be able to readily furnish detailed information as to the nature of the transaction, the amounts involved, and the accounts used to record the transactions.

(j) *Index of records.* Natural gas companies must arrange, file, and index records so they may be readily identified and made available to Commission representatives.

(k) *Rate case.* Notwithstanding the minimum retention periods provided in these regulations, if a natural gas company intends to reflect costs in a current, pending, or future rate case, or if a natural gas company has abandoned or retired a plant subsequent to the test period of its last rate case, it must retain all relevant records.

(l) *Pending complaint litigation or governmental proceeding.* Notwithstanding the minimum requirements, if a natural gas company is involved in pending litigation, complaint procedures, proceedings remanded by the court, or governmental proceedings, it must retain all relevant records.

(m) *Life or mortality study data.* Life or mortality study data for depreciation purposes must be retained for 25 years or for 10 years after plant is retired whichever is longer.

* * * * *

8. Section 225.3 is revised to read as follows:

§ 225.3 Schedule of records and periods of retention.

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41. Reports to Federal and State regulatory commissions.
42. Advertising.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Item No.	Description	Retention period
	CORPORATE AND GENERAL	
1	Reports to stockholders: Annual reports or statements to stockholders.	5 years.
2	Organizational documents:	
	(a) Minute books of stockholders', directors', and directors' committee meetings.	5 years or termination of the corporation's existence, whichever occurs first.
	(b) Titles, franchises, and licenses: Copies of formal orders of regulatory commissions served upon the natural gas company.	6 years after final non-appealable order.
3	Contracts including amendments and agreements (except contracts provided for elsewhere):	
	(a) Service contracts, such as for management, accounting, and financial services.	6 years.
	(b) Contracts with others for transportation or for the purchase, sale or interchange of product.	All contracts, related memoranda, and revisions should be retained for 4 years after expiration or until the conclusion of any contract disputes or governmental proceedings pertaining to such contracts, whichever is later.
	(c) Memoranda essential to clarifying or explaining provisions of contracts listed above, including requests for discounts.	For the same periods as contracts to which they relate.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No.	Description	Retention period
	(d) Card or book records of contracts, leases, and agreements made that show dates of expirations, renewals, memoranda of receipts, and payments under such contracts.	For the same periods as contracts to which they relate.
4	Accountants' and auditors' reports:	
	(a) Reports of examinations and audits by accountants and auditors not in the regular employ of the natural gas company (such as reports of public accounting firms and Commission accountants).	5 years after the date of the report.
	(b) Internal audit reports and working papers	5 years after the date of the report.
	INFORMATION TECHNOLOGY MANAGEMENT	
5	Automatic data processing records (retain original source data used as input for data processing and data processing report printouts for the applicable periods prescribed elsewhere in the schedule): Program documentation and revisions thereto.	Retain as long as it represents an active viable program or for periods prescribed for related output data, whichever is shorter.
	GENERAL ACCOUNTING RECORDS	
6	General and subsidiary ledgers:	
	(a) Ledgers:	
	(1) General ledgers	25 years.
	(2) Ledgers subsidiary or auxiliary to general ledgers except ledgers provided for elsewhere.	25 years.
	(b) Indexes:	
	(1) Indexes to general ledgers	25 years.
	(2) Indexes to subsidiary ledgers except ledgers provided for elsewhere.	25 years.
	(c) Trial balance sheets of general and subsidiary ledgers	2 years.
7	Journals: General and subsidiary	25 years.
8	Journal vouchers and journal entries including supporting detail:	
	(a) Journal vouchers and journal entries	25 years.
	(b) Analyses, summarizations, distributions, and other computations which support journal vouchers and journal entries:	
	(1) Charging plant accounts	25 years.
	(2) Charging all other accounts	6 years.
9	Cash books: General and subsidiary or auxiliary books	5 years after close of fiscal year.
10	Voucher registers: Voucher registers or similar records when used as a source document.	5 years.
11	Vouchers:.	
	(a) Paid and cancelled vouchers (1 copy-analysis sheets showing detailed distribution of charges on individual vouchers and other supporting papers).	5 years.
	(b) Original bills and invoices for materials, services, etc., paid by vouchers.	5 years.
	(c) Paid checks and receipts for payments of specific vouchers.	5 years.
	(d) Authorization for the payment of specific vouchers	5 years.
	(e) Lists of unaudited bills (accounts payable), list of vouchers transmitted, and memoranda regarding changes in audited bills.	Destroy at option.
	(f) Voucher indexes	Destroy at option.
	INSURANCE	
12	Insurance records:	
	(a) Records of insurance policies in force, showing coverage, premiums paid, and expiration dates.	Destroy at option after expiration.
	(b) Records of amounts recovered from insurance companies in connection with losses and of claims against insurance companies, including reports of losses, and supporting papers.	6 years.
	OPERATIONS AND MAINTENANCE	
13	Production—Gas:	
	(a) Recording instrument charts such as pressure (static and/or differential), temperature, specific gravity, heating value, etc.	If the measurement data have not been disputed or adjusted, destroy after 7 months.
	(b) Test of heating value at stations and outlying points	If the measurement data have not been disputed or adjusted, destroy after 7 months.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No.	Description	Retention period
	(c) Records of gas produced, out, and holder stock	If the measurement data have not been disputed or adjusted, destroy after 7 months.
	(d) Analysis of (gas produced) B.T.U. and sulphur content.	If the measurement data have not been disputed or adjusted, destroy after 7 months.
	(e) Well records, including clearing, bailing, shooting etc., records; rock pressure; open flow; production, gas analysts' reports etc..	If the measurement data have not been disputed or adjusted, destroy after 7 months.
	(f) Gas measuring records	If the measurement data have not been disputed or adjusted, destroy after 7 months.
14	Transmission and distribution—Gas:.	
	(a) Substation and transmission line logs	If the measurement data have not been disputed or adjusted, destroy after 7 months.
	(b) System operator's daily logs and reports of operation	If the measurement data have not been disputed or adjusted, destroy after 7 months.
	(c) Gas measuring records	If the measurement data have not been disputed or adjusted, destroy after 7 months.
	(d) Transmission line operating reports	If the measurement data have not been disputed or adjusted, destroy after 7 months.
	(e) Compression operation and reports	If the measurement data have not been disputed or adjusted, destroy after 7 months.
	(f) Recording instrument charts such as pressure (static and/or differential), temperature, specific heating value, etc.	If the measurement data have not been disputed or adjusted, destroy after 7 months.
14.1	Underground storage of natural gas:	
	(a) Well records, reports, and logs which include data relating to pressures, injected volumes, withdrawn volumes, core analysis, daily volumes of gas injected into and withdrawn from reservoir, cushion, and working gas volumes for each reservoir.	1 year after reservoir, field, or relevant storage area is abandoned.
	(b) Records containing information relating to reservoir gas leakage, showing the total gas leakage, and recycled gas.	1 year after reservoir, field, or relevant storage area is abandoned.
	(c) Records on back pressure tests field data	1 year or until superseded.
	(d) Records on back pressure test results, gas analysis	1 year or until superseded.
15	Maintenance work orders and job orders:	
	(a) Authorizations for expenditures for maintenance work to be covered by work orders, including memoranda showing the estimates of costs to be incurred.	5 years.
	(b) Work order sheets to which are posted in detail the entries for labor, material, and other charges in connection with maintenance, and other work pertaining to natural gas company operations.	5 years.
	(c) Summaries of expenditures on maintenance and job orders and clearances to operating other accounts (exclusive of plant accounts).	5 years.
	PLANT AND DEPRECIATION	
16	Plant ledgers:	
	(a) Ledgers of natural gas company's plant accounts including land and other detailed ledgers showing the cost of plant by class.	25 years.
	(b) Continuing plant inventory ledger, book or card records showing description, location, quantities, cost, etc., of physical units (or items) of natural gas plant owned.	25 years.
17	Construction work in progress ledgers:	
	(a) Construction work in progress ledgers	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.
	(b) Work order sheets to which are posted in summary form or in detail the entries for labor, materials, and other charges for natural gas company's plant additions and the entries closing the work orders to plant in service at completion.	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.
	(c) Authorizations for expenditures for additions to natural gas company plant, including memoranda showing the detailed estimates of cost, and the bases therefor (including original and revised or subsequent authorizations).	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.
	(d) Requisitions and registers of authorizations for natural gas company plant expenditures.	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.
	(e) Completion or performance reports showing comparison between authorized estimates and actual expenditures for natural gas company plant additions.	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No.	Description	Retention period
	(f) Analysis or cost reports showing quantities of materials used, unit costs, number of man-hours etc., in connection with completed construction project.	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.
	(g) Records and reports pertaining to progress of construction work, the order in which jobs are to be completed, and similar records which do not form a basis of entries to the accounts.	Destroy at option.
	(h) Well-drilling logs and well construction records	1 year after field or well is abandoned.
18	Retirement work in progress ledgers, work orders, and supplemental records:	
	(a) Work order sheets to which are posted the entries for removal costs, materials recovered, and credits to natural gas company plant accounts for cost of plant retirement.	5 years after plant is retired.
	(b) Authorizations for retirement of natural gas company plant, including memoranda showing the basis for determination of cost of plant to be retired, and estimates of salvage and removal costs.	5 years after plant is retired.
	(c) Registers of retirement work	5 years.
19	Summary sheets, distribution sheets, reports, statements, and papers directly supporting debits and credits to natural gas company plant accounts not covered by construction or retirement work orders and their supporting records.	5 years.
20	Appraisals and valuations:	
	(a) Appraisals and valuations made by the company of its properties or investments or of the properties or investments of any associated companies. Includes all records essential thereto.	3 years after appraisal.
	(b) Determinations of amounts by which properties or investments of the company or any of its associated companies will be either written up or written down as a result of:	
	(1) Mergers or acquisitions	10 years after completion of transaction or as ordered by the Commission.
	(2) Asset impairments	10 years after recognition of asset impairment.
	(3) Other bases	10 years after the asset was written up or down.
21	The original or reproduction of engineering records, drawings, and other supporting data for proposed or as-constructed gas facilities: Maps, diagrams, profiles, photographs, field survey notes, plot plan, detail drawings, records of engineering studies, and similar records showing the location of proposed or as-constructed facilities.	Retained until retired or abandoned.
22	Contracts relating to natural gas plant:	
	(a) Contracts relating to acquisition or sale of plant	6 years after plant is retired or sold.
	(b) The primary records of gas acreage owned, leased or optioned excluding deeds and leases but including such records as lease sheets, leasehold cards, and option agreements.	6 years after plant is retired or sold.
23	Records pertaining to reclassification of natural gas plant accounts to conform to prescribed systems of accounts including supporting papers showing the bases for such reclassifications.	6 years.
24	Records of accumulated provisions for depreciation and depletion of gas plant and supporting computation of expense:	
	(a) Detailed records or analysis sheets segregating the accumulated depreciation according to functional classification of plant.	25 years.
	(b) Records reflecting the service life of property and the percentage of salvage and cost of removal for property retired from each account for depreciable natural gas plant.	25 years.
	PURCHASES AND STORES	
25	Procurement:	
	(a) Agreements entered into for the acquisition of goods or the performance of services. Includes all forms of agreements not specifically set forth in Subsection 7 such as but not limited to: letters of intent, exchange of correspondence, master agreements, term contracts, rental agreements, and the various types of purchase orders:	
	(1)For goods or services relating to plant construction	6 years.
	(2) For other goods or services	6 years.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No.	Description	Retention period
	(b) Supporting documents including accepted and unaccepted bids or proposals (summaries of unaccepted bids or proposals may be kept in lieu of originals) evidencing all relevant elements of the procurement.	6 years.
26	Material ledgers: ledger sheets of materials and supplies received, issued, and on hand.	6 years after the date records/ledgers were created.
27	Materials and supplies received and issued: Records showing the detailed distribution of materials and supplies issued during accounting periods.	6 years.
28	Records of sales of scrap and materials and supplies:	
	(a) Authorization for sale of scrap and materials and supplies..	3 years.
	(b) Contracts for sale of scrap a materials and supplies	3 years.
	REVENUE ACCOUNTING AND COLLECTION	
29	Customers' service applications and contracts: Contracts, including amendments for extensions of service, for which contributions are made by customers and others.	4 years after expiration.
30	Rate schedules: General files of published rate sheets and schedules of natural gas company service (including schedules suspended or superseded).	6 years after published rate sheets and schedules are superseded or no longer used to charge for services.
31	Maximum demand, pressure, temperature, and specific gravity charts and demand meter record card.	If the measurement data have not been disputed or adjusted, destroy after 7 months.
32	Miscellaneous billing data: Billing department's copies of contracts with customers (other than contracts in general files).	Destroy at option.
33	Revenue summaries: Summaries of monthly operating revenues according to classes of service. Including summaries of forfeited discounts and penalties.	5 years.
	TAX	
34	Tax records:	
	(a) Copies of tax returns and supporting schedules filed with taxing authorities, supporting working papers, records of appeals of tax bills, and receipts for payment. See Subsection 11(b) for vouchers evidencing disbursements:	
	(1) Income tax returns	2 years after final tax liability is determined.
	(2) Property tax returns	2 years after final tax liability is determined.
	(3) Sales and other use taxes	2 years.
	(4) Other taxes	2 years after final tax liability is determined.
	(5) Agreements between associate companies as to allocation of consolidated income taxes.	2 years after final tax liability is determined.
	(6) Schedule of allocation of consolidated Federal income taxes among associate companies.	2 years after final tax liability is determined.
	(b) Filings with taxing authorities to qualify employee benefit plans.	5 years after discontinuance of plan.
	(c) Information returns and reports to taxing authorities	3 years after final tax liability is determined.
	TREASURY	
35	Statements of funds and deposits:	
	(a) Statements of periodic deposits with fund administrators or trustees.	Retain records for the most recent 3 years.
	(b) Statements of periodic withdrawals from fund	Retain records for the most recent 3 years.
	(c) Statements prepared by fund administrator or trustees of fund activity including:	Retain records until the fund is dissolved or terminated.
	(1) Beginning of the year fund balance;	
	(2) Deposits with the fund;	
	(3) Acquisition of investments held by the fund;	
	(4) Disposition of investments held by the fund;	
	(5) Disbursements from the fund, including party to whom disbursement was made; and,	
	(6) End of year fund balance	
36	Records of deposits with banks and others:	
	(a) Statements from depositories showing the details of funds received, disbursed, transferred, and balances on deposit.	Destroy at option after completion of audit by independent accountants.
	(b) Check stubs, registers, or other records of checks issued ..	3 years.
37	Records of receipts and disbursements:	
	(a) Daily or other periodic statements of fund receipts or disbursements.	Destroy at option after completion of annual audit by independent accountants.
	(b) Records or periodic statements of outstanding vouchers, checks, drafts, etc., issued and not presented.	Destroy at option after completion of annual audit by independent accountants.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No.	Description	Retention period
	(c) Reports of associates showing working fund transactions and summaries thereof.	Destroy at option after completion of annual audit by independent accountants.
	(d) Reports of revenue collections by field cashiers, pay stations, etc.	Destroy at option after completion of annual audit by independent accountants.
	MISCELLANEOUS	
38	Statistics: Financial, operating, and statistical reports used for internal administrative or operating purposes.	5 years.
39	Budgets and other forecasts (prepared for internal administrative or operating purposes) of estimated future income, receipts, and expenditures in connection with financing, construction and operations, including acquisitions and disposals of properties or investments.	3 years.
40	Records of predecessor companies	Retain consistent with the requirements for the same types of records of the natural gas company.
41	Reports to Federal and State regulatory commissions including annual financial, operating, and statistical reports.	5 years.
42	Advertising: Copies of advertisements by or for the company on behalf of itself or any associate company in newspapers, magazines, and other publications, including costs and other records relevant thereto (excluding advertising of appliances, employment opportunities, routine notices, and invitations for bids all of which may be destroyed at option).	2 years.

9. Part 356 is revised to read as follows:

PART 356—PRESERVATION OF RECORDS FOR OIL PIPELINE COMPANIES

Sec.
356.1 Promulgation
356.2 General instructions.
356.3 Preservation of records for oil pipeline companies.

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 1–27; E.O. 12009, 3 CFR 1978 Comp. p. 142.

§ 356.1 Promulgation.

This part is prescribed and promulgated as the regulations governing the preservation of records by oil pipeline companies subject to the jurisdiction of the Commission, to the extent and in the manner set forth therein. This part is applicable as of the date the oil pipeline company becomes subject to the jurisdiction of the Commission.

§ 356.2 General instructions.

(a) *Scope of this part.* (1) The regulations in this part apply to all books of account and other records prepared by or on behalf of the oil pipeline companies.

(2) The regulations in this part must not be construed as excusing compliance with other lawful requirements of any other governmental body, Federal or State, prescribing other record keeping requirements or for preservation of records longer than those prescribed in this part.

(3) To the extent that any Commission regulations may provide for a different retention period, the records should be retained for the longer of the retention periods.

(4) Unless otherwise specified in the schedule in § 356.3, duplicate copies of records may be destroyed at any time. Provided, however, that such duplicate copies must not contain significant information not shown on the originals.

(5) Records other than those listed in the schedule may be destroyed at the option of the oil pipeline company. Provided, however, that records which are used in lieu of those listed must be preserved for the periods prescribed for the records used for substantially similar purposes and that retention of records pertaining to added services, functions, plant, etc., the establishment of which cannot be presently foreseen, must conform to the principles embodied herein.

(6) Notwithstanding the provision of the records retention schedule, the Commission may, upon request of the oil pipeline company, authorize shorter retention periods for any records listed in § 356.3. The oil pipeline companies must show that the longer retention periods are no longer necessary or appropriate to protect the public interest, investors, or consumers. A waiver from any provision of these regulations may be made by the Commission upon its own initiative or upon submission of a written request by the company. Each request for waiver must demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques, or that compliance with such prescribed requirements would impose an unreasonable burden on the company.

(b) *Designation of supervisory official.* Each oil pipeline company subject to the provision of this Part must designate one or more persons to supervise the oil pipeline company's program for preservation and authorized destruction of records.

(c) *Protection and storage of records.* Each oil pipeline company subject to these regulations must provide reasonable protection for records. The records must have protections from fire, floods, and other hazards. Storage spaces, will also prevent unnecessary exposure to deterioration from excessive humidity, dryness, or lack of proper ventilation.

(d) *Record storage media.* (1) Each oil pipeline company has the flexibility to select its own storage media.

(2) The storage media must have a life expectancy at least equal to the applicable record retention period provided in § 356.3 unless there is a quality transfer from one media to another with no loss of data.

(3) Each oil pipeline company is required to implement internal control procedures that assure the reliability of and ready access to data stored on machine readable media. Internal control procedures must be documented by a responsible supervisory official.

(e) *Destruction of records.* Oil pipeline companies may use any appropriate method to destroy permitted records.

(f) *Premature destruction or loss of records.* When records are destroyed or lost before the expiration of the

prescribed period of retention, a certified statement listing, as far as may be determined, the records destroyed, and describing the circumstances of accidental or other premature destruction or loss must be filed with the Commission within ninety (90) days from the date of discovery of such destruction.

(g) *Retention periods designated ''Destroy at option''.* ''Destroy at option'' constitutes authorization for destruction of records at managements' discretion if it does not conflict with other legal retention requirements or usefulness of such records in satisfying pending regulatory action or directives.

(h) *Records of services performed by associated companies.* Oil pipeline companies must assure the availability of records of services performed by associated companies for the periods indicated in § 356.3 as necessary to be able to readily furnish detailed information as to the nature of transaction, the involved, and the accounts used to record the transactions.

(i) *Index of records.* Oil pipeline companies must arrange, file, and index records so they may be readily identified and made available to Commission representatives.

(j) *Rate case.* The schedule of records in § 356.3 shows the periods of time that designated records must be preserved. However, not withstanding the minimum retention periods provided in this regulation, if an oil pipeline company intends to reflect costs in a current, pending, or future rate case, or if an oil pipeline company has abandoned or retired plant subsequent to the test period of its last rate case, it must retain the appropriate records to support the costs, and adjustments proposed in the next or current rate case.

(k) *Pending complaint litigation or governmental proceeding.* Notwithstanding the minimum requirements, if an oil pipeline company is involved in pending litigation, complaint proceedings, proceedings remanded by the court, or governmental proceedings, it must retain all relevant records.

(l) *Companies going out of business.* The records referred to in these regulations may be destroyed after business is discontinued and the company is completely liquidated. The records may not be destroyed until dissolution is final and all transactions are completed. When a company is merged with another company under jurisdiction of the Commission, the successor company must preserve records of the merged company in accordance with this part.

(m) *Life or mortality study data.* Life or mortality study data for depreciation purposes must be retained for 25 years or for 10 years after plant is retired.

§ 356.3 Preservation of records for oil pipeline companies.

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SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Item No.	Description	Retention period
	CORPORATE AND GENERAL	
1	Incorporation and reorganization:	
	(a) Charter of certificate of incorporation and amendments	Permanently or at termination of the corporation's existence.
	(b) Legal documents related to mergers, consolidations, reorganizations, receiverships, and similar actions which effect the identity or organization of the company.	Permanently or at termination of the corporation's existence
2	Minutes to Directors', Executive Committees', Stockholders', and other corporate meetings.	5 years.
3	Titles, franchises, and authorities:	
	(a) Certificates of public convenience and necessity issued by regulating bodies.	Until expiration or cancellation.
	(b) Operating authorizations and exemptions to operate issued by regulating bodies.	Until expiration or cancellation.
	(c) Copies of formal orders of regulatory bodies served upon the company.	1 year after expiration or cancellation.
	(d) Deeds, charters, and other title papers	3 years after disposition of property.
4	Contracts and agreements:	
	(a) Contracts and related papers for transactions which are subject to the provisions of the Clayton Antitrust Act (15 USC 20).	4 years after expiration, provided there is no pending litigation or governmental inquiry or proceeding involved.
	(b) Service contracts, such as for operational management, accounting, financial or legal service, and agreements with agents.	3 years after expiration or termination.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No.	Description	Retention period
	(c) Contracts and other agreements relating to the construction, acquisition or sale of real property and equipment except as otherwise provided in (a) above.	3 years after expiration or termination.
5	Accountant's, auditor's, and inspector's reports:	
	(a) Certifications and reports of examinations and audits conducted by public and certified public accountants.	3 years.
	(b) Reports of examinations and audits conducted by internal auditors, time inspectors, weight inspectors, and others.	3 years.
	TREASURY	
6	Long-term debt records:	
	(a) Bond indentures, underwriting, mortgage, and other long-term credit agreements.	6 years after redemption.
	FINANCIAL ACCOUNTING	
7	Ledgers:	
	(a) General and subsidiary ledgers with indexes thereto	3 years.
	(b) Balance sheets and trial balance sheets of general and subsidiary ledgers.	3 years.
8	Journals:	
	(a) General journals	3 years.
	(b) Subsidiary journals and any supporting data, except as otherwise provided for, necessary to explain journal entries.	3 years.
	(c) Schedules of recurring or standard journal entries with entry identifications.	Until superseded.
9	Vouchers:	
	(a) Voucher registers or equivalent	5 years.
	(b) Paid and cancelled vouchers, expenditure authorizations, detailed distribution sheets, and other supporting data including original bills and invoices, except as otherwise provided herein.	5 years.
10	Accounts receivable, record, or register of accounts receivable	3 years after settlement.
11	Records of accounting codes and instructions	3 years after discontinuance.
	PROPERTY AND EQUIPMENT	
12	Property records:	
	(a) Records which maintain complete information on cost or other value of all real property or equipment.	3 years after disposition of property.
	(b) Records and additions and betterments made to property and equipment.	3 years after disposition of property.
	(c) Records pertaining to retirements and replacements of property and equipment.	3 years after disposition of property.
	(d) Records pertaining to depreciation:.	
	(1) When group method and depreciation rates are prescribed by the Commission.	3 years after disposition of property.
	(2) Other	3 years after disposition of property.
	(e) Records of equipment number changes	3 years after disposition of property.
	(f) Records of motor and engine changes	Destroy at option.
	(g) Files of detailed authorizations for expenditures, work or job orders showing estimated costs of additions and betterments, extensions, replacements, major repairs and dismantlements, approved by proper officials, together with supporting data.	3 years after disposition of property.
	(h) Periodical inventories of property and equipment	3 years after prior inventory.
13	Engineering records:	
	(a) Plans and specifications	3 years after the disposition of the property.
	(b) Estimates of work, engineering studies, construction bids, and similar data pertaining to property changes actually made.	15 years.
	PERSONNEL AND PAYROLL	
14	Payroll records:	
	(a) Registers, abstracts, or summaries showing earnings, deductions, and amounts paid to each employee by pay periods.	3 years.
	(b) Records showing the detailed distribution of salaries and wages to various accounts.	3 years.

SCHEDULE OF RECORDS AND PERIODS OF RETENTION—Continued

Item No.	Description	Retention period
	TAXES	
15	Copies of tax returns and supporting schedules filed with taxing authorities, supporting working papers, records of appeals of tax bills, and receipts for payment. See Subsection 9(b) for vouchers evidencing disbursements:	
	(a) Income tax returns	3 years after final tax liability is determined.
	(b) Property tax returns	3 years after final tax liability is determined.
	(c) Sales and other use taxes	3 years final tax liability is determined.
	(d) Other taxes	3 years after final tax liability is determined
	(e) Agreements between associate companies as to allocation of consolidated income taxes.	3 years after final tax liability is determined.
	(f) Schedule of allocation of consolidated Federal income taxes among associate companies.	3 years after final tax liability is determined.
16	Information returns and reports to taxing authorities	3 years, or for the period of any extensions granted for audits.
	PURCHASE AND STORES	
17	Material ledger, records of material and supplies on hand at all locations.	2 years.
18	Inventories: General Inventories of material and supplies on hand, with record of adjustments between accounts required to bring stores records into agreement with physical inventories.	2 years.
	TRANSPORTATION	
19	Oil and other products stocks and movement pipelines only:	
	(a) Records and receipts, deliveries, pumpings, stocks, and over and short.	3 years.
	(b) Run tickets showing quantities by tank measurement of meter reading of oil and other products received into the delivered from company's lines.	3 years.
	(c) Statements of oil and oil products consumed as fuel including quantity value, and where consumed.	3 years.
	(d) Statement of oil and other products lost by line breaks and leaks including quantity, value, and location of breaks and leaks.	3 years.
	(e) Reports of power furnished by producers: monthly reports of the quantity of oil run in connection with which power was furnished by producers, and records of payment for such power.	3 years.
	(f) Records of producers' property identifying ownership and location for producers' tanks or wells to which carrier's lines are connected.	3 years after disconnection.
	(g) Division or other periodical inventory reports of oil and other products on hand.	3 years.
	(h) Division orders: Directions received by carrier as to the division of interest and to whose account transported oil should be credited.	3 years after discontinuance.
	(i) Directions received by the carrier for the transfer of division order interests from one interest owner to another.	3 years after discontinuance.
	(j) Transfer orders for the transfer of ownership of oil or other products in carrier's custody.	3 years.
	TARIFFS AND RATES	
20	Official file copies of tariffs, classifications, division sheets, and circulars relative to the transportation of property.	3 years after expiration or cancellation.
21	Authorities and supporting papers for transportation of property for free or at reduced rates.	3 years.
22	Copies of concurrences and powers of attorney	2 years after expiration or cancellation.
23	Correspondence and working papers in connection with the making of rates and compliance of tariffs, classifications, division sheets, and circulars affecting the transportation of property.	2 years after cancellation of tariff.
	REPORTS AND STATISTICS	
24	Reports to Federal Energy Regulatory Commission and other regulatory bodies, annual financial, operating and statistical reports, file copies, and supporting data.	5 years.

Note: This Appendix Will Not Appear in The Code of Federal Regulations

Appendix A—Current and Proposed Records Retention Requirements (18 CFR Part 125.3)

Item No.	Description	Current retention period 18 CFR 125.3	Proposed retention period	Summary of changes
	CORPORATE AND GENERAL			
1	Reports to stockholders: Annual reports or statements to stockholders.	Retain until receipt of FERC audit report or two years after auditors' exit conference, whichever comes first.	5 years	Remove tie to FERC audit report and set fixed time period.
2	Organizational documents:			
	(a) Minute books of stockholders', directors', and directors' committee meetings.	50 years or termination of the corporation's existence, whichever occurs first.	5 years or termination of the corporation's existence, whichever occurs first.	Reduced by 45 years.
	(b) Titles, franchises, and licenses: Copies of formal orders of regulatory commissions served upon the utility.	6 years after final non-appealable order.	6 years after final non-appealable order.	No change.
3	Contracts and agreements (except contracts provided for elsewhere):			
	(a) Service contracts, such as for management, accounting and financial services.	6 years after expiration or cancellation. See Sec. 125.2(j).	All contracts, related memoranda and revisions should be retained for 3 years after expiration or until the conclusion of any contract disputes pertaining to such contracts, whichever is later.	Reduced by 3 years.
	(b) Contracts with other utilities for the purchase, sale or interchange of product.	6 years after expiration or cancellation.	All contracts, related memoranda and revisions should be retained for 4 years after expiration or until the conclusion of any contract disputes or governmental proceedings pertaining to such contracts, whichever is later.	Reduced by 2 years.
	(c) Memoranda essential to clarifying or explaining provisions of contracts listed above.	For the same periods as contracts to which they relate.	For the same periods as contracts to which they relate.	No change.
	(d) Card or book records of contracts, leases, and agreements made, showing dates of expirations and of renewals, memoranda of receipts and payments under such contracts.	For the same periods as contracts to which they relate.	For the same periods as contracts to which they relate.	No change.
4	Accountants' and auditors' reports:			
	(a) Reports of examinations and audits by accountants and auditors not in the regular employ of the utility (such as reports of public accounting firms and commission accountants).	7 years after date of report or Commission audit, whichever comes last.	5 years after the date of the report.	Reduced by 2 years.
	(b) Internal audit reports and work papers.	7 years after the date of the report.	5 years after the date of the report.	Reduced by 2 years.

Item No.	Description	Current retention period 18 CFR 125.3	Proposed retention period	Summary of changes
	AUTOMATIC DATA PROCESSING			
5	Automatic data processing records (retain original source data used as input for data processing and data processing report printouts for the applicable periods prescribed elsewhere in the schedule: Program documentation and revisions thereto.	Retain as long as it represents an active viable program or for periods prescribed for related output data, whichever is shorter.	Retain as long as it represents an active viable program or for periods prescribed for related output data, whichever is shorter.	No change.
	GENERAL ACCOUNTING RECORDS			
6	General and subsidiary ledgers:			
	(a) Ledgers:			
	(1) General ledgers	50 years	25 years	Reduced by 25 years.
	(2) Ledgers subsidiary or auxiliary to general ledgers except ledgers provided for elsewhere.	50 years	25 years	Reduced by 25 years.
	(b) Indexes:			
	(1) Indexes to general ledgers.	50 years	25 years	Reduced by 25 years.
	(2) Indexes to subsidiary ledgers except ledgers provided for elsewhere.	50 years	25 years	Reduced by 25 years.
	(c) Trial balance sheets of general and subsidiary ledgers.	2 years	2 years	No change.
7	Journals: General and subsidiary.	50 years	25 years	Reduced by 25 years.
8	Journal vouchers and journal entries including supporting detail:			
	(a) Journal vouchers and journal entries.	50 years	25 years	Reduced by 25 years.
	(b) Analyses, summarization, distributions, and other computations which support journal vouchers and journal entries:			
	(1) Charging plant accounts.	6 years. See Sec. 125.2(j)	25 years	Reduced.
	(2) Charging all other accounts.	6 years	6 years	No change.
9	Cash books: General and subsidiary or auxiliary books.	10 years after close of fiscal year. See subsection 12(a).	5 years after close of fiscal year.	Reduced by 5 years.
10	Voucher registers: Voucher registers or similar records when used as a source document.	6 years. See Sec. 125.2(j)	5 years	Reduced by 1 year.
11	Vouchers:			
	(a) Paid and canceled vouchers (1 copy—analysis sheets showing detailed distribution of charges on individual vouchers and other supporting papers).	6 years. See Sec. 125.2(j)	5 years	Reduced by 1 year.
	(b) Original bills and invoices for materials, services, etc., paid by vouchers.	6 years. See Sec. 125.2(j)	5 years	Reduced by 1 year.
	(c) Paid checks and receipts for payments of specific vouchers.	6 years	5 years	Reduced by 1 year.
	(d) Authorization for the payment of specific vouchers.	6 years. See Sec. 125.2(j)	5 years	Reduced by 1 year.
	(e) Lists of unaudited bills (accounts payable), list of vouchers transmitted and memoranda regarding changes in audited bills.	Destroy at option	Destroy at option	No change.

Item No.	Description	Current retention period 18 CFR 125.3	Proposed retention period	Summary of changes
	(f) Voucher indexes	Destroy at option	Destroy at option	No change.
	INSURANCE			
12	Insurance records:			
	(a) Records of insurance policies in force, showing coverage, premiums paid, and expiration dates.	Destroy at option after expiration of such policies.	Destroy at option after expiration of such policies.	No change.
	(b) Records of amounts recovered from insurance companies in connection with losses and of claims against insurance companies, including reports of losses and supporting papers.	6 years. See Sec. 125.2(j)	6 years	No change.
	OPERATIONS AND MAINTENANCE			
13.1	Production—Electric (less Nuclear):			
	(a) Boiler-tube failure report	3 years	3 years	No change.
	(b) Generation and output logs with supporting data.	6 years	3 years	Reduced by 3 years.
	(1) Hydro-electric	25 years. See Sec. 125.2(j)	25 years	No change.
	(2) Steam and others	6 years. See Sec. 125.2(j)	6 years	No change.
	(c) Generating high-tension and low-tension load records.	3 years	3 years	No change.
	(d) Load curves, temperature logs, coal, and water logs.	3 years	3 years	No change.
	(e) Gage-reading reports	2 years, except river flow data collected in connection with hydro operation shall be retained for life of corporation.	2 years, except river flow data collected in connection with hydro operation shall be retained for life of corporation.	No change.
	(f) Recording instrumentation charts.	1 year, except where the basic chart information is transferred to another record, the charts need only be retained 6 months provided the record containing the basic data is retained 1 year.	1 year, except where the basic chart information is transferred to another record, the charts need only be retained 6 months provided the record containing the basic data is retained 1 year.	No change.
13.2	Production—Nuclear: For informational purposes, refer to the document retention requirements of the Nuclear Regulatory Commission			
14	Transmission and distribution—Electric:			
	(a) Substation and transmission line logs.	3 years	3 years	No change.
	(b) System operator's daily logs and reports of operation.	3 years	3 years	No change.
	(c) Transformer history records.	For life of transformer	For life of transformer	No change.
	(d) Records of transformer inspections, oil tests, etc.	Destroy at option	Destroy at option	No change.
15	Maintenance work orders and job orders:			
	(a) Authorizations for expenditures for maintenance work to be covered by work orders, including memoranda showing the estimates of costs to be incurred.	6 years	5 years	Reduced by 1 year.

Item No.	Description	Current retention period 18 CFR 125.3	Proposed retention period	Summary of changes
	(b) Work order sheets to which are posted in detail the entries for labor, material, and other charges in connection with maintenance, and other work pertaining to utility operations.	6 years	5 years	Reduced by 1 year.
	(c) Summaries of expenditures on maintenance and job orders and clearances to operating other accounts (exclusive of plant accounts).	6 years	5 years	Reduced by 1 year.
	PLANT AND DEPRECIATION			
16	Plant ledgers:			
	(a) Ledgers of utility plant accounts including land and other detailed ledgers showing the cost of utility plant by classes.	50 years	25 years	Reduced by 25 years.
	(b) Continuing plant inventory ledger, book or card records showing description, location, quantities, cost, etc., of physical units (or items) of utility plant owned.	6 years after plant is retired, provided mortality data are retained. See Note 5.	25 years	Reduced.
17	Construction work in progress ledgers, work orders, and supplemental records:			
	(a) Construction work in progress ledgers.	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 6 years after plant is retired.	5 years after clearance to plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.	Reduced by 5 years.
	(b) Work orders sheets to which are posted in summary form or in detail the entries for labor, materials, and other charges for utility plant additions and the entries closing the work orders to utility plant in service at completion.	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 6 years after plant is retired.	5 years after clearance to plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.	Reduced by 5 years.
	(c) Authorizations for expenditures for additions to utility plant, including memoranda showing the detailed estimates of cost and the bases therefor (including original and revised or subsequent authorizations).	10 years	5 years after clearance to plant account except where there are ongoing Commission proceedings.	Reduced by 5 years.
	(d) Requisitions and registers of authorizations for utility plant expenditures.	10 years	5 years after clearance to plant account except where there are ongoing Commission proceedings.	Reduced by 5 years.
	(e) Completion or performance reports showing comparison between authorized estimates and actual expenditures for utility plant additions.	10 years	5 years after clearance to plant account except where there are ongoing Commission proceedings.	Reduced by 5 years.
	(f) Analysis or cost reports showing quantities of materials used, unit costs, number of man-hours etc., in connection with completed construction project.	10 years after clearance to the plant account, provided continuing property plant inventory records are maintained; otherwise 6 years after plant is retired.	5 years after clearance to plant account except where there are ongoing Commission proceedings.	Reduced by 5 years.

Item No.	Description	Current retention period 18 CFR 125.3	Proposed retention period	Summary of changes
	(g) Records and reports pertaining to progress of construction work, the order in which jobs are to be completed, and similar records which do not form a basis of entries to the accounts.	Destroy at option	Destroy at option	No change.
18	Retirement work in progress ledgers, work orders, and supplemental records:			
	(a) Work order sheets to which are posted the entries for removal costs, materials recovered, and credits to utility plant accounts for cost of plant retirement.	10 years after plant is retired. See Note 5.	5 years after plant is retired	Reduced by 5 years.
	(b) Authorizations for retirement of utility plant, including memoranda showing the basis for determination of be retired and estimates of salvage and removal costs.	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 6 years after plant is retired. See Note 5.	5 years after plant is retired	Reduced by 5 years.
	(c) Registers of retirement work.	10 years	5 years	Reduced by 5 years.
19	Summary sheets, distribution sheets, reports, statements and papers directly supporting debits and credits to utility plant accounts not covered by construction or retirement work orders and their supporting records	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 6 years after plant is retired.	5 years	Reduced by 5 years.
20	Appraisals and valuations:			
	(a) Appraisals and valuations made by the company of its properties or investments or the properties or investments of any associated companies. (Includes all records essential thereto.)	3 years after disposition, termination of lease, or write off of property or investment.	3 years after appraisal	Replaces previous text. No substantive change.
	(b) Determinations of amounts by which properties or investments of the company or any of its associated companies will be either written up or written down as a result of:			Requirement added.
	(1) Mergers or acquisitions		10 years after completion of transaction or as ordered by the FERC.	Requirement added.
	(2) Asset impairments		10 years after recognition of asset impairment.	Requirement added.
	(3) Other bases		10 years after the asset was written up or down.	Requirement added.
21	The original or reproduction of engineering records, drawings and other supporting data for proposed as-constructed utility facilities:			
	(a) Maps, diagrams, profiles, photographs, field survey notes, plot plan, detail drawings, records of engineering studies and similar records showing the location of proposed or as constructed facilities:		Retain until retired	Requirement added.

Item No.	Description	Current retention period 18 CFR 125.3	Proposed retention period	Summary of changes
	(b) If construction of facility results wholly, or in part.	Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first. See Note 5. See Sec. 125.2(j).	Deleted	Deleted.
22	Contracts relating to utility records:			
	(a) Contracts relating to acquisition or sale of plant.	6 years after plant is retired	6 years after plant is retired or sold.	No change.
	(b) Contracts and other agreements relating to services performed in connection with construction of utility plant (including contracts for the construction of plant by others for the utility and for supervision and engineering relating to construction work)..	6 years. See Sec. 125.2(j)	6 years after plant is retired or sold.	No change.
23	Records pertaining to reclassification of utility plant accounts to conform to prescribed systems of accounts including supporting papers showing the bases for such reclassifications.	6 years See Sec. 125.2(j)	6 years.	No change.
24	Records of accumulated provisions for depreciation and depletion of utility plant and supporting computation of expense:.			
	(a) Detailed records or analysis sheets segregating the accumulated depreciation according to functional classification of plant.	25 years	25 years	No change.
	(b) Records reflecting the service life of property and the percentage of salvage and cost of removal for property retired from each account for depreciable utility plant.	25 years. See Note 5	25 years	No change.
	PURCHASES AND STORES			
25	Procurement:			
	(a) Agreements entered into for the acquisition of goods or the performance of services. Includes all forms of agreements not specifically set for in Subsection 7 such as but not limited to: Letters of intent, exchange of correspondence, master agreements, term contracts, rental agreements and the various types of purchase orders:.			
	(1) For goods or services relating to plant construction..	6 years. See Sec. 125.2(j)	6 years	No change.
	(2) For other goods or services..	6 years	6 years	No change.

Item No.	Description	Current retention period 18 CFR 125.3	Proposed retention period	Summary of changes
	(b) Supporting documents including accepted and unaccepted bids or proposals (summaries of unaccepted bids or proposals may be kept in lieu of originals) evidencing all relevant elements of the procurement.	6 years. See Sec. 125.2(j)	6 years	No change.
26	Material ledgers: Ledger sheets of materials and supplies received, issued, and on hand..	Retain until receipt of FERC audit report or two years after auditors' exit conference, whichever occurs first.	6 years after the date the records/ledgers were created.	Removed tie to FERC audit report and set fixed time period.
27	Materials and supplies received and issued: Records showing the detailed distribution of materials and supplies issued during accounting periods.	6 years See Sec. 125.2(j)	6 years	No change.
28	Records of sales of scrap and materials and supplies:.			
	(a) Authorization for sale of scrap and materials and supplies.	3 years	3 years	No change.
	(b) Contracts for sale of scrap a materials and supplies.	3 years	3 years	No change.
	REVENUE ACCOUNTING AND COLLECTION			
29	Customers' service applications and contracts: Contracts for extensions of service for which contributions are made by customers and others.	Retain until receipt of FERC audit report or two years after auditors' exit conference, whichever occurs first.	4 years after expiration	Removed tie to FERC audit report and set fixed time period.
30	Rate schedules: General files of published rate sheets and schedules of utility service. (Including schedules suspended or superseded.).	Retain until receipt of FERC audit report or two years after auditors' exit conference, whichever occurs first.	6 years after published rate sheets and schedules are superseded or no longer used to charge for utility service.	Removed tie to FERC audit report and set fixed time period.
31	Maximum demand, and demand meter record cards.	1 year, except where the basic chart information is transferred to another record the charts need only be retained 6 months, provided the basic data is retained 1 year.	1 year, except where the basic chart information is transferred to another record the charts need only be retained 6 months, provided the basic data is retained 1 year.	No change.
32	Miscellaneous billing data: Billing department's copies of contracts with customers (in addition to contracts in general files).	Destroy at option	Destroy at option	No change.
33	Revenue summaries:			
	(a) Summaries of monthly operating revenues according to classes of service by entire utility.	6 years	5 years	Reduced by 1 year.
	(b) Summaries of monthly operating revenues according to classes of service by towns, districts, or divisions (Including summaries of forfeited discounts and penalties).	6 years	Deleted	Deleted.
	TAX			
34	Tax records:			

Item No.	Description	Current retention period 18 CFR 125.3	Proposed retention period	Summary of changes
	(a) Copies of returns and schedules filed with taxing authorities, supporting work papers, records of appeals tax bills and receipts for payment (See Subsection 15(b) for vouchers evidencing disbursements):			
	(1) Income tax returns	7 years after settlement	2 years after final tax liability is determined.	Reduced by 5 years.
	(2) Property tax returns	2 years after settlement	2 years after final tax liability is determined.	No change.
	(3) Sales and other use taxes.	3 years	2 years	Reduced by 1 year.
	(4) Other taxes	2 years after settlement	2 years after final tax liability is determined.	No change.
	(5) Agreements between associate companies as to allocation of consolidated income taxes.	7 years after settlement	2 years after final tax liability is determined.	Reduced by 5 years. Renumbered (b).
	(6) Schedule of allocation of consolidated Federal income taxes among associate companies.	7 years after settlement	2 years after final tax liability is determined.	Reduced by 5 years. Renumbered (c).
	(b) Summaries of taxes paid	Destroy at option	Deleted	Deleted.
	(c) Filings with taxing authorities to qualify employee benefit plans.	7 years after settlement of Federal return or discontinuance of plan, whichever is later.	5 years after settlement of Federal return or discontinuance of plan, whichever is later.	Reduced by 2 years.
	(d) Information returns and reports to taxing authorities.	3 years, or for the period of any extensions granted for audit.	3 years, or for the period of any extensions granted for audit.	No change.
	TREASURY			
35	Statements of funds and deposits:	Replacement for Item 58 currently contained in 18 CFR § 125.3.	For nuclear decommissioning funds, retain records for all items listed for a period of 3 years after completion of final decommissioning of facilities.	
			If amortization funds related to licensed projects are maintained, retain until the Commission makes a final determination of the disposition of amortization reserves.	Replaces previous text. Substantive changes made.
	(a) Statements of periodic deposits with fund administrators or trustees.		Retain records for the most recent 3 calendar years.	Requirement added.
	(b) Statements of periodic withdrawals from fund.		Retain records for the most recent 3 calendar years.	Requirement added.
	(c) Statements prepared by fund administrator or trustees of fund activity including: (1) Beginning of the year balance of fund; (2) Deposits with the fund; (3) Acquisition of investments held by the fund; (4) Disposition of investments held by the fund; (5) Disbursements from the fund, including party to whom disbursement was made; and (6) End of year balance of fund.		Retain records until the fund is dissolved or terminated.	Requirement added.
36	Records of deposits with banks and others:.			
	(a) Statements from depositories showing the details of funds received, disbursed, transferred, and balances on deposit.	Destroy at option after completion annual audit by independent accountants.	Destroy at option after completion of audit by independent accountants.	No change.

Item No.	Description	Current retention period 18 CFR 125.3	Proposed retention period	Summary of changes
	(b) Check stubs, registers, or other records of checks issued.	6 years	3 years	Reduced by 3 years.
	MISCELLANEOUS			
37	Reserve			
38	Statistics:			
	(a) Annual financial, operating and statistical reports regularly prepared in the course of business for internal administrative or operating purposes (and not used for the basis for entries to accounts of the companies concerned) to show the results of operations and the financial condition of the utility.	10 years after date of report	3 years	Reduced by 7 years and text rewritten.
	(b) Quarterly, monthly or other periodic financial, operating and other statistical reports as above.	2 years after date of report	Deleted	Deleted.
39	Budgets and other forecasts (Prepared for internal administrative or operating purposes) of estimated future income, receipts and expenditures in connection with financing, construction and operations and acquisitions or disposals of properties or investments by the company and its associate companies, including revisions of such estimates and memoranda showing reasons for revisions; also records showing comparison of actual income and receipts and expenditures with estimates.	3 years	3 years	Text rewritten.
40	Records of predecessors and former associates.	Retain until the records of utility plant acquired have been integrated with the utility's plant records and the original cost of the acquired plant is adequately supported by cost details and until it is ascertained that such records are not necessary to fulfillment of any unsatisfied regulatory requirement, such as: (a) Approval and recording of accounting adjustments resulting from reclassification and original cost studies and acceptance of property acquisition journal entries, (b) cost depreciation and amortization reserve determinations for licensed projects, (c) establishment of continuing plant inventory records or accounting evidence of the cost of long-lived property in the absence of such continuing plant inventory records.	Retain consistent with the requirements for the same types of records of the utility.	Text rewritten.
41	Reports to Federal and State regulatory commissions:			

Item No.	Description	Current retention period 18 CFR 125.3	Proposed retention period	Summary of changes
	(a) Annual financial, operating and statistical reports:			
	(1) Federal agencies	Retain until receipt of FERC audit report or two years after auditors' exit conference which ever occurs first.	5 years	Removed tie to FERC audit report and set fixed time period. Text combined.
	(2) State commissions	Retain as long as the active tariffs or rates are in effect.	Text combined	Text combined.
	(b) Special or periodic reports on the following subjects:			
	(1) Transactions with associated companies.	6 years	Deleted	Deleted.
	(2) Budgets of expenditures.	3 years	Deleted	Deleted.
	(3) Employees and wages	5 years	Deleted	Deleted.
	(4) Loans to officers and employees.	3 years after fully paid	Deleted	Deleted.
	(5) Issues of securities	Data filed with SEC retain 25 years or until all securities covered are retired whichever is shorter; other reports retain until securities covered are retired.	Deleted	Deleted.
	(6) Purchases and sales, utility properties.	10 years after plant is retired. See Sec. 125.2(j).	Deleted	Deleted.
	(7) Plant changes—units added and retired.	10 years after plant is retired. See Sec. 125.2(j).	Deleted	Deleted.
	(c) Cost of service reports filed under section 133 of the Public Utility Regulatory Policies Act (PURPA). (*See* 18 CFR Part 290.).	5 years	Deleted	Deleted.
42	Other miscellaneous records: Copies of advertisements by the company in behalf of itself or any associate company in newspapers, magazines and other publications including records thereof (excluding advertising of product, appliances, employment opportunities, services, territory, routine notices and invitations for bids for securities all of which may be destroyed at option).	6 years	2 years	Reduced by 4 years. Description title changed. Text rewritten.

Note: This Appendix Will Not Appear in The Code of Federal Regulations

Appendix B—Current and Proposed Records Retention Requirements (18 CFR Part 225.3)

Item no.	Description	Retention period 18 CFR 225.3	Proposed retention period	Summary of changes
		CORPORATE AND GENERAL		
1	Reports to stockholders: Annual reports or statements to stockholders.	Retain until receipt of FERC audit report or two years after auditors' exit conference, whichever comes first.	5 years	Removed tie to FERC audit report and set fixed time period
2	Organizational documents:			
	(a) Minute books of stockholders', directors', and directors' committee meetings.	50 years or termination of the corporation's existence, whichever occurs first.	5 years or termination of the corporation's existence, whichever occurs first.	Reduced by 45 years.

Item no.	Description	Retention period 18 CFR 225.3	Proposed retention period	Summary of changes
	(b) Titles, franchises, and licenses: Copies of formal orders of regulatory commissions served upon the natural gas company.	6 years after final non-appealable order.	6 years after final non-appealable order.	No change.
3	Contracts and agreements (except contracts provided for elsewhere):			
	(a) Service contracts, such as for management, accounting and financial services.	6 years after expiration or cancellation. See Sec. 225.2(j).	6 years	No change.
	(b) Contracts with other transportation or for the purchase, sale or interchange of product.	6 years after expiration or cancellation.	All contracts, related memoranda, and revisions should be retained for 4 years after expiration or until the conclusions of any contract disputes or governmental proceedings pertaining to such contracts, whichever is later.	Reduced by 2 years.
	(c) Memoranda essential to clarifying or explaining provisions of contracts listed above.	For the same periods as contracts to which they relate.	For the same periods as contracts to which they relate.	No change.
	(d) Card or book records of contracts, leases, and agreements made that show dates of expirations, renewals, memoranda of receipts, and payments under such contracts.	For the same periods as contracts to which they relate.	For the same periods as contracts to which they relate.	No change.
4	Accountants' and auditors' reports:			
	(a) Reports of examinations and audits by accountants and auditors not in the regular employ of the natural gas company (such as reports of public accounting firms and Commission accountants).	7 years after date of report or Commission audit, whichever comes last.	5 years after the date of the report.	Reduced by 2 years.
	(b) Internal audit reports and working papers.	7 years after date of report or Commission audit, whichever comes last.	5 years after the date of the report.	Reduced by 2 years.
	INFORMATION TECHNOLOGY MANAGEMENT			
5	Automatic data processing records (retain original source data used as input for data processing and data processing report printouts for the applicable periods prescribed elsewhere in the schedule: Program documentation and revisions thereto.	Retain as long as it represents an active viable program or for periods prescribed for related output data, whichever is shorter.	Retain as long as it represents an active viable program or for periods prescribed for related output data, whichever is shorter.	No change.
	GENERAL ACCOUNTING RECORDS			
6	General and subsidiary ledgers:			
	(a) Ledgers:			
	(1) General ledgers	50 years	25 years	Reduced by 25 years.
	(2) Ledgers subsidiary or auxiliary to general ledgers except ledgers provided for elsewhere.	50 years	25 years	Reduced by 25 years.
	(b) Indexes:			
	(1) Indexes to general ledgers.	50 years	25 years	Reduced by 25 years.
	(2) Indexes to subsidiary ledgers except ledgers provided for elsewhere.	50 years	25 years	Reduced by 25 years.

Item no.	Description	Retention period 18 CFR 225.3	Proposed retention period	Summary of changes
	(c) Trial balance sheets of general and subsidiary ledgers.	2 years	2 years	No change.
7	Journals: General and subsidiary.	50 years	25 years	Reduced by 25 years.
8	Journal vouchers and journal entries including supporting detail:.			
	(a) Journal vouchers and journal entries.	50 years	25 years	Reduced by 25 years.
	(b) Analyses, summarizations, distributions, and other computations which support journal vouchers and journal entries:			
	(1) Charging plant accounts.	6 years. See Sec. 225.2(j)	25 years	Reduced.
	(2) Charging all other accounts.	6 years	6 years	No change.
9	Cash books: General and subsidiary or auxiliary books.	10 years after close of fiscal year. See subsection 12(a).	5 years after close of fiscal year.	Reduced by 5 years.
10	Voucher registers: Voucher registers or similar records when used as a source document.	6 years. See Sec. 225.2(j)	5 years	Reduced by 1 year.
11	Vouchers:			
	(a) Paid and cancelled vouchers (1 copy—analysis sheets showing detailed distribution of charges on individual vouchers and other supporting papers).	6 years. See Sec. 225.2(j)	5 years	Reduced by 1 year.
	(b) Original bills and invoices for materials, services, etc., paid by vouchers.	6 years. See Sec. 225.2(j)	5 years	Reduced by 1 year.
	(c) Paid checks and receipts for payments of specific vouchers.	6 years	5 years	Reduced by 1 year.
	(d) Authorization for the payment of specific vouchers.	6 years. See Sec. 225.2(j)	5 years	Reduced by 1 year.
	(e) Lists of unaudited bills (accounts payable), list of vouchers transmitted, and memoranda regarding changes in audited bills.	Destroy at option	Destroy at option	No change.
	(f) Voucher indexes	Destroy at option	Destroy at option	No change.
	INSURANCE			
12	Insurance records:			
	(a) Records of insurance policies in force, showing coverage, premiums paid, and expiration dates.	Destroy at option after expiration of such policies.	Destroy at option after expiration. No change..	
	(b) Records of amounts recovered from insurance companies in connection with losses and of claims against insurance companies, including reports of losses and supporting papers.	6 years. See Sec. 225.2(j)	6 years	No change.
	OPERATIONS AND MAINTENANCE			
13	Production—Gas:			
	(a) Gas generation and output logs with supporting data.	6 years	Deleted	Deleted.

Item no.	Description	Retention period 18 CFR 225.3	Proposed retention period	Summary of changes
	(b) Recording instrument charts such as pressure (static and/or differential), temperature specific gravity, heating value, etc.	1 year, except where the basic chart information is transferred to another record, the charts need only be retained 6 months provided the record containing the basic data is retained one year.	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 5 months.
	(c) Test of heating value at stations and outlying points.	6 years	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 5 years and 5 months.
	(d) Records of gas produced, out, and holder stock.	1 year, except where the basic chart information is transferred to another record, the charts need only be retained 6 months provided the record containing the basic date is retained one year.	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 5 months.
	(e) Analysis of (gas produced) B.T.U. and sulphur content.	1 year, except where the basic chart information is transferred to another record, the charts need only be retained 6 months provided the record containing the basic data is retained one year.	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 5 months.
	(f) Well records, including clearing, bailing, shooting etc., records; rock pressure; open flow; production, gas analysts' reports etc.	1 year after field or relevant production area abandoned.	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 5 months.
	(g) Gas measuring records ...	1 year, except where the basic chart information is transferred to another record, the charts need only be retained 6 months provided the record containing the basic data is retained one year.	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 5 months.
14	Transmission and distribution—Gas:			
	(a) Substation and transmission line logs.	3 years	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 2 years and 5 months.
	(b) System operator's daily logs and reports of operation.	3 years	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 2 years and 5 months.
	(c) Gas measuring records ...	1 year	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 5 months.
	(d) Transmission line operating reports.	3 years	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 2 years and 5 months.
	(e) Compression operation and reports.	3 years	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 2 years and 5 months.
	(f) Recording instrument charts such as pressure (static and/or differential), temperature specific heating value, etc.	1 year, except where the basic chart information is transferred to another record, the charts need only be retained 6 months provided the record containing the basic data is retained one year.	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 5 months.
14.1	Underground storage of natural gas:			

Item no.	Description	Retention period 18 CFR 225.3	Proposed retention period	Summary of changes
	(a) Well records, reports and logs which includes data relating to pressures, injected volumes, withdrawn volumes, core analysis, daily volumes of gas injected into and withdrawn from reservoir, and cushion and working gas volumes for each reservoir.	1 year after reservoir, field, or relevant storage area is abandoned.	1 year after reservoir, field, or relevant storage area is abandoned.	No change.
	(b) Records containing information relating to reservoir gas leakage, showing the total gas leakage and recycled gas.	1 year after reservoir, field, or relevant storage area is abandoned.	1 year after reservoir, field, or relevant storage area is abandoned.	No change.
	(c) Records on back pressure tests field data.	1 year or until superseded	1 year or until superseded	No change.
	(d) Records on back pressure test results, gas analysis.	1 year or until superseded	1 year or until superseded	No change.
15	Maintenance work orders and job orders:			
	(a) Authorizations for expenditures for maintenance work to be covered by work orders, including memoranda showing the estimates of costs to be incurred.	6 years	5 years	Reduced by 1 year.
	(b) Work order sheets to which are posted in detail the entries for labor, material, and other charges in connection with maintenance, and other work pertaining to natural gas company operations.	6 years	5 years	Reduced by 1 year.
	(c) Summaries of expenditures on maintenance and job orders and clearances to operating other accounts (exclusive of plant accounts).	6 years	5 years	Reduced by 1 year.
	PLANT AND DEPRECIATION			
16	Plant ledgers:			
	(a) Ledgers of natural gas company's plant accounts including land and other detailed ledgers showing the cost of plant by classes.	50 years	25 years	Reduced by 25 years.
	(b) Continuing plant inventory ledger, book or card records showing description, location, quantities, cost, etc., of physical units (or items) of natural gas plant owned.	6 years after plant is retired, provided mortality data are retained. See Note 1.	25 years	Reduced.
17	Construction work in progress ledgers:			
	(a) Construction work in progress ledgers.	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 6 years after plant is retired.	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.	Reduced by 5 years.

Item no.	Description	Retention period 18 CFR 225.3	Proposed retention period	Summary of changes
	(b) Work order sheets to which are posted in summary form or in detail the entries for labor, materials, and other charges for natural gas company's plant additions and the entries closing the work orders to natural gas company plant in service at completion.	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 6 years after plant is retired.	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.	Reduced by 5 years.
	(c) Authorizations for expenditures for additions to natural gas company plant, including memoranda showing the detailed estimates of cost and the bases therefor (including original and revised or subsequent authorizations).	10 years	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.	Reduced by 5 years.
	(d) Requisitions and registers of authorizations for natural gas company plant expenditures.	10 years	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.	Reduced by 5 years.
	(e) Completion or performance reports showing comparison between authorized estimates and actual expenditures for natural gas company plant additions.	10 years	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.	Reduced by 5 years.
	(f) Analysis or cost reports showing quantities of materials used, unit costs, number of man-hours etc., in connection with completed construction project.	10 years after clearance to the plant, provided continuing project plant inventory records are maintained; otherwise 6 years after plant is retired.	5 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 5 years after plant is retired.	Reduced by 5 years.
	(g) Records and reports pertaining to progress of construction work, the order in which jobs are to be completed, and similar records which do not form a basis of entries to the accounts.	Destroy at option	Destroy at option	No change.
	(h) Well-drilling logs and well construction records.	1 year after field or well is abandoned.	1 year after field or well is abandoned.	No change.
18	Retirement work in progress ledgers, work orders, and supplemental records:			
	(a) Work order sheets to which are posted the entries for removal costs, materials recovered, and credits to natural gas company plant accounts for cost of plant retirement.	10 years after plant is retired. See Note 1.	5 years after plant is retired	Reduced by 5 years.
	(b) Authorizations for retirement of natural gas company plant, including memoranda showing the basis for determination of cost of plant to be retired and estimates of salvage and removal costs.	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 6 years after plant is retired. See Note 5.	5 years after plant is retired	Reduced by 1 year.
	(c) Registers of retirement work.	10 years	5 years	Reduced by 5 years.

Item no.	Description	Retention period 18 CFR 225.3	Proposed retention period	Summary of changes
19	Summary sheets, distribution sheets, reports, statements and papers directly supporting debits and credits to utility plant accounts not covered by construction or retirement work orders and their supporting records.	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise 6 years after plant is retired.	5 years	Reduced by 5 years.
20	Appraisals and valuations:			
	(a) Appraisals and valuations made by the company of its properties or investments or the properties or investments of any associated companies. Includes all records essential thereto.	3 years after disposition, termination of lease, or write off of property or investment.	3 years after appraisal	Replaces previous text. No substantive change.
	(b) Determinations of amounts by which properties or investments of the company or any of its associated companies will be either written up or written down as a result of:.			
	(1) Mergers or acquisitions		10 years after completion of transaction or as ordered by the Commission.	Requirement added.
	(2) Asset impairments		10 years after recognition of asset impairment.	Requirement added.
	(3) Other bases		10 years after the asset was written up or down.	Requirement added.
21	The original or reproduction of engineering records, drawings and other supporting data for proposed as-constructed utility facilities:.			
	(a) Maps, diagrams, profiles, photographs, field survey notes, plot plan, detail drawings, records of engineering studies and similar records showing the location of proposed or as-constructed facilities.		Retained until retired or abandoned.	Requirement added.
	(b) If construction of facility results wholly, or in part.	Retain until receipt of FERC audit report or two years after auditor's exit conference, whichever occurs first.	Deleted	Deleted.
22	Contracts relating to utility records:.			
	(a) Contracts relating to acquisition or sale of plant.	6 years after plant is retired	6 years after plant is retired or sold.	No change.
	oi2(b) The primary records of gas acreage owned, leased or optioned excluding deeds and leases but including such records a lease sheets, leasehold cards, and option agreements.	6 years after rights to the gas acreage have expired or otherwise dissolved.	6 years after plant is retired or sold.	Text rewritten.
23	Records pertaining to reclassification of utility plant accounts to conform to prescribed systems of accounts including supporting papers showing the bases for such reclassifications.	6 years. See Sec. 225.2(j)	6 years	No change.
24	Records of accumulated provisions for depreciation and depletion of utility plant and supporting computation of expense:			

Item no.	Description	Retention period 18 CFR 225.3	Proposed retention period	Summary of changes
	(a) Detailed records or analysis sheets segregating the accumulated depreciation according to functional classification of plant.	25 years	25 years	No change.
	(b) Records reflecting the service life of property and the percentage of salvage and cost of removal for property retired from each account for depreciable natural gas plant.	25 years. See Note 5	25 years	No change.
	PURCHASES AND STORES			
25	Procurement: (a) Agreements entered into for the acquisition of goods or the performance of services. Includes all forms of agreements not specifically set for in Subsection 7 such as but not limited to: Letters of intent, exchange of correspondence, master agreements, term contracts, rental agreements and the various types of purchase orders:			
	(1) For goods or services relating to plant construction.	6 years. See Sec. 225.2(j)	6 years	No change.
	(2) For other goods or services.	6 years	6 years	No change.
	(b) Supporting documents including accepted and unaccepted bids or proposals (summaries of unaccepted bids or proposals may be kept in lieu of originals) evidencing all relevant elements of the procurement.	6 years. See Sec. 225.2(j)	6 years	No change.
26	Material ledgers: Ledger sheets of materials and supplies received, issued, and on hand.	Retain until receipt of FERC audit report or two years after auditors' exit conference, whichever occurs first.	6 years after the date records/ledgers were created.	Removed tie to FERC audit report and set fixed time period.
27	Materials and supplies received and issued: Records showing the detailed distribution of materials and supplies issued during accounting periods.	6 years. See Sec. 225.2(j)	6 years	No change.
28	Records of sales of scrap and materials and supplies:			
	(a) Authorization for sale of scrap and materials and supplies.	3 years	3 years	No change.
	(b) Contracts for sale of scrap materials and supplies.	3 years	3 years	No change.
	REVENUE ACCOUNTING AND COLLECTION			
29	Customers' service applications and contracts: Contracts for extensions of service for which contributions are made by customers and others.	Retain until receipt of FERC audit report or two years after auditors' exit conference, whichever occurs first.	4 years after expiration	Removed tie to FERC audit report and set fixed time period.
30	Rate schedules: General files of published rate sheets and schedules of utility service (including schedules suspended or superseded).	Retain until receipt of FERC audit report or two years after auditors' exit conference, whichever occurs first.	6 years after published rate sheets and schedules are superseded or no longer used to charge for services.	Removed tie to FERC audit report and set fixed time period.

Item no.	Description	Retention period 18 CFR 225.3	Proposed retention period	Summary of changes
31	Maximum demand, pressure, temperature, and specific gravity charts and demand meter record card.	1 year, except where the basic chart information is transferred to another record the charts need only be retained 6 months, provided the basic data is retained 1 year.	If the measurement data have not been disputed or adjusted, destroy after 7 months.	Reduced by 5 months.
32	Miscellaneous billing data: Billing department's copies of contracts with customers (in addition to contracts in general files).	Destroy at option	Destroy at option	No change.
33	Revenue summaries:			
	(a) Summaries of monthly operating revenues according to classes of service by entire utility.	6 years	5 years	Reduced by 1 year.
	(b) Summaries of monthly operating revenues according to classes of service by towns, districts, or divisions. (Including summaries of forfeited discounts and penalties).	6 years	Deleted	Deleted.
	TAX			
34	Tax records:			
	(a) Copies of returns and schedules filed with taxing authorities, supporting work papers, records of appeals, tax bills and receipts for payment. See Subsection 11(b) for vouchers evidencing disbursements.:.			
	(1) Income tax returns	7 years after settlement	2 years after final tax liability is determined.	Reduced by 5 years.
	(2) Property tax returns	2 years after settlement	2 years after final tax liability is determined.	No change.
	(3) Sales and other use taxes.	3 years	2 years	Reduced by 1 year.
	(4) Other taxes	2 years after settlement	2 years after final tax liability is determined.	No change.
	(5) Agreements between associate companies as to allocation of consolidated income taxes.	7 years after settlement	2 years after final tax liability is determined.	Reduced by 5 years.
	(6) Schedule of allocation of consolidated Federal Income taxes among associate companies.	6 years	2 years final tax liability is determined.	Reduced.
	(b) Summaries of taxes paid	Destroy at option	Deleted	Deleted.
	(c) Filings with taxing authorities to qualify employee benefit plans.	7 years after settlement of Federal return or discontinuance of plan, whichever is later.	5 years after discontinuance of plan.	Reduced by 2 years Renumbered (b).
	(d) Information returns and reports to taxing authorities.	3 years, or for the period of any extensions granted for audit.	3 years or for the period of any extensions granted for audit.	No change Renumbered (c).
	TREASURY			
35	Statements of funds and deposits:.	Replacement for Item 58 currently contained in 18 CFR § 225.3	.....	Replaces previous text. Substantive change.
	(a) Statements of periodic deposits with fund administrators or trustees.	.....	Retain records for the most recent 3 calendar years.	Requirement added.
	(b) Statements of periodic withdrawals from fund.	.....	Retain records for the most recent 3 calendar years.	Requirement added.
	(c) Statements prepared by fund administrator or trustees of fund activity including:.	.....	Retain records until the fund is dissolved or terminated.	Requirement added.

Item no.	Description	Retention period 18 CFR 225.3	Proposed retention period	Summary of changes
	(1) Beginning of the year balance of fund; (2) Deposits with the fund; (3) Acquisition of investments held by the fund; (4) Disposition of investments held by the fund; (5) Disbursements from the fund, including party to whom disbursement was made; and (6) End of year balance of fund.			
36	Records of deposits with banks and others:			
	(a) Statements from depositories showing the details of funds received, disbursed, transferred, and balances on deposit.	Destroy at option after completion of audit by independent accountants.	Destroy at option after completion of audit by independent accountants.	No change.
	(b) Check stubs, registers, or other records of checks issued.	6 years	3 years	Reduced by 3 years.
37	Records of receipts and disbursements:			
	(a) Daily or other periodic statements of receipts or disbursements of funds.	Destroy at option after completion of annual audit by independent accountants.	Destroy at option after completion of annual audit by independent accountants.	No change.
	(b) Records or periodic statements of outstanding vouchers, checks, drafts, etc., issued and not presented.	Destroy at option after completion of annual audit by independent accountants.	Destroy at option after completion of annual audit by independent accountants.	No change.
	(c) Reports of associates showing working fund transactions and summaries thereof.	Destroy at option after completion of annual audit by independent accountants.	Destroy at option after completion of annual audit by independent accountants.	No change.
	(d) Reports of revenue collections by field cashiers, pay stations, etc.	Destroy at option after completion of annual audit by independent accountants.	Destroy at option after completion of annual audit by independent accountants.	No change.
	MISCELLANEOUS			
38	Statistics:			
	(a) Annual financial, operating and statistical reports regularly prepared in the course of business for internal administrative or operating purposes (and not used for the basis for entries to accounts of the companies concerned to show the results of operations and the financial condition of the utility.	10 years after date of report	5 years	Reduced by 5 years.
	(b) Quarterly, monthly or other periodic financial, operating and other statistical reports as above.	2 years after date of report	Deleted	Deleted.
39	Budgets and other forecasts (prepared for internal administrative or operating purposes) of estimated future income, receipts and expenditures in connection with financing, construction and operations and acquisitions or disposals of properties or investments.	3 years	3 years	No change.

Item no.	Description	Retention period 18 CFR 225.3	Proposed retention period	Summary of changes
40	Records of predecessors and former associates.	Retain until the records of utility plant acquired have been integrated with the utility's plant records and the original cost of the acquired plant is adequately supported by cost details and until it is ascertained that such records are not necessary to fulfillment of any unsatisfied regulatory requirement, such as: (a) Approval and recording of accounting adjustments resulting from reclassification and original cost studies and acceptance of property acquisition journal entries, (b) establishment of continuing plant inventory records or accounting evidence of the cost of long-lived property in the absence of such continuing plant inventory records.	Retain consistent with the requirements for the same types of records of the natural gas company.	Text rewritten.
41	Reports to Federal and State regulatory commissions:			
	(a) Annual financial, operating and statistical reports:			
	(1) Federal agencies	Retain until receipt of FERC audit report or two years after auditors' exit conference which ever occurs first.	5 years	Removed tie to FERC audit report and set fixed time period.
	(2) State commissions	Retain as long as the active tariffs or rates are in effect.	Deleted	Deleted.
	(b) Special or periodic reports on the following subjects:			
	(1) Transactions with associated companies.	6 years	Deleted	Deleted.
	(2) Budgets of expenditures.	3 years	Deleted	Deleted.
	(4) Employees and wages	5 years	Deleted	Deleted.
	(5) Loans to officers and employees.	3 years after fully paid	Deleted	Deleted.
	(7) Purchases and sales, utility properties.	10 years after plant is retired ...	Deleted	Deleted.
	(8) Plant changes—units added and retired..	10 years after plant is retired ...	Deleted	Deleted.
	(c) Records required to be retained under Sec. 277.210 of this chapter, relating to the Natural Gas Policy Act of 1978.	3 years	Deleted	Deleted
42	Other miscellaneous records: Copies of advertisements by the company in behalf of itself or any associate company in newspapers, magazines and other publications including records thereof (excluding advertising of product, appliances, employment opportunities, services, territory, routine notices and invitations for bids for securities all of which may be destroyed at option).	6 years	2 years	Reduced by 4 years. Description title change. Text rewritten.

Note: This Appendix Will Not Appear in The Code of Federal Regulations

Appendix C—Current and Proposed Records Retention Requirements (18 CFR Part 356.3)

Item No.	Description	Retention period 18 CFR 356.11	Proposed retention period	Summary of changes
	CORPORATE AND GENERAL			
1	Incorporation and reorganization:			
	(a) Charter of certificate of incorporation and amendments.	Permanently	Permanently or at termination of the corporation's existence.	No change.
	(b) Legal documents related to mergers, consolidations, reorganizations, receiverships and similar actions which effect the identity or organization of the company.	Permanently	Permanently or at termination of the corporation's existence.	No change.
2	Minutes to Directors', Executive Committees', Stockholders', and other corporate meetings.	Permanently	5 years	Reduced.
3	Titles, franchises and authorities:			
	(a) Certificates of public convenience and necessity issued by regulating bodies.	Until expiration or cancellation	Until expiration or cancellation	No change.
	(b) Operating authorizations and exemptions to operate issued by regulating bodies.	Until expiration or cancellation	Until expiration or cancellation	No change.
	(c) Copies of formal orders of regulatory bodies served upon the company.	1 year after expiration or cancellation.	1 year after expiration or cancellation.	No change.
	(d) Deeds, charters, and other title papers.	3 years after disposition of property.	3 years after disposition of property.	No change.
4	Contracts and Agreements:			
	(a) Contracts and related papers for transactions which are subject to the provisions of the Clayton Anti-trust Act (15 U.S.C. 20).	10 years after expiration, provided there is no pending litigation involved, and provided the company notifies the Commission of it intended action 2 weeks prior to the date the records are to be destroyed.	4 years after expiration, provided there is no pending litigation or governmental inquiry or proceeding involved.	Reduced by 6 years.
	(b) Service contracts, such as for operational management, accounting, financial or legal service, and agreements with agents.	3 years after expiration or termination.	3 years after expiration or termination.	No change.
	(c) Contracts and other agreements relating to the construction, acquisition or sale of real property and equipment except as otherwise provided in (a) above.	3 years after expiration or termination.	3 years after expiration or termination.	No change.
5	Accountant's, auditor's, and inspector's reports:			
	(a) Certifications and reports of examinations and audits conducted by public and certified public accountants.	3 years	3 years	No change.
	(b) Reports of examinations and audits conducted by internal auditors, time inspectors, weight inspectors, and others.	3 years	3 years	No change.
	TREASURY			
6	Long-term debt records:			

Item No.	Description	Retention period 18 CFR 356.11	Proposed retention period	Summary of changes
	(a) Bond indentures, underwriting, mortgage, and other long-term credit agreements.	6 years after redemption	6 years after redemption	No change.
	FINANCIAL ACCOUNTING			
7	Ledgers:			
	(a) General and subsidiary ledgers with indexes thereto.	50 years	3 years	Reduced by 47 years.
	(b) Balance Sheets and Trial Balance sheets of general and subsidiary ledgers.	5 years	3 years	Reduced by 2 years.
8	Journals:			
	(a) General Journals (except for ratemaking organizations).	50 years	3 years	Reduced by 47 years.
	(b) Subsidiary Journals ad any supporting data, except as otherwise provided for, necessary to explain journal entries.	6 years	3 years	Reduced by 3 years.
	(c) Schedules of recurring or standard journal entries with entry identifications.	Until superseded	Until superseded	No change.
9	Vouchers:			
	(a) Voucher registers or equivalent.	6 years	5 years	Reduced by 1 year.
	(b) Paid and cancelled vouchers, expenditure authorizations, detailed distribution sheets and other supporting data including original bills and invoices, except as otherwise provided herein.	6 years	5 years	Reduced by 1 year.
10	Accounts receivable, record, or register of accounts receivable.	3 years after settlement	3 years after settlement	No change.
11	Records of accounting codes and instructions.	6 years after discontinuance	3 years after discontinuance	Reduced by 3 years.
	PROPERTY AND EQUIPMENT			
12	Property records:			
	(a) Records which maintained complete information on cost or other value of all real property or equipment.	3 years after disposition of property.	3 years after disposition of property.	No change.
	(b) Records and additions and betterments made to property and equipment.	3 years after disposition of property.	3 years after disposition of property.	No change.
	(c) Records pertaining to retirements and replacements of property and equipment.	3 years after disposition of property.	3 years after disposition of property.	No change.
	(d) Records pertaining to depreciation:			
	(1) When group method and depreciation rates are prescribed by the Commission.	10 years	3 years after disposition of property.	Added requirement.
	(2) Other	3 years after disposition of property.	3 years after disposition of property.	No change.
	(e) Records of equipment number changes.	3 years after disposition of property.	3 years after disposition of property.	No change.
	(f) Records of motor and engine changes.	3 years after disposition of property.	Destroy at option	Changed requirement.

Item No.	Description	Retention period 18 CFR 356.11	Proposed retention period	Summary of changes
	(g) Files of detailed authorizations for expenditures, work or job orders showing estimated costs of additions and betterments, extensions, replacements, major repairs and dismantlements, approved by proper officials, together with supporting data.	3 years	3 years after disposition of property.	Added requirement.
	(h) Periodical inventories of property and equipment.	3 years after prior inventory	3 years after prior inventory	No change.
13	Engineering Records:			
	(a) Plans and specifications	3 years after the disposition of the property.	3 years after the disposition of the property.	No change.
	(b) Estimates of work, engineering studies, construction bids, and similar data pertaining to property changes actually made.	15 years	15 years	No change.
	PERSONNEL AND PAYROLL			
14	Payroll Records:			
	(a) Registers, abstracts, or summaries showing earnings, deductions and amounts paid to each employee by pay periods.	3 years	3 years	No change.
	(b) Records showing the detailed distribution of salaries and wages to various accounts.	3 years	3 years	No change.
	TAXES			
15	Copies of returns and schedules filed with taxing authorities, supporting work papers, records or appeals, tax bills and receipts for payments. (See item 9(b) for vouchers evidencing disbursements):			
	(a) Income tax returns	3 years after settlement	3 years after final tax liability is determined.	No change.
	(b) Property tax returns	3 years after settlement	3 years after final tax liability is determined.	No change.
	(c) Sales and use taxes	3 years	3 years	No change.
	(d) Other taxes	3 years after settlement	3 years after final tax liability is determined.	No change.
	(e) Agreements between affiliated companies as to allocation of consolidated income taxes.	3 years after settlement	3 years after final tax liability is determined.	No change.
	(f) Schedule of allocation of consolidated Federal income taxes among affiliated companies.	3 years after settlement	3 years after final tax liability is determined.	No change.
16	Information returns and reports to taxing authorities.	3 years, or for the period of any extensions granted for audits.	3 years, or for the period of any extensions granted for audits.	No change.
	PURCHASE AND STORES			
17	Material ledger, records of material and supplies on hand at all locations.	2 years	2 years	No change.

Item No.	Description	Retention period 18 CFR 356.11	Proposed retention period	Summary of changes
18	Inventories: General Inventories of material and supplies on hand, with record of adjustments between accounts required to bring stores records into agreement with physical inventories.	2 years	2 years	No change.
	TRANSPORTATION			
19	Oil and other products stocks and movement pipelines only: (a) Records and receipts, deliveries, pumpings, stocks, and over and short	3 years	3 years	No change.
	(b) Run tickets showing quantities by tank measurement of meter reading of oil and other products received into the delivered from company's lines.	3 years	3 years	No change.
	(c) Statements of oil and oil products consumed as fuel including quantity value, and where consumed.	3 years	3 years	No change.
	(d) Statement of oil and other products lost by line breaks and leaks including quantity, value, and location of breaks and leaks.	3 years	3 years	No change.
	(e) Reports of power furnished by producers: Monthly reports of the quantity of oil run in connection with which power was furnished by producers, and records of payment for such power.	3 years	3 years	No change.
	(f) Records of producers' property identifying ownership and location for producers' tanks or wells to which carrier's lines are connected.	3 years after disconnection	3 years after disconnection	No change.
	(g) Division or other periodical inventory reports of oil and other products on hand.	3 years	3 years	No change.
	(h) Division orders: Directions received by carrier as to the division of interest and to whose account transported oil should be credited.	3 years after discontinuance	3 years after discontinuance	No change.
	(i) Directions received by the carrier for the transfer of division order interests from one interest owner to another.	3 years after discontinuance	3 years after discontinuance	No change.
	(j) Transfer orders for the transfer of ownership of oil or other products in carrier's custody.	3 years	3 years	No change.
	TARIFFS AND RATES			
20	Official file copies of tariffs, classifications, division sheets, and circulars relative to the transportation of property.	3 years after expiration or cancellation.	3 years after expiration or cancellation.	No change.

Item No.	Description	Retention period 18 CFR 356.11	Proposed retention period	Summary of changes
21	Authorities and supporting papers for transportation of property for free or at reduced rates.	3 years	3 years	No change.
22	Copies of concurrences and powers of attorney.	2 years after expiration or cancellation.	2 years after expiration or cancellation.	No change.
23	Correspondence and working papers in connection with the making of rates and compliance of tariffs, classifications, division sheets, and circulars affecting the transportation of property.	2 years after cancellation of tariff.	2 years after cancellation of tariff.	No change.
	REPORTS AND STATISTICS			
24	Reports to Federal Energy Regulatory Commission and other regulatory bodies:			
	(a) Annual financial, operating and statistical reports, file copies of, and supporting data.	10 years	5 years	Reduced by 5 years.
	(b) Valuation inventory reports and records together with related notes, maps, and sketches; underlying engineering, land, and accounting reports, pricing schedules, summary of collection sheets, yearly reports of changes and other miscellaneous data, all relating to the valuation of the company's property by the Federal Energy Regulatory Commission or other regulatory body.	3 years after disposition of the property.	Delete item in its entirety	Deleted.

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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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Note: The List of Public Laws for the first session of the 106th Congress has been completed and will resume when bills are enacted into law during the second session of the 106th Congress, which convenes on January 24, 2000.

A Cumulative List of Public Laws for the first session of the 106th Congress will be published in the **Federal Register** on December 30, 1999.

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CFR CHECKLIST

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1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–038–00158–6)	14.00	July 1, 1999
101	(869–038–00159–4)	39.00	July 1, 1999
102–200	(869–038–00160–8)	16.00	July 1, 1999
201–End	(869–038–00161–6)	15.00	July 1, 1999
42 Parts:			
*1–399	(869–038–00162–4)	36.00	Oct. 1, 1999
400–429	(869–034–00162–9)	41.00	Oct. 1, 1998
*430–End	(869–038–00164–1)	54.00	Oct. 1, 1999
43 Parts:			
1–999	(869–034–00164–5)	30.00	Oct. 1, 1998
1000–end	(869–034–00165–3)	48.00	Oct. 1, 1998
44	(869–038–00167–5)	28.00	Oct. 1, 1999
45 Parts:			
1–199	(869–038–00168–3)	33.00	Oct. 1, 1999
*200–499	(869–038–00169–1)	16.00	Oct. 1, 1999
500–1199	(869–034–00169–6)	30.00	Oct. 1, 1998
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
1–40	(869–034–00171–8)	26.00	Oct. 1, 1998
41–69	(869–034–00172–6)	21.00	Oct. 1, 1998
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
*90–139	(869–038–00175–6)	26.00	Oct. 1, 1999
*140–155	(869–038–00176–4)	15.00	Oct. 1, 1999
*156–165	(869–038–00177–2)	21.00	Oct. 1, 1999
166–199	(869–034–00177–7)	25.00	Oct. 1, 1998
200–499	(869–034–00178–5)	22.00	Oct. 1, 1998
500–End	(869–038–00180–2)	15.00	Oct. 1, 1999
47 Parts:			
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20–39	(869–034–00181–5)	27.00	Oct. 1, 1998
40–69	(869–034–00182–3)	24.00	Oct. 1, 1998
70–79	(869–034–00183–1)	37.00	Oct. 1, 1998
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48 Chapters:			
1 (Parts 1–51)	(869–034–00185–8)	51.00	Oct. 1, 1998
1 (Parts 52–99)	(869–034–00186–6)	29.00	Oct. 1, 1998
2 (Parts 201–299)	(869–034–00187–4)	34.00	Oct. 1, 1998
3–6	(869–034–00188–2)	29.00	Oct. 1, 1998
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*29–End	(869–038–00192–6)	25.00	Oct. 1, 1999
49 Parts:			
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*186–199	(869–038–00195–1)	13.00	Oct. 1, 1999
200–399	(869–034–00195–5)	46.00	Oct. 1, 1998
400–999	(869–034–00196–3)	54.00	Oct. 1, 1998
1000–1199	(869–034–00197–1)	17.00	Oct. 1, 1998
1200–End	(869–034–00198–0)	13.00	Oct. 1, 1998
50 Parts:			
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200–599	(869–034–00200–5)	22.00	Oct. 1, 1998

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.