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Presidential Documents

Title 3—

The President

Presidential Determination No. 2000–12 of February 10, 2000

United States Military Activities in East Timor

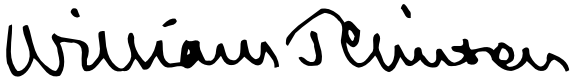
Memorandum for the Secretary of State

Pursuant to the authority vested in me as President, including under sections 10(d)(1) and 10(a)(2)(B) of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287 *et seq.*) (the ''Act''), I hereby:

(a) determine that the deployment of United States military forces to support East Timor's transition to independence without reimbursement from the United Nations is important to the security interests of the United States; and

(b) delegate to you the authority contained in section 10(d)(1) of the Act with respect to assistance to support East Timor's transition to independence that is covered by section 10 of the Act.

You are authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, February 10, 2000.

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Rules and Regulations

Federal Register
Vol. 65, No. 34
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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.

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 718 and 729

Commodity Credit Corporation

7 CFR Part 1446

RIN 0560–AF61

Amendments to Regulations Governing the Peanut Poundage Quota and Price Support Programs

AGENCIES: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends regulations with respect to the following issues: Clarifying the definition of ''considered produced credit''; clarifying that the Director, Tobacco and Peanuts Division maintains and allocates a national peanut quota reserve rather than a State-by-State reserve; adjusting the tolerance for certifying farm peanut acreage; clarifying that a farm which is ineligible to receive a quota allocation is also ineligible to receive an allocation of any increased quota and that any tenant on the farm is also ineligible to receive a tenant share of any increased quota; changing the provisions concerning the witnessing of signatures required for peanut quota transfers; clarifying that owner-to-owner permanent transfers are not restricted by the provision which otherwise prohibits an owner from permanently transferring quota from the farm if the quota was permanently transferred to the farm by sale of quota from another farm; allowing producers to receive separate marketing cards for contracts for Segregation 2 and Segregation 3 additional peanuts for crushing; and changing miscellaneous definitions and references to reflect U.S. Department of Agriculture and regulatory reorganization. The rule also makes a technical amendment to 7 CFR part 718 to reinstate compliance regulations that are applicable to tolerance for peanut acreage reported to be planted.

This action is necessary to improve the administration of the peanut quota and price support programs.

DATES: Effective February 18, 2000. Comments received on or before March 20, 2000, are assured of consideration.

ADDRESSES: Submit comments on the interim rule to: Director, Tobacco and Peanuts Division, Farm Service Agency, U.S. Department of Agriculture, STOP 0514, 1400 Independence Avenue, SW, Washington, DC, 20250–0514. The Director, Tobacco and Peanuts Division (TPD), will make all written submissions available for public inspection in Room 5750 South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., during regular Federal workdays.

FOR FURTHER INFORMATION CONTACT: David Kincannon, (202) 720–7914.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

For purposes of Executive Order 12866, this rule was determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this interim rule because neither the Farm Service Agency (FSA) nor the Commodity Credit Corporation (CCC) is 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.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this interim rule applies are: Commodity Loans and Purchases—10.051.

Executive Order 12372

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

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule do not preempt State laws except to the extent that such laws are inconsistent with the provisions of this rule. Before any legal action may be brought regarding determinations of this rule, the administrative appeal provisions set forth at 7 CFR part 780 must be exhausted.

National Appeals Division Rules of Procedure

The procedures set out in 7 CFR parts 11 and 780 apply to appeals of adverse decisions made under the regulations adopted in this notice.

Paperwork Reduction Act

The information reporting requirements contained in the regulations at 7 CFR parts 729 and 1446 include OMB Control Numbers 0560–0006 and 0560–0014 assigned by OMB. The 0560–0006 collection requirements have been approved by OMB and the 0560–0014 collection requirements have been forwarded for approval. The provisions of this rule do not impose new reporting requirements or changes in existing information collection requirements.

Background

1. Part 718

This rule amends regulations at 7 CFR part 718 to reinstate a tolerance rule for peanuts that was erroneously omitted when this part was revised in 1996 to implement the provisions of the Federal

Agriculture Improvement and Reform Act of 1996.

2. Part 729

This rule addresses amendments to the peanut poundage quota regulations at 7 CFR part 729 regarding the following issues:

Clarifying the definition of considered produced credit. This rule clarifies in § 729.103 the definition of ''considered produced credit.'' The current regulatory language could be interpreted to infer that if considered produced credit was granted for one criterion, no other criterion would apply. The change corrects this potential misinterpretation.

National quota reserve. In §§ 729.202 and 729.208(b), this rule clarifies that the Director, Tobacco and Peanuts Division, will hold and allocate the national quota reserve. Historically, each State held a quota reserve which the State FSA office could allocate to correct errors. The current regulations require that FSA hold a national quota reserve but do not specify who will be responsible for holding the reserve and for allocating the reserve when deemed appropriate. Also, the reference to ''State reserve'' in § 729.208, which provides for allocating quota for experimental and research purposes, is eliminated so that this reserve may be better monitored and allocated for greater flexibility and consistency.

Adjusting the tolerance for certification of peanut acreage for calculating temporary seed quota (TSQ) allocation. This rule changes the reporting tolerance in § 729.204(e) for certification of acres planted to peanuts. The reported acreage is used in § 729.204(e) to determine the amount of TSQ allocated to the farm. This change provides a less restrictive reporting tolerance. Under the current regulations, if the certified acreage on which the temporary seed quota allocation is made is greater than the acreage FSA determines was planted to peanuts by more than the smaller of 2 percent of the certified acreage or 5 acres, the producer is subject to a penalty assessment. The new tolerance would be the larger of 1.0 acre or 5 percent of the certified acreage, but not to exceed 10 acres. The new tolerance will provide a fairer line of demarcation between those certification errors which are inadvertent and those that are not. Intentional mis-certifications can be actionable even if committed within the tolerance but those errors within the tolerance will be presumed inadvertent. Adjustments were also made to § 729.305 so that the penalties for false certification could be addressed more clearly.

Tenants sharing in an increased quota. Under the provisions of the regulations, a farm owned by a municipality or a person who is not a peanut producer and is not a resident of the State in which the quota is allocated is ineligible to receive a quota allocation. This rule, by amendment to § 729.207, clarifies where a farm is ineligible to receive a quota allocation, that the farm is ineligible to receive increased quota allocation and any tenants on the farm are also ineligible to receive increased quota allocation.

Witnessing of signatures required to transfer quota. This rule amends § 729.214(b)(4) to specify that FSA county office personnel must witness both signatures for transfers requiring the signature of both the operator and owner on the transferring farm.

Transfer of quota by sale, lease, owner, or operator. This rule changes restrictions on owner transfers in § 729.214(f)(3) that prevent a permanent transfer of peanut quota from a farm if the quota was transferred to the farm during the 3 years preceding the current year. Under the amended provision, the FSA county committee may approve permanent transfer of quota from a farm that includes quota that was transferred to the farm by an owner-to-owner permanent transfer even during the 3-year base period. The provision in § 729.214(f)(3) is designed to discourage brokerage which is not implicated in owner-to-owner transfers.

References to other CFR parts. In § 729.103, the reference to part 704 in paragraph (v) of the definition of ''Considered produced credit'' is amended to reflect that provisions formerly in 7 CFR part 704 for the Conservation Reserve Program are now found in 7 CFR part 1410.

3. Part 1446

Definitions and references. In the definitions in § 1446.103, other references to CFR parts that have been deleted or incorporated into other CFR parts are deleted or corrected to reflect the proper references. Also, to reflect Departmental reorganization, the title of the Deputy Administrator responsible for the administration of the regulations at 7 CFR part 1446 was changed in the same section from ''Deputy Administrator, State and County Operations'' (DASCO) to ''Deputy Administrator for Farm Programs'' (DAFP).

Also, the term ''ASCS'' is changed to read ''FSA'' in each place it appears in part 1446 to reflect the reorganization of the Department. Likewise, in § 1446.801, the acronym ''ASC'' is removed and the acronym ''FSA'' is added in its place. That change in acronyms also reflects the reorganization of the Agriculture Stabilization and Conservation Service into the Farm Service Agency.

Immediate buyback restriction. The provisions of § 1446.309 provide that a producer may not market peanuts through the ''buyback'' provisions of the regulations until all peanuts of the same type contracted for export or crushing are delivered under the terms of the contract. Under the buyback provisions, ''additional'' peanuts can be purchased out of the loan inventory at quota peanut prices to be used like quota peanuts. This rule modifies the buyback provision to prohibit a buyback of additional peanuts only if the producer has a contract for export or crushing of the same type and segregation. This action gives producers and handlers greater marketing flexibility and reflects that different segregations can have distinct contracts and markets.

Because these amendments are technical in nature and provide greater flexibility to producers and handlers without harm to third parties and because of the approach of the next marketing year, we have determined that this rule should be issued as an interim as a delay in implementation would be, for the reasons given, impracticable and contrary to the public interest.

List of Subjects

7 CFR Part 718

Acreage allotments, Loan programs—agriculture, Marketing quotas, Price support programs, Reporting and recordkeeping requirements.

7 CFR Part 729

Peanuts, Penalties, Poundage quotas, Reporting and Recordkeeping Requirements.

7 CFR Part 1446

Loan programs—agriculture, Peanuts, Price support programs. Reporting and recordkeeping requirements, Warehouses.

Accordingly, for the reasons set forth in the preamble, 7 CFR parts 718, 729 and 1446 are amended as set forth below.

PART 718—PROVISIONS APPLICABLE TO MULTIPLE PROGRAMS

1. The authority citation for part 718 continues to read as follows:

Authority: 7 U.S.C. 1373, 1374, 7201 *et seq.*; 15 U.S.C. 714b and 714c; and 21 U.S.C. 889.

2. Section 718.105 is amended by revising the section heading, adding a

new sentence at the beginning of paragraph (a), and adding paragraph (e) to read as follows:

§ 718.105 Tolerances, variances, and adjustments for tobacco and peanuts.

(a) Tolerance or variance for tobacco and peanuts is the amount by which the determined acreage may differ from the reported acreage or allotment and still be considered in compliance with program requirements. * * *

* * * * *

(e) Tolerance for peanuts is the larger of 1.0 acre or 5 percent of the reported acreage, not to exceed 10.0 acres.

PART 729—PEANUTS

3. The authority citation for part 729 is revised to read as follows:

Authority: 7 U.S.C. 1301,1357 *et. seq.,* 1372, 1373, 1375; 7 U.S.C. 7271; and 15 U.S.C. 714b and 714c.

4. The definition of *''Considered produced credit''* in § 729.103 is amended by:

(a) Adding the phrase ''one or more of the following as may apply'' after the phrase ''the amount of'' and before the colon in the introductory sentence.

(b) Removing ''704'' and adding ''1410'' in its place and removing the word ''chapter'' and adding the word ''title'' in its place in paragraph (v).

5. Section 729.202 is revised to read as follows:

§ 729.202 Reserve for corrections.

The Director, TPD, will hold a national reserve for purposes of correcting errors that are made in determining farm quotas. The Director will determine the reserve annually by multiplying the national quota announced by the Secretary by 0.0025. To the extent determined appropriate, the Director may authorize a State committee to correct any error in a farm's quota.

6. Paragraph (e) of § 729.204 is amended by revising the first sentence to read as follows:

§ 729.204 Temporary seed quota allocation.

* * * * *

(e) *Penalty for erroneous certification.* If the certified acreage on which the temporary seed quota allocation is made is greater than the determined acreage, by more than the larger of 1 acre or 5 percent of the certified acreage not to exceed 10 acres, and the producer marketed the production for the acreage based upon an allocation of temporary seed quota on certified acres not determined, a penalty will be determined by multiplying the difference between the certified and determined acreage times the applicable per acre seeding rate times 140 percent of the per pound quota support rate for the applicable crop year. * * *

7. Paragraph (a) of § 729.207 is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 729.207 Tenants sharing in increased quota.

(a) *General.* * * * Farms ineligible for quota allocation under § 729.205 do not receive a quota increase; therefore, the provisions of this section with respect to tenant share are not applicable to such farms.

* * * * *

§ 729.208 [Amended]

8. Paragraph (b) of § 729.208 is amended by removing the phrase ''State reserve'' and adding the phrase ''national reserve'' in its place.

§ 729.214 [Amended]

9. Section 729.214 is amended:

(a) In paragraph (b)(4) by removing the comma after the first occurrence of the word ''witness'' and adding with a period and removing the remainder of the first sentence.

(b) In paragraph (f)(3)(i) by adding the phrase ''by sale'' to follow the word ''quota'' in the heading and by removing the phrase ''or otherwise'' and adding in its place the word ''and'' in the text.

10. Paragraph(b) of § 729.305 is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 729.305 Peanuts on which penalties are due and refund of excess penalty collected.

* * * * *

(b) * * * In addition, in the case of a false certification, the sanctions provided for in § 729.204(e) shall apply except to the extent that it may be determined by the Deputy Administrator that a second assessment would be unduly redundant.

* * * * *

PART 1446—PEANUTS

11. The authority citation continues to read as follows:

Authority: 7 U.S.C. 7271; 15 U.S.C. 714b and 714c.

12. 7 CFR part 1446 is amended by removing the term ''ASCS'' in each occurrence in the regulations and adding the term ''FSA'' in its place.

13. Section 1446.103 is amended by:

(a) Adding ''1400'' in its proper numerical order, removing ''1498'', and moving the first occurrence of ''and'' to its proper grammatical place in the series of numbers in the first sentence of the introductory paragraph.

(b) Removing the definition of ''DASCO'' and adding in its proper alphabetical order the definition

* * * * *

DAFP. The Deputy Administrator for Farm Programs, FSA.

* * * * *

(c) Removing ''1498'' and adding ''1400''in its place in paragraph (3)(iii) of the definition of ''Eligible producer.''

14. Paragraph (a)(7) of § 1446.309 is amended by removing the word ''type'' in each occurrence and adding the term ''type or Segregation'' in its place.

15. Paragraph (b)(2) of § 1446.801 is amended by removing the acronym ''ASC'' in the second sentence of the introductory paragraph and adding the acronym ''FSA'' in its place.

Signed at Washington, D.C., on February 10, 2000.

Parks Shackelford,

Acting Administrator, Farm Service Agency and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 00–3687 Filed 2–17–00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV98–966–2 FIR]

Tomatoes Grown in Florida; Partial Exemption From the Handling Regulation for Producer Field-Packed Tomatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, with a change, the provisions of an amended interim final rule changing the handling requirements prescribed under the Florida tomato marketing order (order). The order regulates the handling of tomatoes grown in Florida and is administered locally by the Florida Tomato Committee (committee). This rule continues to exempt shipments of producer field-packed tomatoes from the container net weight requirements and the requirement that all tomatoes must be packed at registered handler facilities. This rule also continues to exempt shipments of certain-sized producer field-packed tomatoes from a

maximum size requirement specified in the handling regulation. Continuation of these exemptions will allow the industry to pack a higher colored, riper tomato to meet the demand of the expanding market for vine-ripe tomatoes, facilitate the movement of Florida tomatoes, and should continue to improve returns to producers.

EFFECTIVE DATE: March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Southeast Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: (863) 299–4770, Fax: (863) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 125 and Order No. 966 (7 CFR part 966), both as amended, regulating the handling of tomatoes grown in Florida, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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.

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

Under the order, tomatoes produced in the production area and shipped to fresh market channels outside the regulated area are required to meet grade, size, inspection, and container requirements. These requirements apply during the period October 10 through June 15 each year. Current requirements include a minimum grade of U.S. No. 2 and a minimum size of 2 9/32; inches in diameter. Current pack and container requirements outline the types of information that need to appear on a container, weight restrictions the packed containers must meet, and that the containers must be packed at a registered handler's facility.

Section 966.52 of the order provides authority for the modification, suspension, and termination of regulations. It includes the authority to establish and modify pack and container requirements for tomatoes grown in the defined production area and handled under the order.

The order's handling regulation, § 966.323, specifies the regulations for Florida tomatoes. Section 966.323(a)(3)(i) requires that certain types of tomatoes packed by registered handlers be packed in containers of 10, 20, and 25 pounds designated net weights. The net weight cannot be less than the designated weight or exceed the designated weight by more than two pounds. Section 966.323(a)(3)(ii) currently requires that certain types of tomatoes be packed by registered handlers in containers that are marked with the designated net weight and with the name and address of the registered handler, and that such containers must be packed at the registered handler's facilities.

This rule continues in effect changes to the handling regulation under the order. This rule continues to define producer field-packed tomatoes and allows handlers to ship field-packed tomatoes exempt from the net weight requirements. This rule also continues to exempt producer field-packed tomatoes from the requirement that all tomatoes be packed at a registered handler's facility.

In addition, this rule continues to exempt shipments of certain-sized producer field-packed tomatoes from a maximum diameter requirement specified in the handling regulation. Specifically, field-packed tomatoes designated as size ''6 x 6'' may be larger than 2 27/32; inches in diameter. This rule continues to make a related change to the labeling requirement for 6 x 6-sized field-packed tomatoes. The field-packed tomato exemption also was revised for clarity, and is continued in effect.

These tomatoes will still be subject to all other provisions of the handling regulation, including established grade, size, container, pack, and inspection requirements. These tomatoes also will continue to be subject to assessments. The committee met September 11, 1998, and May 26, 1999, and unanimously recommended these changes.

In its discussion of this rule, the committee recognized that the market for red, ripe tomatoes or vine-ripes is continuing to grow. Place packed vine-ripe tomatoes are shipped from many foreign and domestic growing areas, and currently maintain a strong and growing market share. Committee members stated that the popularity of the red, ripe tomato is evident in the increasing popularity of greenhouse and hydroponic tomatoes. These tomatoes tend to be marketed at a red, mature stage. Customer studies have shown that consumers prefer tomatoes that are of high color, and that are mature and ready to eat. According to a committee study, retailers believe that the vine-ripe tomato is the tomato of the future. The committee stated that this is the fastest growing market segment.

Field-Packed Tomatoes Defined

Currently, the majority of Florida tomatoes are shipped at the mature green stage. Vine-ripe tomatoes represent only about 15.5 percent of total fresh shipments (8,791,389 of 56,706,685 25-pound containers shipped during the 1998–99 season). In an effort to put the industry in a more advantageous position to take advantage of this growing market, and to improve returns to producers, the committee recommended changes to the order's handling regulation. These changes were recommended to help facilitate the movement of more vine-ripe tomatoes from Florida. To accomplish this, the committee recommended changes to the regulations to define a producer field-packed tomato and provide exemptions for such tomatoes to facilitate their movement. Producer field-packed tomatoes are defined as tomatoes which at the time of inspection are No. 3 color or higher (according to color classification requirements in the U.S. tomato standards), that are picked and

place packed in new containers in the field by a producer as defined in § 966.150 of the rules and regulations. The tomatoes are then transferred to the registered handler's facilities for final preparation for market and for inspection.

Shipments of mature green tomatoes represented approximately 84.5 percent of total fresh shipments during the 1998–99 season. Tomatoes are picked and packed at the mature green stage to facilitate handling. The vast majority of mature green tomatoes are packed using a mechanized process. The tomatoes are brought to the packing house where they are washed, run across sizing equipment, and then are packed in volume fill containers. At the mature green stage, the tomatoes are firm and are able to handle the packing process. This is an efficient process that facilitates packing in volume.

However, when trying to pack a tomato that is more ripe and mature, the process used to pack mature greens is not as effective. This is because as the tomato begins to ripen it begins to soften. Tomatoes of No. 3 color and above cannot handle the rigors of the mechanized handling process. This packing process bruises and damages more mature tomatoes, increasing the volume of culls and those that fail inspection for grade.

To provide a better way to handle mature tomatoes, and to provide for a greater volume of such tomatoes from Florida, the committee recommended developing a producer field-packed tomato. To facilitate the handling of this tomato, the committee recommended that it be exempt from certain parts of the handling regulations. This rule continues to exempt producer field-packed tomatoes from the requirement that tomatoes be packed at a registered handler's facility, and the designated net weight requirements. It also continues in effect the requirement that 6 × 6-sized producer field-packed tomatoes be exempt from the $2\frac{27}{32}$ inch maximum diameter.

Field-Packed Tomatoes Exempt From Being Packed at Registered Handler Facilities

Section 966.323(a)(3)(ii) specifies, in part, that all tomatoes are to be packed at a registered handler's facilities. This rule continues to exempt producer field-packed tomatoes from this requirement. By providing this exemption, the number of times the tomato is handled is reduced. Mature green tomatoes can withstand the multiple handling involved in this process, a more mature tomato cannot. Under this exemption, the producer field-packed tomato only needs to be handled once, when it is picked and packed in the field. It is not subjected to the rigors of a mechanical process. Under the producer field-packed process, the tomatoes are sized, cleaned, and packed by hand. This process of picking and packing in the field makes it substantially easier to pack a tomato of higher color and maturity. All tomatoes for shipment outside the regulated area must be packed in new boxes. The tomatoes are delivered to a registered handler for final preparation for market. The tomatoes are inspected for grade, size, and proper pack after delivery to the registered handler's facility.

Field-Packed Tomatoes Exempt From Net Weight Requirements

This rule also continues to exempt producer field-packed tomatoes from the net weight requirements specified in the rules and regulations. Section 966.323(a)(3)(i) currently requires that certain types of tomatoes packed by registered handlers be packed in containers of 10, 20, and 25 pounds designated net weights. The net weight cannot be less than the designated weight or exceed the designated weight by more than two pounds.

By definition, producer field-packed tomatoes will be place packed in the field. Place packing a container requires a fixed number of tomatoes to fill the container. In place packing, the tomatoes are packed in layers, with the fill determined by the size of the tomato, dimensions of the container, and the way the tomatoes are positioned in the box. To facilitate this type of pack, most handlers use plastic cells, cardboard partitions, or trays to position the tomatoes. The majority of place-packed tomatoes are sold by count per container rather than by weight.

Most tomatoes shipped in Florida are shipped at the mature green stage, and are packed in volume fill containers. When volume fill containers are packed, the tomatoes are placed by hand or machine into the container until the required net weight is reached. Mature green tomatoes are not as susceptible to bruising and other damage during packing and transport as are producer field-packed tomatoes. If volume fill was used to pack producer field-packed tomatoes, serious product bruising would result which would detract from the appearance and marketability of these tomatoes.

However, place packing does not lend itself well to meeting a required net weight. The tomatoes have to be properly sized and placed to fit snugly in the container. During the harvesting season, the weight of equal size tomatoes may vary dramatically. When tomatoes are place-packed, the handler cannot add extra tomatoes when the container weight is light. Because the tomatoes are packed in layers, when a layer is complete there are no spaces for additional tomatoes. Similarly, when the tomatoes are heavy, the handler cannot remove a tomato to meet a weight requirement. Buyers expect a full pack with no spaces, and a missing tomato could result in a loose pack which could allow shifting or bruising during transport and would be a marketing problem. To overcome this problem, the committee recommended that shipments of producer field-packed tomatoes as defined herein, be exempt from the container net weight requirements of the rules and regulations.

"6 × 6" Field-Packed Tomatoes Maximum Size Requirement Exemption

Because the tomatoes are packed in the field, the tomatoes are sized by hand, not using the precision of sizing belts. While field-packed tomatoes are successfully meeting minimum size requirements, some lots were having difficulty meeting the maximum size requirements as specified for the 6 × 6 size designation.

Currently, section 966.323(a)(2)(i) specifies that all tomatoes packed by a registered handler must meet a minimum size requirement of $2\frac{9}{32}$ inches in diameter. That section also requires that all such tomatoes must be sized with proper equipment in one of three specified ranges of diameter. For example, tomatoes designated as "6 × 7" must be a minimum of $2\frac{9}{32}$ inches in diameter and a maximum of $2\frac{19}{32}$. Tomatoes, other than producer field-packed tomatoes, designated as "6 × 6" must be a minimum of $2\frac{17}{32}$ inches in diameter and a maximum of $2\frac{27}{32}$ inches in diameter. Tomatoes designated as "5 × 6" must be a minimum of $2\frac{25}{32}$ inches in diameter with no maximum size requirement. Finally, to allow for variation incident to proper sizing, not more than a total of 10 percent, by count, of the tomatoes in the lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

Since the handling regulation was changed in October 1998 to exempt field-packed tomatoes from certain handling requirements, some 6 × 6-sized lots failed inspection due to oversized tomatoes in the pack. As stated above, 6 × 6-sized lots of tomatoes previously had to meet both minimum and maximum size requirements, within specified tolerances. Tomatoes that are run over a sizing belt in a packing house

have little difficulty in meeting these requirements. However, producers packing tomatoes in the field must use hand-sizers. It is relatively easy to pick to a minimum size. However, it is much more difficult to pick tomatoes within a range of fractions of an inch.

Presenting a packed lot of tomatoes for inspection, and having it fail is costly. The handler can either find an outlet other than the fresh market for the tomatoes or rework the lot so it passes inspection. In the case of field-packed tomatoes, reworking a lot is substantially more difficult. The tomatoes cannot be dumped then run across the machinery again to ensure that they meet inspection, but must be sorted through by hand. This is extremely time-consuming, and because the fruit is ripe, can cause additional bruising. In most cases, it is one or two tomatoes in a box that cause it to fail for size. Thus, the committee met in May 1999 and recommended the change for producer field-packed tomatoes.

The committee recommended that 6 x 6-sized producer field-packed tomatoes be exempt from the $2\frac{27}{32}$ inch maximum diameter requirement specified in § 966.323(a)(2)(i) of the handling regulation. The amended interim final rule published on August 20, 1999 (64 FR 45409) implemented the recommendation and this action continues to allow for additional oversized tomatoes, without the lot failing for size. While this change does allow for additional larger tomatoes to be included in the 6 x 6 pack, there is still a distinction between it and the 5 x 6. The 6 x 6 pack is an opportunity to sell a smaller tomato. This change provides some additional flexibility to address sizing problems relating to packing in the field. The 5 x 6 tomato is still the premium size, demanding the higher price. For this reason, the vast majority of tomatoes that meet the size requirements for 5 x 6 will continue to be packed in a 5 x 6 container. Also according to the committee, buyers should not object to oversized fruit in the 6 x 6 pack because they have the option of grading it out for a premium product or passing it on to their customers as a larger tomato at a less expensive price.

"6 x 6" Field-Packed Tomatoes Must Be Labeled as "6 x 6 and Larger"

The committee also recommended a related change in the labeling requirement specified in § 966.323(a)(2)(iii) of the handling regulation. Previously, that section required that only "6 x 7," "6 x 6," or "5 x 6" be used to indicate the respective size designation on containers of tomatoes. The committee recommended that shipments of 6 x 6-sized producer field-packed tomatoes be marked as "6 x 6 and larger" to more accurately reflect the contents of the container which could include 5 x 6-sized tomatoes. The words "and larger" are not required on 5 x 6-sized field-packed tomatoes because that is the largest designated size defined by a minimum diameter and includes all sizes above the minimum.

In evaluating alternatives to this change, such as increasing the percentage tolerance for oversize, it was concluded that the changes provided in the amended interim final rule are the better and more effective way to accomplish the committee's goal. Containers will be marked "6 x 6 and larger" which will separate them from the standard 6 x 6 and will tell buyers that the package includes some larger tomatoes. And, as stated earlier, while this does provide for additional larger tomatoes to be packed in a 6 x 6 pack, it should not blur the distinction between a 6 x 6 and 5 x 6.

The committee continues to focus on ways to be competitive, develop new markets, and increase grower returns. The committee believes these changes will continue to provide the industry with more flexibility and additional marketing opportunities.

The committee continues to believe that producer field-packed tomatoes will increase the volume of vine-ripe tomatoes available from Florida. This has been a market that has been expanding and not traditionally served by much volume from the Florida tomato industry. The committee also continues to believe that this change will allow producers to harvest tomatoes that might otherwise have been left in the field. There is also an indication that handlers will be willing to pay a higher price for producer field-packed tomatoes. The committee continues to believe that the higher prices combined with additional tomato sales should continue to increase returns to producers.

Other changes are continued by this rule. Yellow meated tomatoes, specialty packed red ripe tomatoes, single layer and two layer place packed tomatoes, and now producer field-packed tomatoes as well, are exempt from the container net weight requirement in § 966.323(a)(3)(i). In its discussions, the committee said that § 966.323(a)(3)(ii) states that each container or lid shall be marked to indicate the designated net weight. They said that in the past, there had been some confusion as to how this applies to those tomatoes exempt from net weight. The committee voted unanimously to exempt those tomatoes exempt from net weight from the requirement that net weight appear on the container or lid to rectify this problem. This rule continues to make this change. Also, the deletion of unnecessary language in the first sentence of § 966.323(d)(1) continues in effect.

In addition, a minor change is being made in § 966.140 of the order's rules and regulations. The change removes the reference to the form number (FV–418) for the transfer clearance receipt. This form may accompany truck shipments of tomatoes, in place of an inspection certificate. This is a Florida State form, not a Committee form, used in verifying that the load of tomatoes had been previously inspected and certified. The form now has a different number from that referenced in § 966.140 and the number could change again without the committee's knowledge. Thus, the reference to the form number is being removed.

Section 8e of the Act requires that whenever grade, size, quality or maturity requirements are in effect for certain commodities under a domestic marketing order, including tomatoes, imports of that commodity must meet the same or comparable requirements. However, the Act does not authorize the imposition of container requirements on imports, when such requirements are in effect under a domestic marketing order. Therefore, no change is necessary in the tomato import regulation as a result of this action.

Final Regulatory Flexibility Analysis

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

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

There are approximately 65 handlers of Florida tomatoes who are subject to regulation under the order and approximately 75 tomato producers in the regulated area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (SBA) 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 (13 CFR 121.601).

Based on the industry and committee data, the average annual f.o.b. price for fresh Florida tomatoes during the 1998–99 season was around $7.40 per 25-pound carton or equivalent, and total fresh shipments for the 1998–99 season were 56,706,685 25-pound equivalent cartons of tomatoes. Based on this information, the shipment information for the 1998–99 season, and the 1998–99 season average price, the majority of handlers would be classified as small entities as defined by the SBA. The majority of producers of Florida tomatoes also may be classified as small entities.

Under § 966.52 of the Florida tomato marketing order, the committee, among other things, has authority to establish and modify pack and container requirements for tomatoes grown in the defined production area and handled under the order. This rule continues to define a producer field-packed tomato and provide exemptions for such tomatoes from the net weight requirements and the requirements that tomatoes be packed at a registered handler's facilities. This rule continues to allow for the place packing of ripe tomatoes in the field. Vine ripe tomatoes represent only about 15.5 percent of total fresh shipments (8,791,389 of 56,706,685 25-pound containers shipped during the 1998–99 season).

In addition, this rule continues to exempt shipments of field-packed tomatoes designated as size 6 x 6 from a maximum diameter requirement of $2^{27}/_{32}$ inches specified in § 966.323(a)(2)(i). This rule continues to make a related change in the labeling requirement specified in § 966.323(a)(2)(iii) whereby shipments of 6 x 6-sized producer field-packed tomatoes must be marked as ''6 x 6 and larger'' to more accurately reflect the contents of the container. It also continues to clarify net weight labeling requirements. Authority for these changes also is provided in § 966.52 of the order.

The committee recommended these changes to improve the marketing of Florida tomatoes and follow the trend of increased demand for red, mature tomatoes. This trend is in response to a strong consumer demand for such tomatoes. This rule continues to allow the industry to pack a higher colored, riper tomato to meet the demand of the expanding market for vine-ripe tomatoes. This action will continue to facilitate the movement of Florida tomatoes and should continue to improve returns to producers.

Producer field-packed tomatoes are defined as tomatoes which at the time of inspection are No. 3 color or higher (according to color classification requirements in the U.S. tomato standards), that are picked and place packed in new containers in the field by a producer as defined in § 966.150 of the rules and regulations. The tomatoes are then transferred to the registered handler's facilities for final preparation for market and for inspection.

This rule will continue to have a positive impact on affected entities. The changes were recommended to provide additional flexibility in the packing of tomatoes of higher color and maturity.

Providing an exemption for producer field-packed tomatoes from the requirement that tomatoes be packed at a registered handler's facilities, reduces the number of times the tomato is handled. It also facilitates the packing of producer field-packed tomatoes free from the mechanized process of grading and sizing used for mature green tomatoes. Tomatoes of No. 3 color and above cannot handle the rigors of the mechanized handling process. This packing process bruises and damages more mature tomatoes, increasing the volume of culls and those that fail inspection for grade. By providing this exemption, the producer field-packed tomato will only be handled once, when it is picked and packed in the field. This exemption will continue to make it substantially easier to pack a tomato of higher color and maturity in the field.

The exemption from the net weight requirements will continue to allow producer field-packed tomatoes to be place packed. It is very difficult to pack to a specified weight when place packing containers. Place packing a container requires a fixed number of tomatoes to fill the container. In place packing, the tomatoes are packed in layers, with the fill determined by the size of the tomato, dimensions of the container, and the way the tomatoes are positioned in the box. The majority of place packed tomatoes are sold by count per container rather than by weight. However, the place pack method of packaging does not lend itself well when packing to meet a required net weight.

During the harvesting season, the weight of equal size tomatoes may vary dramatically. If the producer field-packed tomatoes are light in weight, handlers cannot add extra tomatoes to meet net weight because the pack is full, or if the tomatoes are heavier than normal, removing a tomato to meet net weight would mean leaving an empty space. Buyers expect a full pack with no spaces, and a missing tomato could result in a loose pack which could allow shifting or bruising during transport and would be a marketing problem. To overcome this problem, the committee recommended that shipments of producer field-packed tomatoes as defined herein, be exempt from the container net weight requirements of the rules and regulations, and this action continues that exemption.

Continuing to provide an exemption for field-packed tomatoes designated as size 6 × 6 from a maximum diameter requirement of $2^{27}/_{32}$ inches will allow handlers of field-packed tomatoes to successfully meet minimum size requirements. Currently, tomatoes (other than those field-packed by producers) designated as ″6 × 6″ must be a minimum of $2^{17}/_{32}$ inches in diameter and a maximum of $2^{27}/_{32}$ inches in diameter. Tomatoes that are run over a sizing belt in a packing house have little difficulty in meeting these requirements. However, producers packing tomatoes in the field must use hand-sizers. It is relatively easy to pick to a minimum size. However, it is much more difficult to pick tomatoes within a range of fractions of an inch. Presenting a packed lot of tomatoes for inspection, and having it fail is costly. The handler can either find an outlet other than the fresh market for the tomatoes or rework the lot so it passes inspection. In the case of field-packed tomatoes, reworking a lot is substantially more difficult. The tomatoes cannot be dumped then run across the machinery again to ensure that they meet inspection, but must be sorted through by hand. This is costly and time-consuming, and because the fruit is ripe, can cause additional bruising. This change will continue to allow for additional oversized tomatoes, without the lot failing for size, providing additional flexibility and reducing reworking costs.

This rule also continues to make a related change in the labeling requirement specified in § 966.323(a)(2)(iii) whereby shipments of 6 × 6-sized producer field-packed tomatoes must be marked as ''6 × 6 and larger'' to more accurately reflect the contents of the container. The clarification of container net weight labeling also is continued in effect. Authority for these changes is provided in § 966.52 of the order.

In an effort to put the industry in a more advantageous position to take advantage of this growing market, and to improve returns to producers, the committee recommended these changes. According to committee funded

research, retailers consider vine-ripe tomatoes to be the tomato type of the future. The vine-ripe tomato market has been expanding and it is a market where the Florida tomato industry has room to grow and expand its market share. The committee continues to believe that producer field-packed tomatoes will continue to increase the volume of vine-ripe tomatoes available from Florida and that it will allow producers to harvest tomatoes that might otherwise have been left in the field. There is also an indication that handlers will be willing to pay a higher price for producer field-packed tomatoes. The higher prices combined with additional tomato sales would continue to increase returns to producers.

There are some additional costs associated with packing in the field. Picking, grading, and sizing by hand is more time consuming and costly than by machine. However, there are indications that producer field-packed tomatoes will command a higher price as the market grows. Also, the regulated industry is not required to use this exemption. Therefore, the additional costs are voluntary.

These changes are intended to provide additional flexibility for all those covered under the order. The opportunities and benefits of this rule are expected to be equally available to all tomato handlers and growers regardless of their size of operation. This action will continue to have a beneficial impact on producers and handlers since it will allow tomato handlers to make additional supplies of tomatoes available to meet consumer needs consistent with crop and market conditions.

Regarding alternatives to the recommended actions, the committee concluded that providing certain exemptions for shipments of field-packed tomatoes will allow the Florida tomato industry to meet a growing consumer demand for vine-ripe tomatoes. The exemptions from the net weight container requirement and the requirement that all tomatoes must be packed at registered handler facilities have been working well. In addition, the committee concluded that continuing to require 6 × 6-sized field-packed tomatoes to meet a maximum size requirement could discourage producers from packing such fruit because some of the packs would fail inspection. In evaluating alternatives to this change, such as increasing the percentage tolerance for oversize, it was concluded that the changes provided in the amended interim final rule were the better and more effective way to accomplish the committee's goal. Containers are marked ''6 × 6 and larger'' which separates them from the standard 6 × 6 and tells buyers that the package includes some larger tomatoes. And, as stated earlier, while this does provide for additional larger tomatoes to be packed in a 6 × 6 pack, it does not blur the distinction between a 6 × 6 and 5 × 6. Thus, the changes regarding the field packing of 6 × 6 and larger tomatoes and marking the containers were determined to be the most viable course of action.

A minor change in § 966.140 of the order's rules and regulations is also being made to remove the reference to the form number for the transfer clearance receipt which accompanies truck shipments of tomatoes. This is a Florida State form, not a committee form. The form now has a different number from that referenced and the number could change again without the committee's knowledge. Removing the reference to the number will prevent this from happening. Further, a reference to the form number is not necessary.

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

Further, the committee's meetings were widely publicized throughout the tomato industry and all interested persons were invited to attend the meetings and participate in committee deliberations. Like all committee meetings, the September 11, 1998, and May 23, 1999, meetings were public meetings and all entities, both large and small, were able to express their views on these issues.

The interim final rule and an amended interim final rule concerning this action were published in the **Federal Register** on October 13, 1998 (63 FR 54556), and August 20, 1999 (64 FR 45409), respectively. Copies of the rules were mailed by the committee's staff to all committee members and tomato handlers. In addition, the rules were made available through the Internet by the Office of the Federal Register. Both rules provided for a 60-day comment period which ended December 14, 1998, and October 19, 1999, respectively.

Three comments to the interim final rule were received supporting the rule, and two comments to the amended interim final rule were received, also in support of the rule. In addition, an E-mail expressing a concern about cleanliness was received by the Department prior to publication of the October 1998 rule. The Department considered this in this rulemaking action.

In summary, the three commenters supporting the committee's September 1998 recommendation and the two commenters supporting the August 1999 amendment commented on the increasing demand for field-packed tomatoes. Three of the commenters stated that consumers prefer a full, red ripe tomato, and that tomatoes with color are the fastest growing segment of all types of fresh tomatoes offered for sale at the retail level.

Another commenter mentioned that growers are benefiting from the rule because, prior to the October 1998 action, field-packed tomatoes could only be sold within the regulated area and most were not inspected. According to the commenter, market gluts of poor quality field-packed tomatoes were common in the regulated area and prices were low. Since October 1998, the quality of field-packed tomatoes has greatly improved because such tomatoes can be shipped outside the regulated area, provided they meet all of the order's requirements except for net weight. Even failed lots of field-packed tomatoes shipped within the regulated area are returning higher prices because of improved quality and increased demand.

Lastly, with regard to the issue of cleanliness and food safety as expressed in the E-mail, although vine-ripe tomatoes are place-packed in the field, final preparation includes inspection and certification by Federal-State Inspection Service fresh products inspectors to assure that the tomatoes meet the minimum grade and size requirements implemented under the order. One of the quality factors against which tomatoes are scored is cleanliness. The tomatoes must be clean. According to the U.S. tomato standards, the term ''clean'' means that the tomato is practically free from dirt or other foreign material. Further, applicable Federal, State, or local food and sanitary laws and regulations would be applicable to the extent appropriate.

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

address for the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the committee's recommendation, the comments received in response to the October 1998 and August 1999 interim final rules, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (63 FR 54556, October 13, 1998) and the amended interim final rule, with a change, as published in the **Federal Register** (64 FR 45409, August 29, 1999) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Accordingly, the interim final rule which was published at 63 FR 54556 on October 13, 1998, and the amended interim final rule amending 7 CFR part 966 which was published at 64 FR 45409 on August 20, 1999, are adopted as a final rule with the following change:

2. In § 966.140, the words ''(Form FV–418)'' are removed.

Dated: February 14, 2000.

Eric M. Forman,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–3875 Filed 2–17–00; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Chapter IX

[No. 2000–02]

RIN 3069–AA87

Reorganization of Federal Housing Finance Board Regulations

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is reorganizing and renumbering its regulations, deleting obsolete regulations and amending the renumbered regulations to achieve greater consistency in terminology and greater conformity with current stylistic conventions of the Code of Federal Regulations. The rule will implement a more logical and efficient presentation of the regulations governing the Federal Home Loan Banks (Banks) and the Federal Home Loan Bank System (Bank System), in anticipation of the incorporation of new and amended regulations to implement the Federal Home Loan Bank Modernization Act of 1999.

EFFECTIVE DATE: This final rule is effective on February 18, 2000.

FOR FURTHER INFORMATION CONTACT: Deborah F. Silberman, General Counsel, (202) 408–2570; or Eric Raudenbush, Senior Attorney-Advisor, (202) 408–2932, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Comparison of Proposed and Final Rules

On September 27, 1999, the Finance Board published a proposed rule to reorganize and renumber the agency's existing regulations, delete obsolete regulations and make certain technical amendments to the renumbered regulations. *See* 64 FR 52148 (Sept. 27, 1999). The amendments set forth in the proposed rule were intended to implement a more logical and efficient presentation of the rules governing the Banks and Bank System, as well as to achieve greater consistency in terminology and greater conformity with current stylistic conventions of the Code of Federal Regulations. The proposed rule was published with a 90-day comment period that ended on December 27, 1999. The Finance Board received no comment letters.

Simultaneously with the proposed reorganization rule, the Finance Board published its proposed Financial Management and Mission Achievement (FMMA) rule, under which extensive substantive additions and amendments to the Finance Board's regulations were proposed. *See* 64 FR 52163 (Sept. 27, 1999). The proposed reorganization rule, although itself making primarily only technical and organizational changes to the existing regulations, was developed with the assumption that it would be finalized concurrently with the FMMA rule. As such, it was expected that, when the reorganization rule was finalized: (1) The finalized FMMA provisions would be contained within the new organizational framework; and (2) outmoded existing regulations would be either deleted, or updated through amendments contained in FMMA to fit logically within the new framework.

However, on November 17, 1999, in response to the recent enactment of the Federal Home Loan Bank System Modernization Act of 1999 [1] (Modernization Act), Public Law 106–102, Title VI (1999), the Finance Board withdrew the proposed FMMA rule. *See* 64 FR 66115 (Nov. 24, 1999). Although the Finance Board expects in the coming year to promulgate separately modified versions of many of the regulations proposed in the FMMA rule, these new regulations and substantive amendments to existing regulations are not being finalized concurrently with this final reorganization rule as was originally anticipated. As a result, in this final rule, it is necessary for the Finance Board to carry over certain existing regulations that would have been superceded by FMMA—most notably on investments and deposits—until the agency promulgates new regulations to govern these Bank activities. Although these largely outmoded regulations do not fit perfectly within the regulatory structure contemplated by the reorganization, they have been placed in the most logical parts of 12 CFR chapter IX pending their anticipated deletion later in 2000. For areas in which the FMMA rule would have created new regulations, and in which the Finance Board still intends to promulgate new regulations (*e.g.*, capital requirements and regulations governing member mortgage assets), appropriate part numbers have been reserved in order to make clear where these regulations will fit into the organizational structure of chapter IX as they are adopted.

Since the publication of the proposed reorganization rule, the Finance Board has promulgated two final rules, *see* 64 FR 55125 (Oct. 12, 1999) (allocation of joint and several liability on consolidated obligations among the Banks); 64 FR 61016 (Nov. 9, 1999) (availability of unpublished information), and one interim final rule, *see* 64 FR 71275 (Dec. 21, 1999) (devolution of corporate governance authorities as required by the Modernization Act) that affected text in the Code of Federal Regulations (CFR). The final reorganization rule accounts for these CFR text changes and places new material logically within the organizational structure.

Finally, although the overall structure of the regulations under the final rule will be identical to that which was proposed, certain part numbers appear differently in the final rule. In renumbering the parts, the Finance Board has attempted to group together topics within each subchapter and to

[1] The Modernization Act is Title VI of the larger Gramm-Leach-Bliley Act. Pub. L. 106–102 (1999).

leave unused part numbers at the end of each topic sequence so that any future regulations (including those that are not now foreseen) may be placed logically within the appropriate subchapter of chapter IX without the necessity of further renumbering of existing parts.

So that new regulations implementing various statutory changes made by the Modernization Act may be promulgated quickly and efficiently within the new structure, the final reorganization rule is effective immediately upon publication in the **Federal Register**.

II. Analysis of the Final Rule

This final rule deletes the existing subchapter headings for the Finance Board's regulations and establishes an entirely new set of subchapter headings. Within this structure, existing parts and sections have been re-ordered into logical subject-matter groupings under the subchapter headings. Generally, existing parts remain intact and have simply been given a new part number, with each section and paragraph retaining the same designation (*e.g.*, § 935.9(a) is now § 950.9(a); § 933.11(b)(3)(i)(A) is now § 925.11(b)(3)(i)(A), etc.). In some cases, however, longer sections covering more complex subject matter have been redesignated as parts in order to allow the material to be presented more clearly without the need for excessive sub-paragraph designations (*e.g.* the material that previously appeared in §§ 932.16 and .17 is now set forth as part 918).

New part 900 has been created to contain definitions of terms that are used throughout the regulations (*i.e.,* Act, Bank, Board of Directors, consolidated obligations, Finance Board and member). In conjunction with this, the definitions of these terms and synonymous terms have been removed from the definitional sections of the individual parts. It is anticipated that more terms may eventually be consolidated into part 900 as regulations are added, or as existing regulations undergo substantive revision in the future. Other terms requiring definition that are not used throughout the regulations would continue to be defined in the definitional provisions of the parts in which they are used.

The following derivation table shows the origin of the material that is contained in each of the proposed newly designated parts (or sections, as appropriate). ''Future rulemaking'' is shown where a part or section has been reserved in anticipation of a future rulemaking.

New part or section	Subject matter	Old part or section
	Subchapter A—General Definitions	
900	General definitions	Various
	Subchapter B—Federal Housing Finance Board Organization and Operations	
905	Description of organization and functions	Part 900
906	Operations	Part 902
907	Procedures	Part 903
910	Freedom of Information Act regulation	Part 904
911	Availability of unpublished information	Part 905
912	Information regarding meetings of the Board of Directors of the Federal Housing Finance Board.	Part 906
913	Privacy Act procedures	Part 909
	Subchapter C—Governance and Management of the Federal Home Loan Banks	
915	Bank director eligibility, appointment and elections	§ 932.1–932.15
917	Powers and responsibilities of Bank directors and senior management [§§ 917.1–.5, .9 are reserved].	§§ 934.7, 934.16, 934.17 and future rulemaking
918	Bank director compensation and expenses	§§ 932.16–932.17
	Subchapter D—Federal Home Loan Bank Membership	
925	Members of the Banks	Part 933
	Subchapter E—Federal Home Loan Bank Risk Management and Capital Standards	
930	[Reserved]	Future rulemaking
	Subchapter F—Federal Home Loan Bank Mission	
940	[Reserved]	Future rulemaking
944	Community support requirements	Part 946
	Subchapter G—Federal Home Loan Bank Assets and Off-Balance Sheet Items	
950	Advances	Part 935
951	Affordable Housing Program	Part 960
952	Community Investment Cash Advance Programs	Part 970
955	Member Mortgage Assets [Reserved]	Future rulemaking
956	Investments	§§ 934.1, 934.2, 934.13 (to be superceded by a future rulemaking)
960	Off-balance sheet items [Reserved]	Future rulemaking
961	Standby letters of credit	Part 938

New part or section	Subject matter	Old part or section
Subchapter H—Federal Home Loan Bank Liabilities		
965	Sources of funds	Future rulemaking
966	Consolidated obligations	Part 910
969	Deposits	§§ 934.4–934.5 (to be superceded by a future rulemaking)
Subchapter I—Miscellaneous Federal Home Loan Bank Operations and Authorities		
975	Collection, settlement, and processing of payment instruments	Part 943
977	Miscellaneous Bank authorities	§§ 934.3 (1st sentence), 934.6
978	Bank requests for information	§§ 934.15
Subchapter J—New Federal Home Loan Bank Activities		
980	[Reserved]	Future rulemaking
Subchapter K—Office of Finance		
985	Operations of the Office of Finance	Part 941 (to be superceded by a future rulemaking)
987	Book-entry procedure for consolidated obligations	Part 912
989	Financial statements of the Banks	Part 937
Subchapter L—Non-Bank System Entities		
995	Financing Corporation operations	Part 950
996	Authority for Bank assistance of the Resolution Funding Corporation	Part 955
997	Resolution Funding Corporation Obligations of the Banks [Reserved]	Future rulemaking

Although the amendments made by the rule are otherwise entirely technical and organizational, the final rule deletes several regulatory provisions that either are now entirely obsolete, or involve the Finance Board in Bank governance and are therefore inappropriate since the enactment of the Modernization Act. While not literally obsolete, the regulations falling into the latter category have been essentially obsolete as a practical matter for several years or more. The following chart enumerates the sections that have been deleted:

Deleted	Subject matter	Reason for deletion
Part 931	Definitions	Part 900 now contains general definitions.
§ 934.3 (2nd sentence)	Transfer of funds between Banks	Discretion devolved to Banks.
§ 934.8	Surety bonds	Discretion devolved to Banks.
§ 934.9	Insurance	Discretion devolved to Banks.
§ 934.10	Safekeeping of accounts	Obsolete.
§ 934.11	Securities held in trust or as collateral	Discretion devolved to Banks.
§ 934.12	Accounting	Discretion devolved to Banks.
§ 934.14	OTS assessments	Unnecessary.

With the renumbering of the Finance Board's regulations, reflected in the charts above, all cross-references to old part or section numbers within the Finance Board's regulations must also be changed. As such, much of the amendatory instruction set forth below addresses the revision of the hundreds of cross-references in the regulations to reflect accurately the new part and section numbers.

In order to conform to the current stylistic conventions used in the Code of Federal Regulations, the rule also removes all paragraph designations from alphabetical definition sections of the individual parts, where feasible.

All remaining changes merely correct typographical errors that came to the attention of the Finance Board during its review of the regulations.

III. Regulatory Flexibility Act

This is a technical rule that reorganizes the Finance Board's regulations without substantive change. The rule will not impose any regulatory requirements on small entities. Thus, in accordance with the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Finance Board hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

IV. Paperwork Reduction Act

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

List of Subjects in 12 CFR Parts 900 Through 997

Credit, Federal home loan banks, Reporting and recordkeeping requirements.

Accordingly, under the authority of section 2B(a) of the Federal Home Loan Bank Act, 12 U.S.C. 1422b(a), chapter IX of title 12 of the Code of Federal Regulations is amended as follows:

1. The headings of subchapters A through F are revised to read as set forth below.

2. Subchapters G through L are established as set forth below.

3. Parts 908, 914, 916, 918, 920 and 924 are removed from subchapter A.

4. Part 910 is redesignated as part 966 and transferred from subchapter A to subchapter H.

5. Part 912 is redesignated as part 987 and transferred from subchapter A to subchapter K.

6. Parts 900, 902, 903, 904, 905, 906 and 909 are redesignated as parts 905, 906, 907, 910, 911, 912 and 913, respectively, and transferred from subchapter A to subchapter B.

7. Parts 931, 934, 939, 940, 942 and 944 are removed from subchapter B.

8. Part 932 is redesignated as part 915 and transferred from subchapter B to subchapter C.

9. Part 933 is redesignated as part 925 and transferred from subchapter B to subchapter D.

10. Part 950 is redesignated as part 995 and transferred from subchapter C to subchapter L.

11. Part 935 is redesignated as part 950 and transferred from subchapter B to subchapter G.

12. Part 936 is redesignated as part 944 and transferred from subchapter B to subchapter F.

13. Part 937 is redesignated as part 989 and transferred from subchapter B to subchapter K.

14. Part 938 is redesignated as part 961 and transferred from subchapter B to subchapter G.

15. Part 941 is redesignated as part 985 and transferred from subchapter B to subchapter K.

16. Part 943 is redesignated as part 975 and transferred from subchapter B to subchapter I.

17. Part 955 is redesignated as part 996 and transferred from subchapter D to subchapter L.

18. Part 960 is redesignated as part 951 and transferred from subchapter E to subchapter G.

19. Part 970 is redesignated as part 952 and transferred from subchapter F to subchapter G.

20. The headings of newly designated parts 915, 966, 987, 995 and 996 are revised to read as set forth below.

21. The table of contents for chapter IX is revised to read as follows:

CHAPTER IX—Federal Housing Finance Board

Subchapter A—General Definitions

Part 900—General definitions

Subchapter B—Federal Housing Finance Board Organization and Operations

905 Description of organization and functions
906 Operations
907 Procedures
910 Freedom of Information Act regulation
911 Availability of unpublished information
912 Information regarding meetings of the Board of Directors of the Federal Housing Finance Board
913 Privacy Act procedures

Subchapter C—Governance and Management of the Federal Home Loan Banks

915 Bank director eligibility, appointment and elections
917 Powers and responsibilities of Bank boards of directors and senior management
918 Bank director compensation and expenses

Subchapter D—Federal Home Loan Bank Membership

925 Members of the Banks

Subchapter E—Federal Home Loan Bank Risk Management and Capital Standards

930 [Reserved]

Subchapter F—Federal Home Loan Bank Mission

940 [Reserved]
944 Community support requirements

Subchapter G—Federal Home Loan Bank Assets and Off-Balance Sheet Items

950 Advances
951 Affordable Housing Program
952 Community Investment Cash Advance Programs
955 Member Mortgage Assets [Reserved]
956 Investments
960 Off-balance sheet items [Reserved]
961 Standby letters of credit

Subchapter H—Federal Home Loan Bank Liabilities

965 Sources of funds [Reserved]
966 Consolidated obligations
969 Deposits

Subchapter I—Miscellaneous Federal Home Loan Bank Operations and Authorities

975 Collection, settlement, and processing of payment instruments
977 Miscellaneous Bank authorities
978 Bank requests for information

Subchapter J—New Federal Home Loan Bank Activities

980 [Reserved]

Subchapter K—Office of Finance

985 Operations of the Office of Finance
987 Book-entry procedure for consolidated obligations
989 Financial statements of the Banks

Subchapter L—Non-Bank System Entities

995 Financing Corporation operations
996 Authority for Bank assistance of the Resolution Funding Corporation
997 Resolution Funding Corporation obligations of the Banks [Reserved]

22. A new part 900 is added to subchapter A to read as follows:

PART 900—GENERAL DEFINITIONS

Authority: 12 U.S.C. 1422b(a).

§ 900.1 Definitions applying to all regulations.

As used in this chapter:

Act means the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 through 1449).

Bank means a Federal Home Loan Bank established under the authority of the Act.

Board of Directors means the Board of Directors of the Federal Housing Finance Board, unless otherwise indicated.

Consolidated obligations means bonds or notes issued on behalf of the Banks under part 966 of this chapter.

Finance Board means the agency established by the Act as the Federal Housing Finance Board.

Member means an institution that has been approved for membership in a Bank and has purchased capital stock in the Bank in accordance with §§ 925.20 or 925.25 of this chapter.

PART 905—DESCRIPTION OF ORGANIZATION AND FUNCTIONS

23. The authority citation for newly designated part 905 continues to read as follows:

Authority: 5 U.S.C. 552, 12 U.S.C. 1422b(a), 1423.

24. Amend newly designated § 905.1 by removing the definitions of the terms ''Bank'', ''Bank Act'' and ''Finance Board''.

25. Amend newly designated § 905.2 by:

a. Removing from paragraph (a) the words ''Federal Home Loan Bank System'' and adding, in their place, the words ''Bank System'';

b. Removing from paragraph (a) the words ''Federal Home Loan Banks'' and adding, in their place, the word ''Banks''; and

c. Removing from paragraph (c) the words ''Bank Act'' and adding, in their place, the word ''Act''.

26. Amend newly designated § 905.4 by:

a. Removing from paragraph (a) the words ''Bank Act'' and adding, in their place, the word ''Act'';

b. Removing from paragraph (b) the words ''Federal Home Loan Bank

consolidated bonds or notes'' and adding, in their place, the words ''consolidated obligations''.

27. Amend newly designated § 905.14(d) by removing the word ''System'' and adding, in its place, the words ''Bank System''.

28. Amend newly designated § 905.30 by:

a. Removing the words ''Office of Finance Board of Directors'', wherever they appear, and adding, in their place, the words ''Office of Finance board of directors''; and

b. Removing the words ''Federal Home Loan Bank consolidated debentures, bonds or notes'' and adding, in their place, the words ''consolidated obligations''.

29. Amend newly designated § 905.51 by removing the reference to ''§ 900.3'' and adding, in its place, a reference to ''§ 905.3''.

30. Amend newly designated § 905.52 by removing the reference to ''§ 900.3'' and adding, in its place, a reference to ''§ 905.3''.

PART 906—OPERATIONS

31. The authority citation for newly designated part 906 continues to read as follows:

Authority: 12 U.S.C. 1422b and 1438(b).

32. Amend newly designated § 906.1 by removing the definitions of the terms ''Bank'' and ''Finance Board''.

33. Amend newly designated § 906.3(c) by removing the words ''the Housing Finance Directorate of''.

PART 907—PROCEDURES

34. The authority citation for newly designated part 907 continues to read as follows:

Authority: 12 U.S.C. 1422b(a)(1).

35. Amend newly designated § 907.1 by:

a. Removing paragraph designations (a) through (u); and

b. Removing the definitions of the terms ''Bank'', ''Bank Act'', ''Finance Board'', ''Member'' and ''Office of Finance''.

36. Amend newly designated part 907 by removing the words ''Bank Act'' and adding, in their place, the word ''Act'' in the following places:

a. Section 907.1 (definitions of *Approval*, *Case-by-Case Determination*, *No-Action Letter* and *Regulatory Interpretation*);

b. Section 907.2(a);

c. Section 907.3(a);

d. Section 907.4(a);

e. Section 907.5(a);

f. Section 907.6(c)(3), (c)(6) and (c)(8);

g. Section 907.8(a); and

h. Section 907.10(b)(3) and (b)(8).

36. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
907.2(b)	§ 903.6	§ 907.6
907.3(a)	§ 903.6	§ 907.6
907.4(b)	§ 903.6	§ 907.6
907.5(b)	§ 903.6	§ 907.6
907.8(a)	§ 903.10	§ 907.10
907.8(b)	§ 903.11	§ 907.11
907.9(a)	§ 903.10	§ 907.10
907.9(c)	12 CFR 960.12(d)	12 CFR 951.12(d)
907.9(d)	12 CFR 960.12(d)	12 CFR 951.12(d)
907.9(d)	§ 903.11	§ 907.11
907.11(a)(2)	§ 903.10(b)	§ 907.10(b)
907.11(a)(4)	§ 903.10(d)	§ 907.10(d)
907.11(a)(5)	§ 903.13(b)	§ 907.13(b)
907.12(c)	§ 903.10	§ 907.10
907.12(g) (introductory text)	§ 903.10	§ 907.10
907.12(g)(3)	§ 903.13(a)(1)	§ 907.13(a)(1)
907.12(g)(3)	§ 903.13(a)(2)	§ 907.13(a)(2)
907.12(g)(4)(ii)	§ 903.10(d)	§ 907.10(d)
907.12(g)(4)(ii)	§ 903.11(a)(4)	§ 907.11(a)(4)
907.13(a)(2)	§ 903.14	§ 907.14
907.13(c)	§ 903.10	§ 907.10
907.13(c)	§ 903.12(d)	§ 907.12(d)
907.14(d)	12 CFR part 906	12 CFR part 912
907.14(e)	12 CFR 906.6	12 CFR 912.6
907.14(g)	12 CFR 906.5(c)	12 CFR 912.5(c)
907.15(c)	§ 903.12(g)	§ 907.12(g)

PART 910—FREEDOM OF INFORMATION ACT REGULATION

38. The authority citation for newly designated part 910 continues to read as follows:

Authority: 5 U.S.C. 552; 52 FR 10012 (Mar. 27, 1987).

39. Amend newly designated § 910.1 by:

a. Removing paragraph designations (a) through (l); and

b. Removing the definition of the term ''Finance Board''.

40. Amend newly designated § 910.2(a)(2) by removing the words ''Federal Home Loan Bank Act'' and adding, in their place, the word ''Act''.

41. Amend newly designated part 910 by removing the words ''Federal Home Loan Bank'' and adding, in their place, the word ''Bank'' in the following places:

a. Section 910.5(a)(7)(iv) and (a)(8); and

b. Section 910.6 (introductory text).

42. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
910.2(a)(3)	12 CFR part 909	12 CFR part 913
910.2(b)(1)	§§ 904.5 through 904.7	§§ 910.5 through 910.7
910.2(b)(3)	§ 904.9	§ 910.9
910.4(a)	§ 904.9(f)	§ 910.9(f)
910.4(a)	§ 904.3(a)	§ 910.3(a)
910.4(b)	§ 904.8	§ 910.8
910.4(d)(1)(ii)	§ 904.9(a)(4)(iv)	§ 910.9(a)(4)(iv)
910.4(e)	§ 904.9	§ 910.9
910.8(a)(1)	§ 904.4	§ 910.4
910.8(a)(2)	§ 904.9(f)	§ 910.9(f)
910.9(b)	§ 904.5	§ 910.5
910.9(c)	§ 904.4	§ 910.4
910.9(f)(4)(ii)	§ 904.4	§ 910.4

PART 911—AVAILABILITY OF UNPUBLISHED INFORMATION

43. The authority citation for newly designated part 911 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 1422b(a)(1).

44. Amend newly designated § 911.1 by:

a. Removing paragraph designations (a) through (d);

b. Removing the definition of ''Finance Board''; and

c. Arranging the remaining definitions alphabetically.

45. Amend newly designated part 911 by removing the words ''Federal Home Loan Bank'' and adding, in their place, the word ''Bank'' in the following places:

a. Section 911.1 (defs. of *Unpublished information* (first sentence only) and *Supervised entity*);

b. Section 911.3(a), (c)(1), (c)(3), (c)(4), (d) (heading), (d) (introductory text), (d)(2);

c. Section 911.5(e) (heading and first sentence); and

d. Section 911.6(a).

46. Amend newly designated § 911.1 (def. of *Unpublished information*) by removing the words ''Federal Home Loan Bank Act'' and adding, in their place, the word ''Act''.

47. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
911.1 (def. of *unpublished information*)	12 CFR parts 904 and 909	12 CFR parts 910 and 913
911.9(a)	12 CFR 904.9	12 CFR 910.9

PART 912—INFORMATION REGARDING MEETINGS OF THE BOARD OF DIRECTORS OF THE FEDERAL HOUSING FINANCE BOARD

48. The authority citation for newly designated part 912 continues to read as follows:

Authority: 5 U.S.C. 552b.

49. Amend newly designated § 912.1(a) by removing the words ''Federal Housing Finance Board'' and adding, in their place, the words ''Finance Board''.

50. Amend newly designated § 912.2 by:

a. Removing the words ''Board of Director or Director'' and adding, in their place, the words ''Board Director or Director''; and

b. Removing the definitions of the terms ''Board of Directors'', ''FHLBank'' and ''Finance Board''.

51. Amend newly designated § 912.5(b)(1) by removing the words ''FHLBank consolidated bonds or notes'' and adding, in their place, the words ''consolidated obligations''.

52. Amend newly designated part 912 by revising all references to ''FHLBank'' and ''FHLBanks'' to read ''Bank'' and ''Banks'', respectively.

53. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
912.3(a)	§ 906.4	§ 912.4
912.5(a)(1)	§ 906.4	§ 912.4
912.5(a)(5)	§ 906.4	§ 912.4
912.5(a)(6)(ii)	§ 906.4	§ 912.4
912.5(b)(1)	§ 906.4	§ 912.4
912.5(c)(2)	§ 906.4	§ 912.4
912.5(c)(3)(i)	§ 906.4(a)	§ 912.4(a)
912.6(a)(1)	§ 906.4	§ 912.4
912.6(a)(1)	§ 906.5	§ 912.5
912.6(a)(2)	§ 906.5	§ 912.5
912.6(a)(2)	§ 906.5(b)(4)	§ 912.5(b)(4)
912.6(b)	§ 906.5	§ 912.5
912.6(c)(1)	§ 906.5	§ 912.5

PART 913—PRIVACY ACT PROCEDURES

54. The authority citation for newly designated part 913 continues to read as follows:

Authority: 5 U.S.C. 552a.

55. Amend newly designated § 913.2 by:

a. Removing paragraph designations (a) through (k);

b. In the definition of the word ''Amendment'', removing the words ''paragraph (g) of'';

c. In the definition of ''Designated system of records'', removing the words ''paragraph (j) of''; and

d. Removing the definitions of the terms ''Board of Directors'' and ''Finance Board''.

56. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
913.4(a)	§ 909.3(b)	§ 913.3(b)
913.4(a)	§ 909.6	§ 913.6
913.5(a)	§ 909.9	§ 913.9
913.5(a)	§ 909.3	§ 913.3
913.5(c)(4)	§ 909.6	§ 913.6
913.9(a)	§ 909.3	§ 913.3
913.9(a)	§ 909.4	§ 913.4
913.9(a)	§ 909.5(a) and (c)(3) and (4)	§ 913.5(a) and (c)(3) and (4)
913.9(a)	§ 909.6	§ 913.6
913.9(b)	§ 909.3	§ 913.3
913.9(b)	§ 909.4	§ 913.4
913.9(b)	§ 909.5(a) and (c)(3)	§ 913.5(a) and (c)(3)
913.9(b)	§ 909.6	§ 913.6

PART 915—BANK DIRECTOR ELIGIBILITY, APPOINTMENT AND ELECTIONS

57. The authority citation for newly designated part 915 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1426, 1427, and 1432; 42 U.S.C. 8101 *et seq.*

58. Amend newly designated part 915 by:

a. Removing the subpart designations; and

b. Removing newly designated §§ 915.16 through 915.19.

59. Amend newly designated § 915.1 by removing the definitions of the terms ''Act'', ''Bank or Banks'', ''Finance Board'' and ''Member''.

60. Amend newly designated § 915.8(b), in the last sentence, by:

a. Adding the word ''Bank's'' before the words ''board of directors''; and

b. Removing the comma after the word ''fill''.

61. Amend newly designated § 915.11(b) by adding the word ''Bank's'' before the words ''board of directors'', wherever they appear.

62. Amend newly designated § 915.11(f)(1) by removing the word ''other''.

63. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
915.3(b)(3)	§ 932.15	§ 915.15
915.4(a)	§ 933.22(b)(1)	§ 925.22(b)(1)
915.4(b)(1)	§ 935.15(a)	§ 950.15(a)
915.4(b)(1)	§ 933.20(a)	§ 925.20(a)
915.4(b)(2)	§ 933.20(b)(2)	§ 925.20(b)(2)
915.5(b)	§ 932.4(b)	§ 915.4(b)
915.6(a)(3)	§ 932.5(b)	§ 915.5(b)
915.7(a)	§ 932.8(a)	§ 915.8(a)
915.8(a)	§ 932.7(a)	§ 915.7(a)
915.8(b)	§ 932.14(a)	§ 915.14(a)
915.8(c)	§ 932.5	§ 915.5
915.12(a)	12 CFR 900.51	12 CFR 905.51
915.13(a)	§ 932.12	§ 915.12
915.13(b)	§ 932.12	§ 915.12
915.14(a)(2)	§ 932.7(a)	§ 915.7(a)
915.14(a)(2)	§ 932.6(c)	§ 915.6(c)

64. New parts 917 and 918 are added to subchapter C to read as follows:

PART 917—POWERS AND RESPONSIBILITIES OF BANK DIRECTORS AND SENIOR MANAGEMENT

Sec.

917.1–917.5 [Reserved]
917.6 Budget preparation and reporting requirements.
917.7 Dividends.
917.8 Bank bylaws.
917.9 [Reserved]

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1427, 1432(a), 1436(a), 1440.

§ 917.1–917.5 [Reserved]

§ 917.6 Budget preparation and reporting requirements.

(a) *Adoption of budgets.* Each Bank's board of directors shall be responsible for the adoption of an annual operating expense budget and a capital expenditures budget for the Bank, and any subsequent amendments thereto,

consistent with the requirements of the Act, this section, other regulations and policies of the Finance Board, and with the Bank's responsibility to protect both its members and the public interest by keeping its costs to an efficient and effective minimum.

(b) *No delegation of budget authority.* A Bank's board of directors may not delegate the authority to approve the Bank's annual budgets, or any subsequent amendments thereto, to Bank officers or other Bank employees.

(c) *Interest rate scenario.* A Bank's annual budgets shall be prepared based upon an interest rate scenario as determined by the Bank.

(d) *Board approval for deviations.* A Bank may not exceed its total annual operating expense budget or its total annual capital expenditures budget without prior approval by the Bank's board of directors of an amendment to such budget.

§ 917.7 Dividends.

A Bank's board of directors may declare and pay a dividend only from previously retained earnings or current net earnings and only if such payment will not result in a projected impairment of the par value of the capital stock of the Bank. Dividends on such capital stock shall be computed without preference.

§ 917.8 Bank bylaws.

A Bank's board of directors shall have in effect at all times bylaws governing the manner in which the Bank administers its affairs and such bylaws shall be consistent with applicable laws and regulations as administered by the Finance Board.

§ 917.9 [Reserved]

PART 918—BANK DIRECTOR COMPENSATION AND EXPENSES

Sec.
918.1 Definitions.
918.2 Annual compensation.
918.3 Compensation policy requirements.
918.4 Expenses.
918.5 Approval by Finance Board.
918.6 Disclosure.
918.7 Maintenance of effort.
918.8 Site of board of directors and committee meetings.

Authority: 12 U.S.C. 1422b(a), 1427.

§ 918.1 Definitions.

As used in this part:

Compensation means any payment of money or provision of any other thing of value (or the accrual of a right to receive money or a thing of value in a subsequent year) in consideration of a director's performance of official duties for the Bank, including, without limitation, daily meeting fees, incentive payments and fringe benefits.

§ 918.2 Annual compensation.

Beginning in 2000 and annually thereafter, each Bank's board of directors shall adopt by resolution a written policy to provide for the payment to Bank directors of reasonable compensation for the performance of their duties as members of the Bank's board of directors, subject to the requirements set forth in § 918.3. At a minimum, such policy shall address the activities or functions for which attendance is necessary and appropriate and may be compensated, and shall explain and justify the methodology for determining the amount of compensation to be paid to directors.

§ 918.3 Compensation policy requirements.

Payment to directors under each Bank's policy on director compensation may be based upon factors that the Bank determines to be appropriate, but each Bank's policy shall conform to the following requirements:

(a) *Statutory limits on annual compensation.* Pursuant to section 7(i) of the Act, as amended, 12 U.S.C. 1427(i), for 2000, the following limits on compensation shall apply: for a Chairperson—$25,000; for a Vice Chairperson—$20,000; for any other member of the Bank's board of directors—$15,000. Beginning in 2001 and for subsequent years, these limits on annual compensation shall be adjusted annually by the Finance Board to reflect any percentage increase in the preceding year's Consumer Price Index (CPI) for all urban consumers, as published by the Department of Labor. Each year, as soon as practicable after the publication of the previous year's CPI, the Finance Board shall publish notice by **Federal Register**, distribution of a memorandum, or otherwise, of the CPI-adjusted limits on annual compensation.

(b) *Compensation permitted only for performance of official Bank business.* The total compensation received by each director in a year shall reflect the amount of time spent on official Bank business, such that greater or lesser attendance at board and committee meetings during a given year will be reflected in the compensation received by the director for that year. A Bank shall not pay fees to a director, such as retainer fees, that do not reflect the director's performance of official Bank business.

§ 918.4 Expenses.

Each Bank may pay its directors for such necessary and reasonable travel, subsistence and other related expenses incurred in connection with the performance of their official duties as are payable to senior officers of the Bank under the Bank's travel policy, except that directors may not be paid for gift or entertainment expenses.

§ 918.5 Approval by Finance Board.

Payments made to directors in compliance with the limits on annual directors' compensation and the standards set forth in this section are deemed to be approved by the Finance Board for purposes of section 7(i) of the Act, as amended.

§ 918.6 Disclosure.

Each Bank shall, in its annual report:

(a) State the sum of the total actual compensation paid to its directors in that year;

(b) State the sum of the total actual expenses paid to its directors in that year; and

(c) Summarize its policy on director compensation.

§ 918.7 Maintenance of effort.

(a) *General.* Notwithstanding the limits on annual directors' compensation established by section 7(i) of the Act, as amended, the board of directors of each Bank shall continue to maintain its level of oversight of the management of the Bank, and, except as provided in paragraph (b) of this section, the board of directors shall hold no fewer in-person meetings in any year than it has held on average over the immediately preceding three years.

(b) *Waiver of meeting requirement.* A Bank may apply to the Finance Board for approval, upon a showing of good cause, to hold in any year fewer than the number of in-person board of directors meetings required under paragraph (a) of this section.

§ 918.8 Site of board of directors and committee meetings.

Meetings of a Bank's board of directors and committees thereof usually should be held within the district served by the Bank. No meetings of a Bank's board of directors and committees thereof may be held in any location that is not within the United States, including its possessions and territories.

PART 925—MEMBERS OF THE BANKS

65. The authority citation for newly designated part 925 continues to read as follows:

Authority: 12 U.S.C. 1422, 1422a, 1422b, 1423, 1424, 1426, 1430, 1442.

66. Amend newly designated § 925.1 by removing the definitions of the terms ''Act'', ''Bank'', ''Board'', and ''Member''.

67. Amend newly designated § 925.15 by redesignating paragraphs (a)(i) and (a)(ii) as paragraphs (a)(1) and (a)(2), respectively.

68. Amend newly designated part 925 by removing the word ''Board'', and adding, in its place, the words ''Finance Board'' in the following places:

a. Section 925.1(n)(1)(iii);

b. Section 925.2(a)(2) and (c) (introductory text);

c. Section 925.3(a) and (c) (''Board's'');

d. Section 925.5(a)(1), (b)(1), (b)(2) and (c);

e. Section 925.18(a)(2), (c)(2), (c)(4) and (d)(2);

f. Section 925.20(e);

g. Section 925.25(d)(2); and

h. Section 925.27(a), (b)(1), (b)(4), (c)(1), (c)(2), (c)(3) and (d).

69. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
925.1(s)	§ 933.20 or 933.25	§ 925.20 or 925.25
925.1(y)	§ 933.8	§ 925.8
925.2(a)(2)	§ 933.5	§ 925.5
925.2(b)	§§ 933.6 to 933.18	§§ 925.6 to 925.18
925.2(c)(2)	§§ 933.6 to 933.18	§§ 925.6 to 925.18
925.2(c)(4)	§ 933.3(b)	§ 925.3(b)
925.4(a)	§ 933.20(b)(1)	§ 925.20(b)(1)
925.4(c)	§ 933.18(d)	§ 925.18(d)
925.4(d)(1)(introductory text)	§ 933.20	§ 925.20
925.4(d)(2)	§ 933.25(d)(1)(i)	§ 925.25(d)(1)(i)
925.4(d)(2)	§§ 933.25(d)(2)(i), (e) and (f)	§§ 925.25(d)(2)(i), (e) and (f)
925.5(c)	§ 933.17	§ 925.17
925.7	§ 933.6(a)(1)	§ 925.6(a)(1)
925.8	§ 933.6(a)(2)	§ 925.6(a)(2)
925.9	§ 933.6(a)(3)	§ 925.6(a)(3)
925.10	§ 933.6(b)	§ 925.6(b)
925.10	§ 933.1(bb)(6)	§ 925.1(bb)(6)
925.11(a)(introductory text)	§ 933.6(a)(4)	§ 925.6(a)(4)
925.11(b)(introductory text)	§ 933.6(a)(4)	§ 925.6(a)(4)
925.11(c)	§ 933.6(a)(4)	§ 925.6(a)(4)
925.12(introductory text)	§ 933.6(a)(5)	§ 925.6(a)(5)
925.13(a)	§ 933.6(a)(6)	§ 925.6(a)(6)
925.14(a)(1)	§§ 933.7, 933.8, 933.11 and 933.12	§§ 925.7, 925.8, 925.11 and 925.12
925.14(a)(2)	§ 933.9	§ 925.9
925.14(a)(3)	§ 933.10	§ 925.10
925.14(a)(4)(i)	§ 933.6(a)(6)	§ 925.6(a)(6)
925.14(a)(4)(i)	§ 933.20	§ 925.20
925.14(a)(4)(i)	12 CFR part 935	12 CFR part 950
925.14(a)(4)(ii)	§ 933.6(a)(6)	§ 925.6(a)(6)
925.14(a)(4)(iii)	§ 933.6(a)(6)	§ 925.6(a)(6)
925.14(a)(4)(iii)	§ 933.17(f)	§ 925.17(f)
925.15 (intro)	§§ 933.7 to 933.13	§§ 925.7 to 925.13
925.15(a)(1)	§ 933.11(a)(1)	§ 925.11(a)(1)
925.15(a)(2)	§ 933.11(b)(3)(i)(A) to (C)	§ 925.11(b)(3)(i)(A) to (C)
925.15(b)	§ 933.13	§ 925.13
925.15(c)	§§ 933.9 and 933.10	§§ 925.9 and 925.10
925.16	§ 933.6(a)(4)	§ 925.6(a)(4)
925.17(a)	§§ 933.7 to 933.16	§§ 925.7 to 925.16
925.17(a)	§ 933.6(a) and (b)	§ 925.6(a) and (b)
925.17(b)	§§ 933.8, 933.11, 933.12, 933.13, or 933.16	§§ 925.8, 925.11, 925.12, 925.13, or 925.16
925.17(b)	§ 933.6(a)(2), (4), (5), or (6)	§ 925.6(a)(2), (4), (5), or (6)
925.17(c)(heading)	§ 933.8	§ 925.8
925.17(c)	§ 933.8	§ 925.8
925.17(c)	§ 933.6(a)(2)	§ 925.6(a)(2)
925.17(d)(heading)	§§ 933.11 and 933.16	§§ 925.11 and 925.16
925.17(d)(1)	§ 933.11(b)(1)	§ 925.11(b)(1)
925.17(d)(1)	§ 933.11(b)(3)(i)	§ 925.11(b)(3)(i)
925.17(d)(1)	§ 933.6(a)(4)	§ 925.6(a)(4)
925.17(d)(2)	§ 933.16	§ 925.16
925.17(d)(2)	§ 933.6(a)(4)	§ 925.6(a)(4)
925.17(e)(heading)	§ 933.12	§ 925.12
925.17(e)(3)(i)	§§ 933.11(b)(2) and 933.16	§§ 925.11(b)(2) and 925.16
925.17(e)(3)(ii)	§§ 933.11(b)(2) and 933.16	§§ 925.11(b)(2) and 925.16
925.17(f)(heading)	§§ 933.13, 933.14(a)(4), and 933.14(b)(3)	§§ 925.13, 925.14(a)(4), and 925.14(b)(3)
925.18(e)	§§ 933.26, 933.27, and 933.28	§§ 925.26, 925.27, and 925.28
925.18(e)	§ 933.30	§ 925.30
925.20(b)	§ 933.3	§ 925.3
925.20(b)(1) and (2)	§ 933.4(a) or (d)	§ 925.4(a) or (d)
925.22(b)(1)	§ 933.20(a)	§ 925.20(a)
925.22(b)(1)	§ 933.31(d)	§ 925.31(d)

Section	Remove	Add
925.23	§ 933.20(a)	§ 925.20(a)
925.24(a)(2)	§ 933.20(a)	§ 925.20(a)
925.24(b)(2)	§ 933.29	§ 925.29
925.24(b)(3)	§ 934.17	§ 917.7
925.25(d)(2)(ii)(A)	§ 933.20(a)	§ 925.20(a)
925.25(d)(2)(ii)(B)	§ 933.20(a)	§ 925.20(a)
925.25(d)(2)(iii)	§ 933.20(a)	§ 925.20(a)
925.25(d)(3)	§ 933.29	§ 925.29
925.26(c)	§ 933.29	§ 925.29
925.26(d)	§ 934.17	§ 917.7
925.27(e)	§ 933.29	§ 925.29
925.27(f)	§ 934.17	§ 917.7
925.28(b)	§ 933.29	§ 925.29
925.28(c)	§ 934.17	§ 917.7
925.29(a)(1)	§ 933.26, 933.27 or 933.28	§ 925.26, 925.27 or 925.28
925.29(a)(1)	§ 933.28	§ 925.28
925.29(a)(1)	§§ 933.24(b) or 933.25(d)(3)	§§ 925.24(b) or 925.25(d)(3)
925.29(a)(2)	§ 935.19	§ 950.19
925.30 (introductory text)	§ 933.26	§ 925.26
925.30(a)	§ 933.18	§ 925.18
925.30(b)	§ 933.4(a)	§ 925.4(a)
925.31(d)	§ 933.22(b)(1)	§ 925.22(b)(1)

70. In subchapter E, add and reserve part 930 as follows:

PART 930—[RESERVED]

71. In subchapter F, add and reserve part 940 as follows:

PART 940—[RESERVED]

PART 944—COMMUNITY SUPPORT REQUIREMENTS

72. The authority citation for newly designated part 944 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3)(B), 1422b(a)(1), 1429, and 1430.

73. Amend newly designated 944.1 by:

a. Removing paragraph designations (a) through (o); and

b. Removing the definitions of the terms ''Bank'', ''Finance Board'' and ''Member''.

74. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
944.1 (def. of *CICA or Community Investment Cash Advance*).	§ 935.1	§ 950.1
944.1 (def. of *Community lending*)	§ 970.3	§ 952.3
944.1 (def. of *First-time homebuyer*)	paragraph (l)(1) of this section	paragraph (1) of this definition
944.1 (def. of *First-time homebuyer*)	paragraph (l)(2)	paragraph (2) of this definition
944.1 (def. of *First-time homebuyer*)	paragraph (l)(3)	paragraph (3) of this definition
944.3(b)(2)	§ 936.5	§ 944.5
944.3(b)(3)	§ 936.5	§ 944.5
944.3(c)(2)	§ 936.5	§ 944.5
944.3(c)(3)	§ 936.5	§ 944.5
944.4(a)	§ 936.3	§ 944.3
944.5(a)(3)	§ 936.3(b)(2)	§ 944.3(b)(2)
944.5(a)(4)	§ 936.3(c)(2)	§ 944.3(c)(2)
944.5(d)(2) (introductory text)	§ 936.3(b)(2)	§ 944.3(b)(2)
944.5(d)(2)(i)	§ 936.3(b)(3)	§ 944.3(b)(3)
944.5(e)	parts 960 and 970	parts 951 and 952

PART 950—ADVANCES

75. The authority citation for newly designated part § 950 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1426, 1429, 1430, 1430b and 1431.

76. Amend newly designated § 950.1 by removing the definitions of the terms ''Act'', ''Bank'', ''Board'' and ''Member''.

77. Amend newly designated part 950 by removing the word ''Board'' and, in its place, adding the words ''Finance Board'' in the following places:

a. Section 950.1 (definitions of *Affordable Housing Program, Nonresidential real property, Residential housing finance assets* (par. 6) and *Residential real property* (par. (1)(v));

b. Section 950.2(c)(3);

c. Section 950.3(a) and (c);

d. Section 950.4(c)(1);

e. Section 950.9(e);

f. Section 950.13(d)(2);

g. Section 950.20(a); and

h. Section 950.23(c)(2), (c)(3), (c)(4)(introductory text) (first sentence only), (c)(4)(i) and (c)(4)(ii).

78. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in

its place, add the cross-reference indicated in the right column:

Section	Remove	Add
950.1 (def. of *Affordable Housing Program*)	part 960	part 951
950.1 (def. of *Community Investment Cash Advance*).	section 1430	section 10
950.1 (def. of *Community Investment Cash Advance*).	section 1430(j)(10)	section 10(j)(10)
950.1 (def. of *Community Investment Cash Advance*).	section 1430(i)	section 10(i)
950.1 (def. of *Community Investment Cash Advance*).	parts 960 and 970	parts 951 and 952
950.1 (def. of *Community Investment Cash Advance*).	part 970	part 952
950.5(g)(2)(i)	§ 935.4(b)(2)	§ 950.4(b)(2)
950.5(g)(2)(ii)	§ 935.4(a)	§ 950.4(a)
950.6(b)(2)(ii)	§ 935.3(a)	§ 950.3(a)
950.6(b)(3)	part 960	part 951
950.8(a)	§ 935.3(a)	§ 950.3(a)
950.9(a)(2)	§ 935.1	§ 950.1
950.11(a)	§ 935.4(c)	§ 950.4(c)
950.13(c)(1)	§ 935.4(b)(2)	§ 950.4(b)(2)
950.13(c)(1)	§ 935.4(a)	§ 950.4(a)
950.13(c)(2)	§ 935.18(c)	§ 950.18(c)
950.13(e)	§ 935.4(b)(2)	§ 950.4(b)(2)
950.13(e)	§ 935.4(a)	§ 950.4(a)
950.15(a)(2)	§ 935.13(a)(1)(ii)	§ 950.13(a)(1)(ii)
950.15(b)	§ 935.13(a)(1)(ii)	§ 950.13(a)(1)(ii)
950.21	§ 935.13	§ 950.13
950.21	§ 935.20	§ 950.20
950.21	§ 935.24	§ 950.24
950.22(d)	§ 935.24(b)(2)	§ 950.24(b)(2)
950.23(b)	part 933	part 925
950.24(a)	part 933	part 925
950.24(b)(2)(i)	§ 935.22(d)	§ 950.22(d)
950.24(b)(2)(i)(A)	§ 935.9(a)(1) or (2)	§ 950.9(a)(1) or (2)
950.24(b)(2)(i)(B)	§ 935.9(a)(3)	§ 950.9(a)(3)
950.24(b)(2)(i)(B)	§ 935.22(d)	§ 950.22(d)
950.24(b)(2)(i)(C)	§ 935.9(a)(4)	§ 950.9(a)(4)
950.24(c)(2)(i)	§ 935.6(b)	§ 950.6(b)
950.24(c)(2)(ii)	§ 936.5(b)(2)	§ 944.5(b)(2)

PART 951—AFFORDABLE HOUSING PROGRAM

79. The authority citation for newly designated part 951 continues to read as follows:

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

80. Amend newly designated § 951.1 by removing the definitions of the terms ''Act'', ''Bank'', ''Board of Directors'', ''Finance Board'' and ''Member''.

81. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
951.1 (def. of *Advance,* par. (3))	part 935	part 950
951.1 (def. of *Subsidy,* par. (1))	§ 960.8(c)(3)	§ 951.8(c)(3)
951.3(b)(1)(i)	§ 960.1	§ 951.1
951.3(b)(1)(iii)	§ 960.5(b)(2)	§ 951.5(b)(2)
951.3(b)(1)(v)	§ 960.5(b)(10)	§ 951.5(b)(10)
951.3(b)(1)(vi)	§ 960.6(b)(4)	§ 951.6(b)(4)
951.3(b)(1)(vii)	§ 960.8	§ 951.8
951.3(b)(1)(viii)	§§ 960.10(c) and 960.11	§§ 951.10(c) and 951.11
951.5(a)(2)(i)	§ 960.1	§ 951.1
951.5(a)(5)	§ 960.13(d)(1)	§ 951.13(d)(1)
951.5(b)(1)	§ 960.1	§ 951.1
951.5(b)(7)(i)	§ 960.13(c)(4) or (d)(1)	§ 951.13(c)(4) or (d)(1)
951.5(b)(7)(ii)	§ 960.13(c)(5) or (d)(2)	§ 951.13(c)(5) or (d)(2)
951.6(b)(2)(i)	§ 960.5(b)	§ 951.5(b)
951.6(b)(3)	§ 960.5(b)	§ 951.5(b)
951.6(b)(4)(i)	§ 960.5(b)	§ 951.5(b)
951.7(a)(1)	§ 960.5(b)	§ 951.5(b)
951.8(b)(2)(i)	§ 960.5(a)(2)	§ 951.5(a)(2)
951.8(b)(2)(iii)	§ 960.5(a)(7)	§ 951.5(a)(7)

Section	Remove	Add
951.8(c)(2)	§ 960.5(b)	§ 951.5(b)
951.9(c)	§ 960.5(b)	§ 951.5(b)
951.10(b)(1)(ii)(B)	§ 960.13(c)(4) or (d)(1)	§ 951.13(c)(4) or (d)(1)
951.10(c)(1)(iii)	§ 960.13(c)(4) or (d)(1)	§ 951.13(c)(4) or (d)(1)
951.10(d)	§ 960.1	§ 951.1
951.11(b)	§ 960.1	§ 951.1
951.12(a)(1)(ii)	§§ 960.7 or 960.9	§§ 951.7 or 951.9
951.12(a)(2)(i)(B)	§§ 960.7 or 960.9	§§ 951.7 or 951.9
951.12(b)(2)	§§ 960.7 or 960.9	§§ 951.7 or 951.9
951.13(b)(3)(i)	§ 960.12(a)(1)	§ 951.12(a)(1)
951.13(b)(3)(ii)(A)	§ 960.12(b)	§ 951.12(b)
951.13(b)(3)(ii)(B)	§ 960.12(a)(2)	§ 951.12(a)(2)
951.13(b)(4)(i)	§§ 960.10(b) and 960.11(a)(3)(ii)	§§ 951.10(b) and 960.11(a)(3)(ii)
951.13(b)(4)(ii)	§ 960.10(a)(1)	§ 951.10(a)(1)
951.13(b)(4)(iii)	§§ 960.10(a)(2) and 960.11(a)(3)(i)	§§ 951.10(a)(2) and 960.11(a)(3)(i)
951.14(a)(1)	§ 960.2	§ 951.2
951.15(a)(1)	§ 960.2	§ 951.2
951.15(a)(2)	§ 960.2	§ 951.2

PART 952—COMMUNITY INVESTMENT CASH ADVANCE PROGRAMS

82. The authority citation for newly designated part 952 continues to read as follows:

Authority: 12 U.S.C. 1422b(a)(1) and 1430.

83. Amend newly designated § 952.3 by removing the definitions of the terms ''Act'', ''Bank'', ''Board of Directors'', ''Finance Board'' and ''Member''.

84. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
952.1	part 960	part 951
952.2	§ 970.3	§ 952.3
952.3 (def. of *Advance*)	§ 935.1	§ 950.1
952.3 (def. of *AHP*)	part 960	part 951
952.3 (def. of *CICA* or *Community Investment Cash Advance*).	§ 935.1 § 950.1.	
952.3 (def. of *CICA program,* par.(3))	§ 970.3	§ 952.3
952.3 (def. of *CICA program,* par. (4))	§ 970.3	§ 952.3
952.3 (def. of *non-member borrower*)	part 935 part 950.	
952.4	§ 936.6	§ 944.6
952.5(a)(1)	part 960	part 951
952.5(a)(3)	§ 970.3	§ 952.3
952.5(a)(4)	§ 970.3	§ 952.3
952.5(d)(1)	§ 935.6	§ 950.6
952.5(d)(3)	parts 935 and 960	parts 950 and 951
952.5(d)(4)(ii)	§ 935.24	§ 950.24

88. In subchapter G, add parts 955, 956 and 960, and reserve parts 955 and 960, as follows:

PART 955—MEMBER MORTGAGE ASSETS [RESERVED]

PART 956—INVESTMENTS

Sec.
956.1 Definitions. [Reserved]
956.2 Authorized investments.
956.3 Loans guaranteed under the Foreign Assistance Act of 1961.
956.4 Gold and gold-related transactions.

Authority: 12 U.S.C. 1422b(a)(1), 1431, 1436(a).

§ 956.1 Definitions. [Reserved]

§ 956.2 Authorized investments.

(a) Banks may acquire or dispose of securities with prior approval of the Finance Board or its designated representative or in conformity with authorizations of the Finance Board or such representative, or stated Finance Board policy. A Bank's board of directors may authorize Bank officer(s) to acquire or dispose of securities qualifying as liquidity for deposits under the investment policy of the Finance Board as in the judgment of the officer(s) is necessary in the operation of the Bank. Any other acquisition or disposition must be authorized in advance by a majority of the board of directors, executive committee, or investment committee consisting of three or more persons a majority of whom are directors of the Bank. Single acquisitions or dispositions may be so authorized, or acquisitions and/or dispositions of securities of a stated amount maturing within specified dates as in the judgment of the officer(s) designated in the authorization are necessary in the operation of the Bank, may be so authorized, for periods of 90 days or less.

(b) Compliance with sections 11 and 16 of the Act, 12 U.S.C. 1431 and 1436, shall be determined based on the principal amount of obligations of the United States.

(c) Secured advances to members maturing within five years are investments in compliance with section 11(g) of the Act, 12 U.S.C. 1431(g).

(d) Cash reserves may be held temporarily, awaiting investment opportunity, without violating section 16 of the Act, 12 U.S.C. 1436.

§ 956.3 Loans guaranteed under the Foreign Assistance Act of 1961.

(a) With prior approval of the Finance Board, a Bank's board of directors may authorize it to acquire, hold, or dispose

of any of the following loans, or interests therein, primarily to facilitate acquisition of participation interests in such loans by members authorized to make such investment:

(1) Housing project loans with any guaranty under section 221 of the Foreign Assistance Act of 1961, as in effect before December 30, 1969;

(2) Loans with any guaranty under section 224 of such Act, as in effect before December 30, 1969; or (3) Loans with any guaranty under section 221 or 222 of such Act, as in effect after December 29, 1969.

(b) Prior approval of the Finance Board is not required to repurchase participation interests previously sold to a member.

§ 956.4 Gold and gold-related transactions.

No Bank may engage in any capacity or manner in any transaction or activity involving gold (including gold coin) or gold related instruments or securities, except for purchase and sale of gold coins minted and issued by the United States Treasury pursuant to Public Law 99–185, 99 Stat. 1177 (1985), and activities reasonably incident thereto.

PART 960—OFF-BALANCE SHEET ITEMS [RESERVED]

PART 961—STANDBY LETTERS OF CREDIT

86. The authority citation for newly designated part 961 continues to read as follows:

Authority: 12 U.S.C. 1422b, 1429, 1430, 1430b, 1431.

87. Amend newly designated § 961.1 by removing the definitions of the terms ''Act'', ''Bank'', ''Finance Board'' and ''Member''.

88. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
961.1 (def. of *Community lending*)	§ 970.4	§ 952.4.
961.1 (def. of *Nonmember mortgagee*)	§ 935.22(b)	§ 950.22(b).
961.1 (def. of *Nonmember SHFA*)	§ 935.1	§ 950.1.
961.1 (def. of *Residential housing finance,* par. (1)).	§ 935.1	§ 950.1.
961.2(a)(2)	part 970	part 952.
961.2(b)	§ 938.4(a)(2)	§ 961.4(a)(2).
961.2(c)(1)	§ 935.9(a)	§ 950.9(a).
961.2(c)(1)	§ 935.9(a)(4)(iii)	§ 950.9(a)(4)(iii).
961.3(a)	§§ 935.24(b)(1)(i) or (ii)	§§ 950.24(b)(1)(i) or (ii).
961.3(a)(2)	part 970	part 952.
961.3(b)	§ 935.24(b)(2)(i)(A), (B) or (C)	§§ 950.24(b)(2)(i)(A), (B) or (C).
961.4(a)(1)	§§ 934.5, 935.24(b)(2)(i)(B) or 935.24(d)	§§ 950.24(b)(2)(i)(B), 950.24(d), or 965.2(a)(2).
961.4(c)	part 935	part 950.
961.5(a)(1)(ii)	§ 935.5	§ 950.5.
961.5(a)(1)(iii)	part 970	part 952.
961.5(a)(1)(iv)	§ 943.6(b)	§ 975.6(b).
961.5(b)(1)	§§ 938.2 or 938.3	§§ 961.2 or 961.3
961.5(b)(2)	§§ 935.9(b), 935.9(d), 935.9(e), 935.10, 935.11 and 935.12.	§§ 950.9(b), 950.9(d), 950.9(e), 950.10, 950.11 and 950.12.

89. In subchapter H, add and reserve part 965 as follows:

PART 965—SOURCES OF FUNDS [RESERVED]

PART 966—CONSOLIDATED OBLIGATIONS

90. The authority citation for newly designated part 966 continues to read as follows:

Authority: 12 U.S.C. 1422b, 1431.

91. Amend newly designated part 966 by redesignating §§ 966.0 through 966.7 as §§ 966.1 through 966.8.

92. Amend newly designated § 966.1 by:

a. Removing the paragraph designations;

b. Removing the definitions of ''Finance Board'', ''Bank'' and ''consolidated bonds''; and

c. Arranging the remaining defined terms alphabetically.

93. Amend newly designated part 966 by removing the terms ''consolidated bonds'' and ''consolidated Federal Home Loan Bank bonds'', wherever they appear, and, in the place of both, adding the term ''consolidated obligations''.

94. Amend newly designated part 966 by removing the word ''Board'' and, in its place, adding the words ''Finance Board'' in the following places:

a. Sections 966.2(a) and (b);

b. Section 966.3;

c. Section 966.4;

d. Section 966.5;

e. Section 966.6; and

f. Section 966.7(b)(2).

95. Amend newly designated part 966 by removing the words ''Federal Home Loan Banks'', wherever they appear, and, in their place, adding the word ''Banks''.

96. Amend newly designated part 966 by removing the words ''Federal Home Loan Bank Act'', wherever they appear, and, in their place, adding the word ''Act''.

97. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
966.1 (def. of *Non-complying Bank*)	§ 910.7(b)(1)	§ 966.8(b)(1)

Section	Remove	Add
966.1 (def. of *Non-complying Bank*)	§ 910.7(b)(2)	§ 966.8(b)(2)
966.1 (def. of *Non-complying Bank*)	§ 910.7(c)	§ 966.8(c)
966.4	part 912	part 987
966.6	§§ 910.3 and 910.4	§§ 966.4 and 966.5
966.7(b) (introductory paragraph)	§ 910.1 (b) or (c)	§ 966.2 (b) or (c)
966.7(b)(2)	§ 910.1(b)	§ 966.2(b)

98. In subchapter H, add a new part 969, as follows:

PART 969—DEPOSITS

Sec.
969.1 Definitions. [Reserved]
969.2 Deposits from members.
969.3 Deposits in banks and trust companies.

Authority: 12 U.S.C. 1422b(a)(1), 1431.

§ 969.1 Definitions. [Reserved]

§ 969.2 Deposits from members.

Banks may accept demand and time deposits from members, reserving the right to require notice of intention to withdraw any part of time deposits. Rates of interest paid on all deposits shall be set by the Bank's board of directors (or, between regular meetings thereof, by a committee of directors selected by the board) or by the Bank President, if so authorized by the board. Unless otherwise specified by the board, a Bank President may delegate to any officer or employee of the Bank any authority he possesses under this section.

§ 969.3 Deposits in banks and trust companies.

For purposes of determining compliance with the deposit liquidity requirement of section 11(g) of the Act, 12 U.S.C. 1431(g) the term *deposits in banks or trust companies* means:

(1) A deposit in another Bank;

(2) A demand account in a Federal Reserve Bank;

(3) A deposit in, or a sale of federal funds to:

(i) An insured depository institution, as defined in section 2(12)(A) of the Act (12 U.S.C. 1422(12)(A)), that is designated by a Bank's board of directors;

(ii) A trust company that is a member of the Federal Reserve System or insured by the Federal Deposit Insurance Corporation, and is designated by a Bank's board of directors; or

(iii) A U.S. branch or agency of a foreign bank, as defined in the International Banking Act of 1978, as amended (12 U.S.C. 3101 *et seq.*), that is subject to the supervision of the Board of Governors of the Federal Reserve System, and is designated by a Bank's board of directors.

PART 975—COLLECTION, SETTLEMENT, AND PROCESSING OF PAYMENT INSTRUMENTS

99. The authority citation for newly designated part 975 continues to read as follows:

Authority: 12 U.S.C. 1430, 1431.

100. Amend newly designated § 975.4 (introductory text) by removing the reference to ''§ 943.2'' and, in its place, adding a reference to ''§ 975.2''.

101. Amend newly designated part 975 by removing the word ''Board'', wherever it appears, and, in its place, adding the words ''Finance Board''.

102. Amend newly designated part 975 by removing the terms ''Federal Home Loan Bank'' and ''Federal Home Loan Banks'', wherever they appear, and, in their place, adding the words ''Bank'' and ''Banks'', respectively.

103. Amend newly designated part 975 by removing the terms ''Federal Home Loan Bank Act'' and ''Bank Act'', wherever they appear, and, in the place of both, adding the word ''Act''.

104. In subchapter I, add new parts 977 and 978 as follows:

PART 977—MISCELLANEOUS BANK AUTHORITIES

Sec.
977.1 Definitions. [Reserved]
977.2 Transfer of funds between Banks.
977.3 Trustee powers.

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1431(a), 1431(e), 1432(a).

§ 977.1 Definitions. [Reserved]

§ 977.2 Transfer of funds between Banks.

Inter-Bank borrowing shall be through unsecured deposits bearing interest at rates negotiated between Banks.

§ 977.3 Trustee powers.

A Bank may act, and make reasonable charges for doing so, as trustee of any trust affecting the business of any member or any institution or group applying for membership or for insurance of accounts, or any group applying for a charter for a Federal Savings Association, if:

(a) Such trust is created or arises for the benefit of the institution or its depositors, investors, or borrowers, or for the promotion of sound and economical home financing; and

(b) In the case of applicants, the Bank ceases to act as trustee if the application is withdrawn or rejected.

PART 978—BANK REQUESTS FOR INFORMATION

Sec.
978.1 Definitions.
978.2 Scope.
978.3 Request for confidential information.
978.4 Form of request.
978.5 Storage of confidential information.
978.6 Access to confidential information.
978.7 Third party requests for confidential information.
978.8 Computer data.

Authority: 12 U.S.C. 1422b(a), 1442.

§ 978.1 Definitions.

As used in this part:

Confidential information means any record, data, or report, including but not limited to examination reports, or any part thereof, that is non-public, privileged or otherwise not intended for public disclosure which is in the possession or control of a financial regulatory agency and which contains information regarding members of a Bank or financial institutions with which a Bank has had or contemplates having transactions under the Act.

Financial regulatory agency means any of the following:

(1) The Department of the Treasury, including either the Office of the Comptroller of the Currency or the Office of Thrift Supervision;

(2) The Board of Governors of the Federal Reserve System;

(3) The National Credit Union Administration; or

(4) The Federal Deposit Insurance Corporation.

Third party means any person or entity except a director, officer, employee or agent of either:

(1) A Bank in possession of any particular confidential information; or

(2) The financial regulatory agency that supplied the particular confidential information to such Bank.

§ 978.2 Scope.

This part governs the procedure by which a Bank will request and receive confidential information pursuant to section 22 of the Act, 12 U.S.C. 1442.

§ 978.3 Request for confidential information.

A Bank shall make all requests for confidential information to a financial regulatory agency, or to a regional office of such agency if mutually agreeable, in accordance with the procedures contained in this part as well as any procedures of general applicability for requesting information promulgated by such financial regulatory agency. This part and its procedures may be supplemented by a confidentiality agreement between a Bank and a financial regulatory agency.

§ 978.4 Form of request.

A request by a Bank to a financial regulatory agency for confidential information shall be made in writing or by such other means as may be agreed upon between the Bank and the financial regulatory agency. The request shall reference section 22 of the Act, 12 U.S.C. 1442, as amended, and this regulation, and shall describe the confidential information requested and identify its intended use pursuant to the Act. The request shall be signed or otherwise made by any duly authorized Bank officer or employee.

§ 978.5 Storage of confidential information.

Each Bank shall:

(a) Store all identified confidential information in secure storage areas or filing cabinets or other secured facilities generally used by such Bank and limit access thereto in the same manner as it maintains the confidentiality of its own members' privileged or non-public information;

(b) Have in place a written set of procedures and policies designed to ensure the confidentiality of confidential information in its possession; and

(c) Establish an internal review of its procedures for storing confidential information and maintaining its confidentiality, as a part of its internal audit process.

§ 978.6 Access to confidential information.

Each Bank shall ensure that access to the confidential information stored at its facility is limited to those with a need to know such information and that employees with access maintain the confidentiality of the confidential information in accordance with the Bank's own procedures for maintaining the confidentiality of its members' privileged or non-public information.

§ 978.7 Third party requests for confidential information.

(a) *General.* In the event a Bank receives a request for confidential information in its possession from any third party, the Bank shall forward such request to the financial regulatory agency from which the confidential information was obtained.

(b) *Subpoena.* In the event a Bank receives a subpoena for confidential information issued by a Federal, state or local government department, agency, court or bureau, the Bank shall give timely written notice of such subpoena to the financial regulatory agency from which the confidential information was obtained, unless such notice is prohibited by applicable law. Except as limited in this part, the Bank may disclose confidential information pursuant to the subpoena, after giving timely written notice, when:

(1) The financial regulatory agency gives written approval to the disclosure; or

(2) A binding order to produce the confidential information has become final with all rights of appeal either exhausted or lapsed.

(c) *Nondisclosure to third parties.* Except as provided in paragraph (b) of this section, a Bank shall not disclose confidential information to any third party. A Bank shall refer all third party requests for such confidential information to the financial regulatory agency that released the confidential information to the Bank.

(d) *Disclosure to Finance Board.* (1) Neither this part nor any confidentiality agreement executed between a Bank and a financial regulatory agency shall prevent a Bank from disclosing confidential information in its possession to the Finance Board whenever disclosure is necessary to accomplish the Finance Board's supervision of Bank membership applications or Bank director eligibility issues, or disclosing any confidential information in its possession if such disclosure is made pursuant to an audit conducted pursuant to § 978.5 or section 20 of the Act, 12 U.S.C. 1440.

(2) The Finance Board shall keep all confidential information received under paragraph (d) of this section in strict confidence.

§ 978.8 Computer data.

Nothing in this part shall preclude a Bank from arranging with any financial regulatory agency to transmit or allow access to confidential information with the consent of such agency by means of an electronic computer system. Any such arrangement shall ensure the security of the computerized data stored in a Bank's computer and restrict access to such data in order to preserve confidentiality in a manner agreed upon by the Bank and the financial regulatory agency.

105. In subchapter J, add and reserve a new part 980 as follows:

PART 980—[RESERVED]

PART 985—OPERATIONS OF THE OFFICE OF FINANCE

106. The authority citation for newly designated part 985 continues to read as follows:

Authority: 12 U.S.C. 1422b, 1431.

107. Amend newly designated § 985.1 by removing the definitions of the terms ''Bank'', ''Bank Act'', ''Consolidated obligation'' and ''Finance Board''.

108. Amend newly designated part 985 by removing the words ''Federal Home Loan Banks'' and adding, in their place, the word ''Banks'' in the following places:

a. Section 985.1 (definition of *Bank System*—last two references only); and

b. Section 985.6(c)(1).

109. Amend newly designated part 985 by removing the words ''Bank Act'' and ''Federal Home Loan Bank Act'' and adding, in the place of both, the word ''Act'' in the following places:

a. Section 985.3(a);

b. Section 985.4(c)(1);

c. Section 985.6(c)(2) and (c)(3); and

d. Section 985.8(a).

110. Amend newly designated part 985 by removing the words ''Board of Directors'' and adding, in their place, the words ''board of directors'' in the following places:

a. Section 985.1 (under the definition of *Chair* and in the heading to the definition of *OF board of directors*);

b. Section 985.2;

c. Section 985.3(a) and (b);

d. Section 985.5 (introductory paragraph);

e. Section 985.6(a)(1), (a)(4), (a)(5) and (b);

f. Section 985.7 (heading), (a), (b), (c)(introductory text), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (f)(1)(i) and (f)(1)(ii);

g. Section 985.8 (heading), (a), (b)(introductory text), (c) and (d)(1);

h. Section 985.9 (heading), (a)(1), (a)(2) and (b);

i. Section 985.10 (heading), (a)(1) and (b);

j. Section 985.11(b), (c), (d), (e)(1), (e)(2)(i), (e)(2)(ii), (f)(i), (f)(2)(iii), (f)(3) and (f)(5); and

k. Section 985.12(c).

111. Amend newly designated § 985.7(c)(2) by removing the word ''FHLBank''.

112. Amend newly designated § 985.7(f)(2)(i) by removing the words ''board of directors of the Finance Board'' and adding, in their place, the words ''Board of Directors of the Finance Board''.

113. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
985.6(a)(4)	§ 941.11	§ 985.11
985.7(f)(2)(intro)	§ 932.17	part 918
985.7(f)(2)(ii)	Section 932.17(a)(3) and (c)(1)(ii)	Section 918.3(a)(2)
985.7(f)(2)(iii)	§ 932.17	part 918

PART 987—BOOK-ENTRY PROCEDURE FOR CONSOLIDATED OBLIGATIONS

114. The authority citation for newly designated part 987 continues to read as follows:

Authority: 12 U.S.C. 1422a, 1422b, 1431, 1435.

115. Amend newly designated § 987.1 by:

a. Removing paragraph designations (a) through (q); and

b. Removing the definitions of the terms ''Federal Home Loan Bank Security'' and ''Finance Board''.

116. Amend newly designated part 987 by removing the terms ''Federal Home Loan Bank security'' and ''Federal Home Loan Bank securities'', wherever they appear, and adding, in their place, the terms ''consolidated obligation'' and ''consolidated obligations'', respectively.

117. Amend newly designated part 987 by removing the terms ''Federal Home Loan Bank'' and ''Federal Home Loan Banks'', wherever they appear, and adding, in their place, the words ''Bank'' and ''Banks'', respectively.

118. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
987.1 (def. of Office of Finance)	part 941	part 985
987.2(a)	part 912	part 987
987.2(b)	§ 912.4(c)(1)	§ 987.4(c)(1)
987.2(b)	§ 912.3	§ 987.3
987.3(a)(introductory text)	part 912	part 987
987.4(c)(2)	§ 912.2(b) or § 912.3	§ 987.2(b) or § 987.3
987.5(a)	§ 912.4(c)(1)	§ 987.4(c)(1)
987.5(a)	part 912	part 987
987.6(b)	part 912	part 987
987.8(a)	part 912	part 987
987.8(b)	part 912	part 987
987.9(a)	part 912	part 987
987.9(b)	part 912	part 987

PART 989—FINANCIAL STATEMENTS OF THE BANKS

119. The authority citation for newly designated part 989 continues to read as follows:

Authority: 12 U.S.C. 1422a, 1422b, 1431 and 1440.

120. Amend newly designated part 989 by removing and reserving newly designated § 989.1.

PART 995—FINANCING CORPORATION OPERATIONS

121. The authority citation for newly designated part 995 continues to read as follows:

Authority: 12 U.S.C. 1441(b)(8), (c) and (j).

122. Amend newly designated § 995.1 by:

a. Removing paragraph designations (a) through (p);

b. Removing the definitions of the terms ''Act'', '' Bank or Banks'' and ''Finance Board''.

123. Amend newly designated § 995.4(b) by:

a. Removing the words ''Federal Home Loan Bank securities'' wherever they appear and adding, in their place, the words ''consolidated obligations''.

b. Removing the words ''Federal Home Loan Bank'' and ''Federal Home Loan Banks'', wherever they appear, and adding, in their place, the words ''Bank'' and ''Banks'', respectively.

124. Amend newly designated § 995.8(b) by removing the words ''Board of Directors of the FDIC'' and adding, in their place, the words ''board of directors of the FDIC''.

125. In the table below, for each newly designated section indicated in the left column, remove the cross-reference indicated in the middle column and, in its place, add the cross-reference indicated in the right column:

Section	Remove	Add
995.1 (def. of Office of Finance)	part 941	part 985
995.4(b)	part 912	part 987
995.7(a)	§ 950.6	§ 995.6
995.8(b)	§ 950.6	§ 995.6

Section	Remove	Add
995.8(c)(1)	§ 950.6	§ 995.6
995.8(c)(2)	§ 950.6	§ 995.6

PART 996—AUTHORITY FOR BANK ASSISTANCE OF THE RESOLUTION FUNDING CORPORATION

126. The authority citation for newly designated part 996 is revised to read as follows:

Authority: 12 U.S.C. 1422a, 1422b.

127. Amend newly designated § 996.1 by removing the words ''Federal home loan banks'' and adding, in their place, the word ''Banks''.

128. Amend newly designated § 996.2 by removing the word ''bank'' and adding, in its place, the word ''Bank''.

129. In subchapter L, add and reserve a new part 997, as follows:

PART 997—RESOLUTION FUNDING CORPORATION OBLIGATIONS OF THE BANKS [RESERVED]

Dated: January 19, 2000.

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

Bruce A. Morrison,

Chairman.

[FR Doc. 00–3754 Filed 2–17–00; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–56]

Modification of Class D Airspace; Grand Forks AFB, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace at Grand Forks AFB, ND. This action amends the effective hours of the Class D surface area to coincide with the airport traffic control tower (ATCT) hours of operation for Grand Forks AFB. The purpose of this action is to clarify when two-way radio communication with the ATCT is required.

EFFECTIVE DATE: 0901 UTC, April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, December 3, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class D airspace at Grand Forks AFB, ND (64 FR 67810). The proposal was to amend the effective hours to coincide with the ATCT hours of operation for Grand Forks AFB. Controlled airspace extending upward from the surface is needed to contain Instrument Flight Rules (IFR) operations during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class D airspace at Grand Forks AFB, ND, by amending the effective hours to coincide with the ATCT hours of operation for Grand Forks AFB. The area will be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(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 AIRSPRACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the 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.

* * * * *

AGL ND D Grand Forks AFB, ND [Revised]

Grand Forks AFB, ND

(Lat. 47° 57′ 40″ N., long. 97° 24′ 04″ W.)

That airspace extending upward from the surface to and including 3,400 feet MSL within an 4.9-mile radius of Grand Forks AFB, and within 2.3 miles each side of the 174° bearing from the AFB extending from the 4.9-mile radius of the AFB to 5.6 miles south of the AFB, excluding that airspace within the Grand Forks, ND, Class D airspace area. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on February 3, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–3974 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–55]

Modification of Class E Airspace; Connersville, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Connersville, IN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 18, and a GPS SIAP to Rwy 36, have been developed for Mettel Field Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action increases the radius of the existing controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, November 22, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Connersville, IN (64 FR 63767). The proposal was to modify controlled airspace extending upward from 700 feet above the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Connersville, IN, to accommodate aircraft executing the proposed GPS Rwy 18 SIAP and GPS Rwy 36 SIAP for Mettel Field Airport by modifying the existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(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 part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.0. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the 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 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IN E5 Connersville, IN [Revised]

Connersville, Mettel Field Airport, IN
(Lat. 39° 41′ 57″ N., long. 85° 07′ 53″ W.)

That airspace extending upward from 700 feet above the surface within a 7.6-mile radius of the Mettel Field Airport, excluding that airspace within the New Castle, IN, and Richmond, IN, Class E airspace areas.

* * * * *

Dated: February 3, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–3978 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–29]

Establishment of Class E Airspace; Atmore, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Atmore, AL. A Global Positioning System (GPS) Runway (RWY) 36 Standard Instrument Approach Procedure (SIAP) has been developed for Atmore Municipal Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Atmor Municipal Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, April 20, 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

On December 29, 1999, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71), by establishing Class E airspace at Atmore, AL, (64 FR 72970). This action provides adequate Class E airspace for IFR operations at Atmore Municipal Airport. Designations for Class E airspace extending upward from 700 feet or more above the surface of the Earth are published in FAA Order Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR part 71.1. The Class E designation listed

in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal was received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Atmore, AL. A GPS RWY 36 SIAP has been developed for Atmore Municipal Airport. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Atmore Municipal Airport. The operating status of the airport will change from VRF to include IFR operations concurrent with the publication of the SIAP.

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.

§ 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 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO AL ES Atmore, AL [New]

Atmore Municipal Airport
(Lat. 31°26′58″ N., long, 87°26′48″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Atmore Muncipal Airport.

* * * * *

Issued in College Park, Georgia, on February 7, 2000.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–3979 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ANM–13]

RIN 2120–AA66

Modification of Multiple Federal Airways in the Vicinity of Bellingham, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This action amends the legal descriptions of four Federal airways that use the Bellingham, WA, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) in their route structure. Currently, the VORTAC and the International Airport share the ''Bellingham'' name. The fact that the VORTAC is approximately nine nautical miles (NM) north of the airport has led to confusion among users: to eliminate this confusion, the Bellingham VORTAC will be renamed the ''Whatcom VORTAC,'' and all the airways with ''Bellingham VORTAC'' included in their legal descriptions will be amended to reflect the VORTAC's name change.

EFFECTIVE DATE: 0901 UTC, April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends 14 CFR part 71 by changing the legal descriptions of four Federal airways that have ''Bellingham VORTAC'' included as part of their route structure. Currently, the VORTAC and the International Airport share the ''Bellingham'' name. The fact that the VORTAC is approximately nine NM north of the airport has led to confusion among users. To eliminate this confusion, the Bellingham VORTAC will be renamed the ''Whatcom VORTAC,'' and all the airways with ''Bellingham VORTAC'' included in their legal descriptions will be amended to reflect the VORTAC's name change. The name change of the VORTAC will coincide with the effective date of this rulemaking action.

Since this action merely involves editorial changes to the legal descriptions of the four Federal airways, and does not involve a change in the dimensions or operating requirements of the airways, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Domestic VOR Federal Airways are published in paragraph 610(a) of FAA Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999 and effective September 16, 1999.

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. Therefore, this regulation: (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 part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the 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 6010(a)—Domestic VOR Federal Airways

* * * * *

* * * * *

V–23 [Revised]

From Mission Bay, CA; Oceanside, CA; 24 miles, 6 miles wide, Seal Beach, CA; 6 miles wide, INT Seal Beach 287° and Los Angeles, CA, 138° radials; Los Angeles; Gorman, CA; Shafter, CA; Clovis, CA; 53 miles, 6 miles wide, Linden, CA; Sacramento, CA; INT Sacramento 346° and Red Bluff, CA, 158° radials; Red Bluff; 58 miles, 95 MSL, Fort Jones, CA; Rogue Valley, OR; Eugene, OR; Battle Ground, WA; INT Battle Ground 350° and Seattle, WA, 197° radials; 21 miles, 45 MSL, Seattle; Paine, WA; Whatcom, WA; via INT Whatcom 290° radial to the United States/Canadian border.

V–165 [Revised]

From Mission Bay, CA; INT Mission Bay 270° and Oceanside, CA, 177° radials; Oceanside; 24 miles, 6 miles wide, Seal Beach, CA; 6 miles wide, INT Seal Beach 287° and Los Angeles, CA, 138° radials; Los Angeles; INT Los Angeles 357° and Lake Hughes, CA, 154° radials; Lake Hughes; INT Lake Hughes 344° and Shafter, CA, 137° radials; Shafter; Porterville, CA; INT Porterville 339° and Clovis, CA, 139° radials; Clovis; 68 miles, 50 miles, 131 MSL, Mustang, NV; 40 miles, 12 AGL, 7 miles, 115 MSL, 54 miles, 135 MSL, 81 miles, 12 AGL, Lakeview, OR; 5 miles, 72 miles, 90 MSL, Deschutes, OR; 16 miles, 19 miles, 95 MSL, 24 miles, 75 MSL, 12 miles, 65 MSL, Newberg, OR; 32 miles, 45 MSL, INT Newberg 355° and Olympia, WA, 195° radials; Olympia; Penn Cove, WA; to Whatcom, WA.

* * * * *

V–349 [Revised]

From Whatcom, WA, to Williams Lake, BC, Canada. The airspace within Canada is excluded.

* * * * *

V–1495 [Revised]

From Abbotsford, BC, NDB, Canada, via Whatcom, WA; Victoria, BC, Canada; via Seattle, WA; Battle Ground, WA; Newberg, OR; Corvallis, OR; INT Corvallis 195° and Roseburg, OR 355° radials; Roseburg; INT Roseburg 174° and Fort Jones, CA 340° radials, to Fort Jones. The airspace within Canada is excluded.

* * * * *

Issued in Washington, DC, on February 1, 2000.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 00–2771 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 175 and 176

[Docket No. 92F–0111]

Indirect Food Additives: Adhesives and Components of Coatings and Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2-acrylamido-2-methyl-propanesulfonic acid, homopolymer, sodium salt in food-contact adhesives and as a component of paper and paperboard intended to contact food. This action is in response to three petitions filed by The Lubrizol Corp.

DATES: This rule is effective February 18, 2000; Written objections and requests for a hearing by March 20, 2000.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061 Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3085.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of April 8, 1992 (57 FR 11958), FDA announced that three food additive petitions (FAP 9B4133, 9B4131, and 9B4132) had been filed on behalf of The Lubrizol Corp., 29400 Lakeland Blvd., Wickliffe, OH 44092–2298. The petitions proposed, respectively, that the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105), § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170), and § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) be amended to provide for the safe use of poly(sodium 2-acrylamido-2-methylpropanesulfonate) in adhesives and as components of paper and paperboard intended to contact food.

In the filing notice, FDA used the common name to identify the additive. However, in the final rule, the Chemical Abstract Service name, 2-acrylamido-2-methyl-propanesulfonic acid, homopolymer, sodium salt, is used because the structure of the food additive is more readily understood from this name. In addition, FDA believes that listing the additive under both §§ 176.170 and 176.180 is redundant because § 176.180(b)(1) (21 CFR 176.180(b)(1)) permits the use of those substances listed in § 176.170 (21 CFR 176.170) as components of paper and paperboard in contact with dry food. Therefore, FDA is listing the proposed uses of the additive only under §§ 176.170 and 175.105.

In FDA's evaluation of the safety of 2-acrylamido-2-methyl-propanesulfonic acid, homopolymer, sodium salt, the agency reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it may contain minute amounts of acrylamide and acrylonitrile as impurities resulting from its manufacture. These chemicals have been shown to cause cancer in test animals. Residual amounts of impurities are commonly found as constituents of chemical products, including food additives.

II. Determination of Safety

Under the general safety standard of the Federal Food, Drug, and Cosmetic Act (the act), (21 U.S.C. 348(c)(3)(A)), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as ''a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use.''

The food additives anticancer, or Delaney, clause of the act (21 U.S.C.

348(c)(3)(A)) provides that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to impurities in the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety standard using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the intended use of the additive. *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984).

III. Safety of the Petitioned Uses of the Additive

FDA estimates that the petitioned uses of the additive, 2-acrylamido-2-methyl-propanesulfonic acid, homopolymer, sodium salt, will result in exposure to no greater than 100 parts per billion (ppb) of the additive in the daily diet (3 kilograms (kg)) or an estimated daily intake (EDI) of no more than 300 micrograms per person per day (µg/p/d)(Ref. 1).

FDA does not ordinarily consider chronic toxicological studies to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data on the additive and concludes that the estimated small dietary exposure resulting from the petitioned uses of this additive is safe.

FDA has evaluated the safety of this additive under the general safety standard, considering all available data and using risk assessment procedures to estimate the upper-bound limit of lifetime human risk presented by acrylamide and acrylonitrile, the carcinogenic chemicals that may be present as impurities in the additive. The risk evaluation of acrylamide and acrylonitrile has two aspects: (1) Assessment of exposure to the impurities from the petitioned uses of the additive; and (2) extrapolation of the risk observed in the animal bioassays to the conditions of exposure to humans.

A. Acrylamide

FDA has estimated the exposure to acrylamide from the petitioned uses of the additive as a component of adhesives and of paper and paperboard in contact with food to be no more than 0.15 part per trillion (ppt) in the daily diet (3 kg), or 0.45 nanogram per person per day (ng/p/d) (Ref. 3). The agency used published data from a long-term rat bioassay on acrylamide conducted by Johnson et al. (Ref. 4), in addition to unpublished data from this bioassay contained in FAP 9B4131, to estimate the upper-bound limit of lifetime human risk from exposure to this chemical resulting from the petitioned uses of the additive. The authors reported that the test material caused significantly increased incidences of thyroid follicular adenomas and testicular mesotheliomas in male rats, and mammary tumors (adenomas or adenocarcinomas; fibromas or fibroadenomas; adenocarcinomas alone), central nervous system tumors (brain astrocytomas, brain or spinal cord glial tumors) and uterine tumors in female rats.

Based on the agency's estimate that exposure to acrylamide will not exceed 0.45 ng/p/d, FDA estimates that the upper-bound limit of lifetime human risk from the petitioned uses of the subject additive is 5.4×10^{-9}, or 5.4 in a billion (Refs. 5 and 6). Because of the numerous conservative assumptions used in calculating the exposure estimate, the actual lifetime-averaged individual exposure to acrylamide is likely to be substantially less than the estimated exposure, and therefore, the probable lifetime human risk would be less than the upper-bound limit of lifetime human risk. Thus, the agency concludes that there is reasonable certainty that no harm from exposure to acrylamide would result from the petitioned uses of the additive.

B. Acrylonitrile

FDA has estimated the exposure to acrylonitrile from the petitioned uses of the additive as a component of adhesives and of paper and paperboard in contact with food to be no more than 0.3 ppt in the daily diet (3 kg), or 0.9 ng/p/d (Ref. 3). The agency used data from a long-term rodent bioassay on acrylonitrile conducted by Quast et al. (Ref. 7), to estimate the upper-bound limit of lifetime human risk from exposure to this chemical resulting from the petitioned uses of the additive. The authors reported that the test material caused astrocytomas of the nervous system, papillomas and carcinomas of the tongue, papillomas and carcinomas of the stomach, and Zymbal's gland carcinomas in male and female rats. The authors also reported carcinomas of the small intestine and the mammary gland in female rats.

Based on the agency's estimate that exposure to acrylonitrile will not exceed 0.9 ng/p/d, FDA estimates that the upper-bound limit of lifetime human risk from the petitioned uses of the subject additive is 1.6×10^{-9}, or 1.6 in a billion (Refs. 8 and 9). Because of the numerous conservative assumptions used in calculating the exposure estimate, the actual lifetime-averaged individual exposure to acrylonitrile is likely to be substantially less than the estimated exposure, and therefore, the probable lifetime human risk would be less than the upper-bound limit of lifetime human risk. Thus, the agency concludes that there is reasonable certainty that no harm from exposure to acrylonitrile would result from the petitioned uses of the additive.

C. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of acrylamide and acrylonitrile as impurities in the food additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low levels at which acrylamide and acrylonitrile may be expected to remain as impurities following production of the additive, the agency would not expect these impurities to become components of food at other than extremely low levels; and (2) the upper-bound limits of lifetime human risk from exposure to acrylamide and acrylonitrile are very low, 5.4 in a billion and 1.6 in a billion, respectively.

IV. Conclusion

FDA has evaluated data in the three petitions and other relevant material. Based on this information, the agency concludes that: (1) The proposed uses of the additive as a component of adhesives, and paper and paperboard in contact with food are safe, (2) the additive will achieve its intended technical effect, and therefore, (3) the regulations in §§ 175.105 and 176.170 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

V. Environmental Impact

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

VI. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Objections

Any person who will be adversely affected by this regulation may at any time on or before March 20, 2000 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum of an internal communication between A. B. Bailey, Chemistry and Environmental Review Team, K. Biddle and K. P. Misra, Division of Health Effects Evaluation, and D. N. Harrison, Division of Petition Control, dated October 6, 1998.

2. Kokoski, C. J., ''Regulatory Food Additive Toxicology,'' In *Chemical Safety Regulation and Compliance*, edited by F. Homburger, and J. K. Marquis, New York, NY, pp. 24–33, 1985.

3. Memorandum dated June 15, 1998, from Chemistry and Environmental Review Team to the Division of Petition Control, ''Use of poly(sodium 2-acrylamido-2-methylpropanesulfonate) in Latex Emulsions for Adhesives and Coatings in Paper and Paperboard.''

4. Johnson, K. A., Gorzinski, S. J., Bodner, K. M., Campbell, R. A., Wolf, C. H., Friedman, M. A., and Mast, R. W. ''Chronic Toxicity and Oncogenicity Study on Acrylamide Incorporated in the Drinking Water of Fischer 344 rats,'' *Toxicology and Applied Pharmacology*, 85:154–168, 1986.

5. Memorandum dated December 18, 1998, from the Division of Petition Control to the Quantitative Risk assessment Committee, ''Estimation of Upper-Bound Lifetime Risk for 2-acrylamido-2-methylpropanesulfonic acid, homopolymer, sodium salt, FAPS 9B4131, 9B4132 and 9B4133.''

6. Memorandum of Conference, Date: February 13, 1985; June 6, 1985; May 31, 1996, Place: FDA, CFSAN, Washington, DC, Purpose: Cancer Assessment Committee Meeting, Subject: Acrylamide.

7. Quast, J. F., Wade, C. E., Humiston, C. G., Carreon, R. M., Hermann, E. A., Park, C. N., Schwetz, B. A. ''A Two Year Toxicity and Oncogenicity Study with Acrylonitrile Incorporated in the Drinking Water of Rats,'' Toxicology Research Laboratory, Health and Environmental Sciences, Dow Chemical USA, Midland, MI 48640. Final report dated January 22, 1980. Corrections dated November 17, 1980.

8. Memorandum dated September 4, 1998, from the Division of Health Effects Evaluation to the Division of Petition Control, ''FAPs 9B4131, 9B4132, and 9B4133: Worst-Case Cancer Risk Assessment for Acrylonitrile,'' Correction to July 28, 1998, memorandum from the Division of Health Effects Evaluation to the Quantitative Risk Assessment Committee.

9. Memorandum dated July 28, 1998, from the Division of Health Effects Evaluation to the Quantitative Risk Assessment Committee, ''FAPs 9B4131, 9B4132, and 9B4133: Worst-Case Cancer Risk Assessment for Acrylonitrile'' and the April 15, 1999, Addendum.

List of Subjects

21 CFR Part 175

Adhesives, Food additives, Food packaging.

21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 175 and 176 are amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 175.105 is amended in the table in paragraph (c)(5) by alphabetically adding a new entry under the heading ''Substances'' to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * * * *	
2-Acrylamido-2-methyl-propanesulfonic acid, homopolymer, sodium salt (CAS Reg. No. 35641–59–9).	
* * * * * * *	

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

3. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 346, 348, 379e.

4. Section 176.170 is amended in the table in paragraph (b)(2) by alphabetically adding a new entry under the headings ''List of substances'' and ''Limitations'' to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *

(2) * * *

List of Substances	Limitations
* * * * * * *	
2-Acrylamido-2-methyl-propanesulfonic acid, homopolymer, sodium salt (CAS Reg. No. 35641–59–9).	For use only in coatings at a level not to exceed 0.01 mg/in^2
* * * * * * *	

* * * * *

Dated: February 8, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–3805 Filed 2–17–00; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–6523–7]

Amendments to the Test Procedures for Heavy-Duty Engines, and Light-Duty Vehicles and Trucks and Amendments to the Emission Standard Provisions for Gaseous Fueled Vehicles and Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On September 5, 1997 EPA promulgated a direct final rulemaking that amended several sections of the heavy-duty engine test procedure regulations. EPA also published a notice of proposed rulemaking proposing the same amendments. EPA noted that if adverse comments were received regarding any provisions, EPA would withdraw those provisions and comments would be addressed in a later final rule based on the proposed rule. Due to adverse comments that were received regarding three provisions, EPA issued a final rule on May 4, 1998 withdrawing those three provisions and indicated that they would be addressed in a separate action. Today, EPA is finalizing those three provisions with amendments, after taking into consideration comments received during the comment period and further discussions with heavy-duty engine and light-duty vehicle manufacturers.

EFFECTIVE DATE: March 20, 2000.

ADDRESSES: Materials relevant to this rulemaking are contained in Docket No. A–96–07, and are available for public inspection and photocopying between 8 a.m. and 5:30 p.m. Monday through Friday. EPA may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Chuck Moulis, U.S. EPA, Engine Programs and Compliance Division, 2000 Traverwood Dr, Ann Arbor, MI 48105. Telephone 734–214–4826.

SUPPLEMENTARY INFORMATION:

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I. Regulatory Revisions

On September 5, 1997, EPA published a direct final rule (62 FR 47114) and accompanying notice of proposed rule (62 FR 46937) making amendments to the test procedures for heavy-duty engines and light duty vehicles and trucks. Although EPA believed that the action was non-controversial, adverse comments were received from the Engine Manufacturers Association (EMA) and from the American Automobile Manufacturers Association (AAMA). As a result of receiving the adverse comments, EPA published a final rule (63 FR 24446) on May 4, 1998 that withdrew the three provisions on which adverse comments were received. After taking into consideration EMA and AAMA's comments and also discussing the issues and options, today's action addresses the three provisions. The paragraphs below describe the comments received for each issue, followed by EPA's response.

a. Cycle Verification at Idle Conditions

Both of the comments received by EPA referred to changes made to § 86.1333–90. In § 86.1333–90 EPA provided a new requirement for cycle verification at idle conditions. The new requirement stated that for idle segments that are seven seconds or longer, the average feedback torque must fall within ±10 ft-lb of the Curb Idle Transmission Torque (CITT). Both EMA and AAMA commented that current dynamometer systems utilized might not be capable of controlling torque to this specification and thus the time period might have to be lengthened or modifications made to dynamometer control systems. Both EMA and AAMA recommended to change the idle segment specification from seven to ten seconds. According to EMA and AAMA, such change would not impact emissions and would allow manufacturers to comply with the CITT requirements without having to make extensive modifications to engine dynamometers control systems.

EPA agrees that making modifications to engine dynamometer systems to meet the proposed CITT requirements would be not only burdensome but also very costly. Furthermore, EPA agrees that increasing the idle segment length specification from seven to ten seconds will not impact emissions. Thus, EPA agrees with EMA and AAMA's recommendation and the final rule will apply the CITT requirement to segments of ten seconds or longer.

b. Critical Flow Venturi

In the September 5, 1997 final rule (62 FR 47114) EPA revised sections 86.119–90, 86.1319–84 and 86.1319–90 to require manufacturers to verify that the critical flow venturi is achieving critical flow when using a CFV–CVS sampling system during the emissions test. Both EMA and AAMA commented that, even though they agree with the technical merits of such requirement, more lead time would be needed to make the software and hardware changes necessary. Thus EMA and AAMA recommended that, in order to provide sufficient time for the implementation of this new requirement, that EPA provides an 18 month lead time.

EPA recognizes that this new requirement will require software changes to current testing facilities and that more lead time would be needed to ensure that all the manufacturer's testing facilities comply at the same

time. Thus, EPA will not require that this provision be met until August 20, 2001 to allow manufacturers to make the software and hardware changes needed for compliance. EPA is not finalizing the change to § 86.1319–84 because this section is not applicable to future model years.

c. Light-duty Diesel Cetane Number Specifications

On August 21, 1990 (55 FR 34120), EPA promulgated a final rule that established new requirements related to the quality of diesel fuel. As part of that rule EPA changed the cetane number specification to 40–48 and established a cetane index specification of 40–48. In the 1994 Gaseous Fuels Rule (59 FR 48472), modifications to the section specifying certification fuel parameters for light-duty vehicles and trucks resulted in inadvertent changes to the cetane number specifications from 40–48 to 42–50. In the September 5, 1997 notice, EPA proposed to correct the light-duty diesel fuel cetane specifications contained in section 86.113–94. In its comments, AAMA expressed concern that proposed correction would not provide sufficient lead time for manufacturers to comply. In addition, they stated that since diesel hydrocarbon emissions are sensitive to cetane levels, changing the cetane level of the test fuel could cause in-use compliance issues in the future. EMA and AAMA recommended EPA to keep the current 42–50 cetane specification for light-duty certification fuel.

EPA continues to believe that the current cetane number specification of 42–50 is not correct since it does not include fuels with cetane numbers/indices in the range of 40 to 42. Such fuels represent a significant portion of in-use fuels, and should be included as potential test fuels. EPA believes that it is necessary to change the specifications to include this lower range. However, EPA has analyzed the most recently available data for in-use fuels and has determined that fuels with cetane numbers/indices in the range of 48 to 50 are also representative of in-use fuels. As a result, EPA is finalizing a broad specification that includes both fuels with cetane numbers/indices in the range of 40 to 42 and fuels with cetane numbers/indices in the range of 48 to 50. EPA is applying this broad specification to both light-duty and heavy-duty fuels.

II. Administrative Designation and Regulatory Analysis

Under Executive Order 12866, the Agency must determine whether this regulatory action is ''significant and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant'' regulatory action as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this action is not a ''significant'' regulatory action within the meaning of the Executive Order an is therefore not subject to OMB review.

III. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. In support of its proposed rule entitled *Control of Emissions of Air Pollution from Highway Heavy-Duty Engines* (61 FR 33421, June 27, 1996), EPA characterized the heavy-duty engine manufacturing industry in Chapter 3 of its Regulatory Impact Analysis (RIA). Based on that characterization, EPA has determined that this action will not have a significant impact on a substantial number of small entities.

IV. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a written statement to accompany any rule where the estimated costs to State, local, or tribal governments, or to the private sector will be $100 million or more in any one year. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and that is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly and uniquely impacted by the rule. EPA has determined that the costs to State, local, or tribal governments, or the private sector, from this rule will be less than $100 million.

V. Paperwork Reduction Act

The technical amendments promulgated by this action do not create or change the information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Office of Management and Budget (OMB) has previously approved the information collection requirements already contained in all the Part 86 sections amended by this action and has assigned OMB control numbers 2060–0104 and 2060–0064.

VI. Submission to Congress and the General Accounting Office

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 report which includes a copy of the rule, to each House of 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 General Accounting Office prior to publication of this rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VII. Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism

implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule does not have federalism implications. It 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. This rule only revises the emissions testing requirements that are part of EPA's existing regulation of new motor vehicles and new motor vehicle engines and only affects the manufacturers of such vehicles and engines. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

VIII. Consultation and Coordination With Indian Tribal Governments

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

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IX. Protection of Children

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62FR19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

X. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

EPA has continued to incorporate ASTM test methods in this rule. EPA is not aware of any voluntary consensus standards which are inconsistent with the regulations promulgated in this rule.

XI. Copies of Rulemaking Documents

Electronic copies of the preamble and the regulatory text of this rule are available via the Internet on the Office of Mobile Sources (OMS) Home Page (http://www.epa.gov/oms). This service is free of charge, except for any cost you already incur for Internet connectivity. The official **Federal Register** version is made available on the day of publication on the primary Web site (http://www.epa.gov/docs/fedrgstr/EPA–AIR/).

Please note that due to differences between the software used to develop the documents and the software into which the documents may be downloaded, changes in format, page length, etc., may occur.

List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: January 10, 2000.

Carol M Browner,

Administrator.

For the reasons set forth in the preamble, part 86 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 86—CONTROL OF EMISSIONS FROM NEW AND IN—USE HIGHWAY VEHICLES AND ENGINES

1. The authority citation for part 86 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart B—[Amended]

2. Section 86.113–94 is amended by revising the table in paragraph (b)(2) to read as follows:

§ 86.113–94 Fuel specifications.

* * * * *

(b) * * *

(2) * * *

Item		ASTM test method No.	Type 2–D
Cetane number		D 613	40–50
Cetane index		D 976	40–50
Distillation range:			
IBP	°F (°C)	D 86	340–400 (171.1–204.4)
10 pct. point	°F	D 86	400–460

Item		ASTM test method No.	Type 2–D
50 pct. point	(°C) °F	D 86	(204.4–237.8) 470–540
90 pct. point	(°C) °F	D 86	(243.3–282.2) 560–630
EP	(°C) °F	D 86	(293.3–332.2) 610–690
Gravity	(°C) °API	D 287	(321.1–365.6) 32–37
Total sulfur	pct.	D 2622	0.03–0.05
Hydrocarbon composition:			
Aromatics, minimum	pct.	D 1319	27
Paraffins, Naphthenes, Olefins		D 1319	[1]
Flashpoint, min.	°F	D 93	130
Viscosity	(°C) centistokes	D 445	(54.4) 2.0–3.2

[1] Remainder.

* * * * *

3. Section 86.119–90 is amended by revising paragraph (b)(3) and adding paragraph (b)(8) to read as follows:

§ 86.119–90 CVS calibration.

* * * * *

(b) * * *

(3) Measurements necessary for flow calibration are as follows:

CALIBRATION DATA MEASUREMENTS

Parameter	Symbol	Units	Tolerances
Barometric pressure (corrected)	P_b	Inches Hg (kPa)	±.01 in Hg (±.034 kPa)
Air temperature, flowmeter	ETI	°F (°C)	±.25°F (±.14°C)
Pressure depression upstream of LFE	EPI	Inches H_2O (kPa)	±.05 in H_2O (±.012 kPa)
Pressure drop across LFE matrix	EDP	Inches H_2O (kPa)	±.005 in H_2O (±.001 kPa)
Air flow	Q_s	Ft^3/min. (m^3/min,)	±.5 pct
CFV inlet depression	PPI	Inches fluid (kPa)	±.13 in fluid (±.055 kPa)
CFV outlet pressure	PPO	Inches Hg (kPa)	±0.05 in. Hg (±0.17 kPa)[1]
Temperature at venturi inlet	T_v	°F (°C)	±0.5°F (±0.28°C)
Specific gravity of manometer fluid (1.75 oil)	Sp. Gr		

[1] Requirement begins August 20, 2001.

* * * * *

(8) Calculation of a parameter for monitoring sonic flow in the CFV during exhaust emissions tests:

(i) *Option 1.* (A) CFV pressure ratio. Based upon the calibration data selected to meet the criteria for paragraphs (d)(7)(iv) and (v) of this section, in which K_v is constant, select the data values associated with the calibration point with the lowest absolute venturi inlet pressure. With this set of calibration data, calculated the following CFV pressure ratio limit, $Pr_{ratio\text{-}lim}$:

$$Pr_{ratio\text{-}lim} = \frac{P_{out\text{-}cal}}{P_{in\text{-}cal}}$$

Where:

$P_{in\text{-}cal}$ = Venturi inlet pressure (PPI in absolute pressure units), and

$P_{out\text{-}cal}$ = Venturi outlet pressure (PPO in absolute pressure units), measured at the exit of the venturi diffuser outlet.

(B) The venturi pressure ratio ($Pr_{ratio\text{-}i}$) during all emissions tests must be less than, or equal to, the calibration pressure ratio limit ($Pr_{ratio\text{-}lim}$) derived from the CFV calibration data, such that:

$$\frac{P_{out\text{-}i}}{P_{in\text{-}i}} = Pr_{ratio\text{-}i} \leq Pr_{ratio\text{-}lim}$$

Where:

$P_{in\text{-}i}$ and $P_{out\text{-}i}$ are the venturi inlet and outlet pressures, in absolute pressure units, at each i-th interval during the emissions test.

(ii) *Option 2.* Other methods: With prior Administrator approval, any other method may be used that assure that the venturi operates at sonic conditions during emissions tests, provided the method is based upon sound engineering principles.

* * * * *

Subpart N—[Amended]

4. Section 86.1313–98 is amended by revising Table N98–2 in paragraph (b)(2) to read as follows:

§ 86.1313–98 Fuel specifications.

* * * * *

(b)(2) * * *

TABLE.—N 98–2

Item		ASTM test method No.	Type 1–D	Type 2–D
Cetane Number		D 613	40–54	40–50
Cetane Index		D 976	40–54	40–50
Distillation range:				
IBP	°F	D 86	330–390	340–400

TABLE.—N 98–2—Continued

Item		ASTM test method No.	Type 1–D	Type 2–D
	(°C)		(165.6–198.9)	(171.1–204.4)
10 pct. point	°F	D 86	370–430	400–460
	(°C)		(187.8–221.1)	(204.4–237.8)
50 pct. point	°F	D 86	410–480	470–540
	(°C)		(210.0–248.9)	(243.3–282.2)
90 pct. point	°F	D 86	460–520	560–630
	(°C)		(237.8–271–1)	(293.3–332.2)
EP	°F	D 86	500–560	610–690
	(°C)		(260.0–293.3)	(321.1–365.6)
Gravity	°API	D 287	40–44	32–37
Total sulfur	pct.	D 2622	0.03–0.05	0.03–0.05
Hydrocarbon composition:				
Aromatics, minimum	pct.	D 5186	8	27
Paraffins, Naphthenes, Olefins		D 1319	[1]	[1]
Flashpoint, min.	°F	D 93	120	130
	(°C)		(48.9)	(54.4)
Viscosity	centistokes	D 445	1.6–2.0	2.0–3.2

[1] Remainder.

* * * * *

5. Section 86.1319–90 is amended by revising paragraph (d)(3) and adding paragraph (d)(8) to read as follows:

§ 86.1319–90 CVS calibration.

* * * * *

(d) * * *

(3) Measurements necessary for flow calibration are as follows:

CALIBRATION DATA MEASUREMENTS

Parameter	Symbol	Units	Sensor-readout tolerances
Barometric pressure (corrected)	P_b	in Hg (kPa)	±.01 in Hg (±.034 kPa).
Air temperature, into flowmeter	ETI	°F (°C)	±0.5 °F (±.28 °C).
Pressure drop between the inlet and throat of metering venturi	EDP	Inches H_2O (kPa)	±0.05 in H_2O (±.012 kPa).
Air flow	Q_s	Ft^3/min. (m^3/min)	±.5 % of NBS ''true'' value.
CFV inlet depression	PPI	Inches fluid (kPa)	±.13 in fluid (±.055 kPa).
CFV outlet pressure	PPO	Inches Hg (kPa)	±.05 in Hg (±.17 kPa) [1].
Temperature at venturi inlet	T_v	°F (°C)	±4.0 °F (±2.22 °C).
Specific gravity of manometer fluid (1.75 oil)	Sp. Gr		

[1] Requirement begins August 20, 2001.

* * * * *

(8) Calculation of a parameter for monitoring sonic flow in the CFV during exhaust emissions tests:

(i) *Option 1.* (A) CFV pressure ratio. Based upon the calibration data selected to meet the criteria for paragraphs (d)(7)(iv) and (v) of this section, in which K_v is constant, select the data values associated with the calibration point with the lowest absolute venturi inlet pressure. With this set of calibration data, calculated the following CFV pressure ratio limit, $Pr_{ratio\text{-}lim}$:

$$Pr_{ratio\text{-}lim} = \frac{P_{out\text{-}cal}}{P_{in\text{-}cal}}$$

Where:

$P_{in\text{-}cal}$ = Venturi inlet pressure (PPI in absolute pressure units), and

$P_{out\text{-}cal}$ = Venturi outlet pressure (PPO in absolute pressure units), measured at the exit of the venturi diffuser outlet.

(B) The venturi pressure ratio ($Pr_{ratio\text{-}i}$) during all emissions tests must be less than, or equal to, the calibration pressure ratio limit ($Pr_{ratio\text{-}lim}$) derived from the CFV calibration data, such that:

$$\frac{P_{out\text{-}i}}{P_{in\text{-}i}} = Pr_{ratio\text{-}i} \leq Pr_{ratio\text{-}lim}$$

Where:

$P_{in\text{-}i}$ and $P_{out\text{-}i}$ are the venturi inlet and outlet pressures, in absolute pressure units, at each i-th interval during the emissions test.

(ii) *Option 2.* Other methods: With prior Administrator approval, any other method may be used that assure that the venturi operates at sonic conditions during emissions tests, provided the method is based upon sound engineering principles.

* * * * *

6. Section 86.1333–90 is amended by revising paragraph (d) to read as follows:

§ 86.1333–90 Transient test cycle generation.

* * * * *

(d) Idle Speed Enhancement Devices (*e.g.* cold idle, alternator idle, etc.). For an engine equipped with an idle speed enhancement device, the zero percent speed specified in the engine dynamometer schedules (appendix I (f)(1), (f)(2), or (f)(3) to this part) does not apply. The idle speed shall be the speed that results from the proper operation of the engine's idle speed enhancement device.

(1) During idle speed enhancement device operation, a manual transmission engine shall be allowed to idle at whatever speed is required to target a feedback torque equal to zero (using, for example, clutch disengagement, speed to torque control switching, software overrides, etc.) at those points in appendix I(f)(1), (f)(2), or (f)(3) to this part where both reference speed and reference torque are zero percent values. For each idle segment that is ten

seconds or longer, the average feedback torque must be within ±10 ft-lbs of zero. To allow for transition, up to the first four seconds may be deleted from each idle segment calculation.

(2) During idle speed enhancement device operation, an automatic transmission engine shall be allowed to idle at whatever speed is required to target a feedback torque equal to CITT (see paragraph (e)(2) of this section for definition of CITT) at those points in appendix I(f)(1), (f)(2), or (f)(3) to this part where both reference speed and reference torque are zero percent values. For each idle segment that is ten seconds or longer, the average feedback torque must be within ±10 ft-lbs of CITT. To allow for transition, up to the first four seconds may be deleted from each idle segment calculation.

* * * * *

[FR Doc. 00–1091 Filed 2–17–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 98–147; FCC 99–355]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission adopted 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 access 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: The amendments to 47 CFR 51.5, 51.319(a)(1) through (7), 51.230, 51.231 and 51.232 published at 64 FR 1331, became effective on January 10, 2000.

FOR FURTHER INFORMATION CONTACT: Staci Pies, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580.

SUPPLEMENTARY INFORMATION: On December 22, 1999, the Office of Management and Budget (OMB) approved the amendments to the public file rules pursuant to OMB control No. 3060–0848. Accordingly, the rules in § 51.5, 51.319(a)(1) through (7), 51.230, 51.231 and 51.232 became effective on January 10, 2000.

List of Subjects in 47 CFR Part 51

Communications, Common carriers, Telecommunications, Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–3942 Filed 2–17–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1002, 1011, and 1182

[STB Finance Docket No. 33685]

Class Exemption for Motor Passenger Intra-Corporate Family Transactions

AGENCY: Surface Transportation Board.

ACTION: Final Rules.

SUMMARY: The Surface Transportation Board (Board) adopts final rules exempting intra-corporate family transactions of motor carriers of passengers that do not result in significant operational changes, adverse changes in service levels, or a change in the competitive balance with carriers outside the corporate family. Exemption of this class of transaction meets the exemption criteria of 49 U.S.C. 13541 because specific approval under 49 U.S.C. 14303 is not necessary. The Board is also making changes to its regulations concerning fees and delegation of authority.

EFFECTIVE DATE: March 19, 2000.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [Assistance for the hearing impaired is available through TDD/TDY services at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To obtain a copy of the full decision, write to, call or pick up in person from Da-To-Da Office Solutions, Mercury Building, 1925 K Street, N.W., Room 210, Washington, DC 20006. Until further notice, Da-To-Da Office Solutions' telephone number in the Mercury Building will be (202) 289–4357. In addition, Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Regulatory Flexibility Analysis

The Board concludes that these rules will not have a significant economic effect on a substantial number of small entities. The procedures established are simple and expeditious and impose no new reporting requirements on small entities. The rules protect all parties by providing for revoking the exemption for violations of the rules or the statute.

Environmental and Energy Considerations

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1002

Administrative practice and procedure, Common Carriers, Freedom of Information, User Fees.

49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

49 CFR Part 1182

Administrative practice and procedure, Motor Carriers.

Decided: February 11, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, Title 49, Parts 1002 and 1182 of the Code of Federal Regulations are amended to read as follows:

PART 1002—FEES

1. The authority citation for Part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701; and 49 U.S.C. 721(a).

2. Section 1002.2 is amended by adding paragraph (f)(6) to read as follows:

§ 1002.2 Filing fees.

* * * * *

(f) * * *

Type of Proceeding	Fee
* * * * *	
(6) A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family.	1,100
* * * * *	

PART 1011—BOARD ORGANIZATION; DELEGATIONS OF AUTHORITY

3. The authority citation for Part 1011 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 7901; and 49 U.S.C. 701, 721, 11144, 14122, and 15721.

4. In § 1011.8(c)(11), remove ''10505'' and add in its place ''10502'.

5. In § 1011.8, redesignate paragraphs (c)(12) to (c)(17) as paragraphs (c)(13) to (c)(18), and add a new paragraph (c)(12) to read as follows:

§ 1011.8 Delegations of authority by the Board to specific offices of the Board.

* * * * *

(c) * * *

(12) Whether to issue a notice of exemption under 49 U.S.C. 13541 for a transaction under 49 U.S.C. 14303 within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family.

* * * * *

PART 1182—PURCHASE, MERGER, AND CONTROL OF MOTOR PASSENGER CARRIERS

1. The authority citation for part 1182 is revised to read as follows:

Authority: 5 U.S.C. 559; 21 U.S.C. 853a; and 49 U.S.C. 13501, 13541(a), 13902(c), and 14303.

2. Add § 1182.9 to read as follows:

§ 1182.9 Notices of Exemption.

(a) A transaction within a motor passenger corporate family is exempt from 49 U.S.C. 14303 if it does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family. The Board has found that its prior review and approval of these transactions is not necessary to carry out the transportation policy of 49 U.S.C. 13101; regulation is not necessary to protect shippers from abuse of market power; and an exemption is in the public interest. See 49 U.S.C. 13541(a).

(b) To qualify for a class exemption, a party must file a verified notice of the exempt transaction with the Board. The notice shall contain a brief summary of the proposed transaction, the name of the applicants, their business address and telephone number, and the name of counsel to whom questions would be addressed. The notice shall describe the purpose of the transaction and give the proposed consummation date for the transaction, which must be at least 7 days after the filing of the notice. The notice shall describe any contracts or agreements that have been entered into, or will be entered into, concerning the transaction, and shall indicate the impact, if any, that the transaction would have on employees.

(c) The Board shall publish notice of the exemption in the **Federal Register** within 30 days from the filing of the verified notice of exemption. If the notice contains false or misleading information, the Board shall summarily revoke the exemption and require divestiture. Petitions to revoke the exemption under 49 U.S.C. 13541(d) may be filed at any time and will be granted upon a finding that the application of 49 U.S.C. 14303 to the person, class, or transportation is necessary to carry out the transportation policy of 49 U.S.C. 13101.

[FR Doc. 00–3940 Filed 2–17–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000211039–0039–01; I.D. 021400D]

Fisheries of the Exclusive Economic Zone Off Alaska; Closures of Specified Groundfish Fisheries in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is closing specified groundfish fisheries in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the directed fishing allowances specified for the 2000 total allowable catch (TAC) amounts for the GOA.

DATES: Effective February 15, 2000 until midnight, Alaska local time, December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

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

In accordance with § 679.20(d)(1)(i), if the Administrator, Alaska Region, NMFS (Regional Administrator), determines that the amount of a target species or ''other species'' category apportioned to a fishery or, with respect to pollock and Pacific cod, to an inshore or offshore component allocation, will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified GOA Regulatory Area or district (§ 697.20(d)(1)(iii)).

NMFS published final 2000 harvest specifications for these groundfish fisheries in the **Federal Register**. The Regional Administrator has determined that the following TAC amounts are necessary as incidental catch to support other anticipated groundfish fisheries for the 2000 fishing year:

Thornyhead rockfish: entire GOA	2,360 mt
Atka mackerel: entire GOA	600 mt
Sablefish: trawl apportionment, entire GOA	1,802 mt
''Other rockfish'':	
Western Regulatory area	20 mt
Central Regulatory area	740 mt
Shortraker/rougheye rockfish: entire GOA	1,730 mt
Pollock: offshore component, entire GOA	0 mt
Pacific cod: offshore component Eastern Regulatory Area	321 mt
Deep-water flatfish: Western Regulatory Area	280 mt

Consequently, in accordance with § 679.20(d)(1)(i), the Regional

Administrator establishes the directed fishing allowances for the above species or species groups as zero.

Therefore, in accordance with § 679.20(d)(1)(iii) NMFS is prohibiting directed fishing for these species in the specified areas. These closures will be in effect from February 15, 2000 until 12 midnight, Alaska local time, December 31, 2000.

Under authority of the interim 2000 GOA specifications (65 FR 65, January 3, 2000), pollock fishing opened on January 1, 2000, for amounts specified in that notice. NMFS has since closed Statistical Area 610 to directed fishing for pollock effective 1200 hrs, A.l.t., January 31, 2000 (65 FR 5285, February 3, 2000), Statistical Area 620 outside the Shelikof Strait conservation area to directed fishing for pollock effective 1200 hrs, A.l.t., January 27, 2000 (65 FR 5283, February 3, 2000), Statistical Area 630 outside the Shelikof Strait conservation area to directed fishing for pollock effective 1200 hrs, A.l.t., January 25, 2000 (65 FR 4891, February 2, 2000), and directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area, effective 1200 hrs, February 7, 2000 (65 FR 6561, February 10, 2000). The closures for Statistical Areas 610, 620 and 630 will remain in effect until 1200 hrs, A.l.t., March 15, 2000.

These closures supersede the closures announced in the interim 2000 GOA harvest specifications (65 FR 65, January 3, 2000). While these closures are in effect, the maximum retainable bycatch amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679. Refer to § 679.2 for definitions of areas. The definitions of GOA deep-water flatfish and ''Other rockfish'' species categories are provided in the **Federal Register** publication of the Final 2000 Harvest Specifications.

NMFS may implement other closures during the 2000 fishing year, as necessary for effective conservation and management.

Classification

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

This action responds to the TAC limitations and other restrictions on the fisheries established in the Final 2000 Harvest Specifications for Groundfish for the GOA. It must be implemented immediately to prevent overharvesting the 2000 TACs for several groundfish species in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The fleet is currently harvesting groundfish, and further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

Dated: February 14, 2000.

Bruce Morehead,

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

[FR Doc. 00–3913 Filed 2–15–00; 2:51 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000211040–0040–01; I.D. 111899B]

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2000 Harvest Specifications for Groundfish

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

ACTION: Final 2000 specifications for groundfish and associated management measures; apportionment of reserves; request for comments.

SUMMARY: NMFS announces final 2000 harvest specifications, prohibited species bycatch allowances, and associated management measures for the groundfish fishery of the Bering Sea and Aleutian Islands Area (BSAI). This action is necessary to establish harvest limits and associated management measures for groundfish during the 2000 fishing year and to accomplish the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI.

DATES: The final 2000 harvest specifications and associated apportionment of reserves are effective at 1200 hrs, Alaska local time (A.l.t.), February 15, 2000 through 2400 hrs, A.l.t., December 31, 2000. Comments on the apportionment of reserves must be received by March 6, 2000.

ADDRESSES: Comments on the apportionment of reserves may be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via e-mail or Internet.

Copies of the Final Environmental Assessment (EA) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action and the Final 2000 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 1999, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510–2252 (907–271–2809).

FOR FURTHER INFORMATION CONTACT: Shane Capron, 907–586–7228 or shane.capron@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background for the 2000 Final Harvest Specifications

Federal regulations at 50 CFR part 679 that implement the FMP govern the groundfish fisheries in the BSAI. The Council prepared the FMP, and NMFS approved it under the Magnuson-Stevens Fishery Conservation and Management Act. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify annually the total allowable catch (TAC) for each target species and for the ''other species'' category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million metric tons (mt) (§ 679.20(a)(1)(i)). Regulations at § 679.20(c)(3) further require NMFS to consider public comments received on proposed annual TACs and apportionments thereof and on proposed prohibited species catch (PSC) allowances and to publish final specifications in the **Federal Register**. The final specifications set forth in Tables 1 through 8 of this action satisfy these requirements. For 2000, the sum of TACs is 2 million mt.

The proposed BSAI groundfish specifications and prohibited species bycatch allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 13, 1999 (64 FR 69464). Comments were invited and accepted through January 12, 2000. NMFS received one letter of comment on the proposed specifications. This comment is

summarized and responded to in the Response to Comments section. Public consultation with the Council occurred during the December 1999 Council meeting in Anchorage, AK. After considering public comments received, as well as biological and economic data that were available at the Council's December meeting, NMFS is implementing the final 2000 groundfish specifications as recommended by the Council.

In accordance with regulations at § 679.20(c)(2)(ii), NMFS established interim amounts of each proposed initial TAC (ITAC), and allocations thereof, and proposed PSC allowances established under § 679.21 that become available at 0001 hours Alaska local time (A.l.t.), January 1, and remain available until superseded by the final specifications. NMFS published the interim 2000 groundfish harvest specifications in the **Federal Register** on January 3, 2000 (65 FR 60). The interim TACs for pollock subsequently were revised by an emergency interim rule effective January 20, 2000 (65 FR 3892; January 25, 2000). Regulations at § 679.20(c)(2)(ii) do not provide for an interim specification for either the hook-and-line and pot gear sablefish CDQ reserve or for sablefish managed under the Individual Fishing Quota management plan.

With the exception of the sideboard provisions for groundfish and prohibited species under the American Fisheries Act (AFA), the final 2000 groundfish harvest specifications and prohibited species bycatch allowances contained in this action supersede the interim 2000 groundfish harvest specifications. The emergency interim rule implementing AFA cooperative harvest limit provisions (65 FR 4520; January 28, 2000) specified allocations of inshore pollock between cooperative and vessels not participating in cooperatives, as well as harvest amounts and PSC limits for AFA catcher/processors and catcher vessels. These specifications will remain effective for the duration of the AFA emergency interim rule or until superseded by completion of a notice and comment rulemaking to implement the AFA.

Acceptable Biological Catch (ABC) and TAC Specifications

The final ABC levels are based on the best available scientific information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. The FMP specifies the formulas, or tiers, to be used in computing ABCs and overfishing levels. The formulas applicable to a particular stock or stock complex are determined by the level of reliable information available to fishery scientists. This information is categorized into a successive series of six tiers.

At its December 1999 meeting, the Council's Scientific and Statistical Committee (SSC), the Council's Advisory Panel (AP), and Council itself reviewed current biological information about the condition of groundfish stocks in the BSAI. This information was compiled by the Council's Plan Team and is presented in the final 2000 SAFE report for the BSAI groundfish fisheries, dated November 1999. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. From these data and analyses, the Plan Team estimates an ABC for each species or species category.

In December 1999, the SSC, AP, and Council reviewed the Plan Team's recommendations. Except for pollock and the ''other species'' category, the SSC, AP, and Council endorsed the Plan Team's ABC recommendations. Based on the best available information, the SSC recommended slightly higher ABCs for pollock and ''other species'' than the Plan Team recommended. For pollock, the maximum ABC under the overfishing definition results in an amount of 1.2 million mt. The Plan Team recommended using a lower fishing mortality to account for uncertainties in recruitment because there is a limited range of age-classes supporting the fishery. The SSC agreed with the Plan Team's rationale, but disagreed with the extent of the decrease in the fishing mortality rate. The SSC adopted a mortality rate lower than the maximum permissible, but higher than the Plan Team's, resulting in an ABC of 1.139 million mt. For ''other species'', the Plan Team recommended an ABC based on mean catch since 1977. The SSC disagreed with this approach and recommended using a Tier 5 approach under the FMP. For all species, the AP endorsed the ABCs recommended by the SSC, and the Council adopted them. The final ABCs, as adopted by the Council, are listed in Table 1.

The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the required OY range of 1.4 million to 2.0 million mt. The Council adopted the AP's TAC recommendations. None of the Council's recommended TACs for 2000 exceeds the final ABC for any species category. NMFS finds that the recommended TACs are consistent with the biological condition of groundfish stocks as described in the 2000 SAFE document and approved by the Council.

Table 1 lists the 2000 ABC, TAC, ITAC and Community Development Quota (CDQ) reserve amounts, overfishing levels, and initial apportionments of groundfish in the BSAI. The apportionment of TAC amounts among fisheries and seasons is discussed in the following sections.

TABLE 1.—2000 ABC, TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), CDQ RESERVE ALLOCATION, AND OVERFISHING LEVELS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA (BSAI) [1]

[All amounts are in metric tons]

Species	Area	Overfishing level	ABC	TAC	ITAC [2]	CDQ reserve [3]
Pollock [4]	Bering Sea (BS)	1,680,000	1,139,000	1,139,000	973,845	113,900
	Aleutian Islands (AI)	31,700	23,800	2,000	1,800	200
	Bogoslof District	30,400	22,300	1,000	900	100
Pacific cod	BSAI	240,000	193,000	193,000	164,050	14,475
Sablefish [5]	BS	1,750	1,470	1,470	624	202
	AI	3,090	2,430	2,430	516	410
Atka mackerel	Total	119,000	70,800	70,800	60,180	5,309
	Western AI		29,700	29,700	25,245	2,227
	Central AI		24,700	24,700	20,995	1,852
	Eastern AI/BS		16,400	16,400	13,940	1,230

TABLE 1.—2000 ABC, TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), CDQ RESERVE ALLOCATION, AND OVERFISHING LEVELS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA (BSAI) [1]—Continued

[All amounts are in metric tons]

Species	Area	Overfishing level	ABC	TAC	ITAC [2]	CDQ reserve [3]
Yellowfin sole	BSAI	226,000	191,000	123,262	104,773	9,244
Rock sole	BSAI	273,000	230,000	134,760	114,546	10,107
Greenland turbot	Total	42,000	9,300	9,300	7,906	697
	BS		6,231	6,231	5,297	467
	AI		3,069	3,069	2,609	230
Arrowtooth flounder	BSAI	160,000	131,000	131,000	111,350	9,825
Flathead sole	BSAI	90,000	73,500	52,652	44,755	3,948
Other flatfish [6]	BSAI	141,000	117,000	83,813	71,242	6,285
Pacific ocean perch	BS	3,100	2,600	2,600	2,210	195
	AI Total	14,400	12,300	12,300	10,456	922
	Western AI		5,670	5,670	4,820	425
	Central AI		3,510	3,510	2,984	263
	Eastern AI		3,120	3,120	2,652	234
Other red rockfish [7]	BS	259	194	194	165	14
Sharpchin/Northern	AI	6,870	5,150	5,150	4,378	386
Shortraker/rougheye	AI	1,180	885	885	753	66
Other rockfish [8]	BS	492	369	369	314	27
	AI	913	685	685	583	51
Squid	BSAI	2,620	1,970	1,970	1,675	147
Other species [9]	BSAI	71,500	31,360	31,360	26,656	2,352
Total		3,139,274	2,260,113	2,000,000	1,703,677	178,862

[1] Amounts are in metric tons. These amounts apply to the entire Bering Sea (BS) and Aleutian Islands (AI) subarea unless otherwise specified. With the exception of pollock, and for the purpose of these specifications, the Bering Sea subarea includes the Bogoslof District.

[2] Except for pollock and the portion of the sablefish TAC allocated to hook-and-line and pot gear, 15 percent of each TAC is put into a reserve. The ITAC for each species is the remainder of the TAC after the subtraction of these reserves.

[3] Except for pollock and the hook-and-line or pot gear allocation of sablefish, one half of the amount of the TACs placed in reserve, or 7.5 percent of the TACs, is designated as a CDQ reserve for use by CDQ participants (see § 679.31(a)(1)). Fifteen percent of the groundfish CDQ reserve established for arrowtooth flounder and ''other species'' is allocated to a non-specific CDQ reserve found at § 679.31(g).

[4] The AFA requires that 10 percent of the annual pollock TAC be allocated as a directed fishing allowance for the CDQ sector. Then, NMFS is subtracting 5 percent of the remainder as an incidental catch allowance for pollock, which is not apportioned by season or area. The remainder of this amount is further allocated by sector as follows: inshore, 50 percent; catcher/processor, 40 percent; and motherships, 10 percent. NMFS, under regulations at § 679.20(a)(5)(i)(B), allocates zero mt of pollock for directed fishing by vessels using nonpelagic trawl gear. This action is based on Council intent to prohibit the use of nonpelagic trawl gear in the directed pollock fishery in 2000 because of concerns of unnecessary incidental catch with bottom trawl gear in the pollock fishery.

[5] Regulations at § 679.20(b)(1) do not provide for the establishment of an ITAC for the hook-and-line and pot gear allocation for sablefish. The ITAC for sablefish reflected in Table 1 is for trawl gear only. Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear is reserved for use by CDQ participants (see § 679.31(c)).

[6] ''Other flatfish'' includes all flatfish species, except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

[7] ''Other red rockfish'' includes shortraker, rougheye, sharpchin, and northern rockfish.

[8] ''Other rockfish'' includes all Sebastes and Sebastolobus species except for Pacific ocean perch, sharpchin, northern, shortraker, and rougheye rockfish.

[9] ''Other species'' includes sculpins, sharks, skates and octopus. Forage fish, as defined at § 679.2 are not included in the ''other species'' category.

Reserves and the Incidental Catch Allowance (ICA) for Pollock

Regulations at § 679.20(b)(1)(i) require that 15 percent of the TAC for each target species or species group, except for the hook-and-line and pot gear allocation of sablefish, be placed in a non-specified reserve. The AFA supersedes this provision for pollock by requiring that the 2000 TAC for this species be fully allocated among the CDQ program, the ICA, inshore, catcher/processor, and mothership directed fishery allowances.

Regulations at § 679.20(b)(1)(iii) require that one-half of each TAC amount placed in the non-specified reserve be allocated to the groundfish CDQ reserve and that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Section 206(a) of the AFA requires that 10 percent of the pollock TAC be allocated to the pollock CDQ reserve. With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ reserves by gear. Regulations at § 679.21(e)(1)(i) also require that 7.5 percent of each PSC limit, with the exception of herring, be withheld as a prohibited species quota (PSQ) reserve for the CDQ fisheries. Regulations governing the management of the CDQ and PSQ reserves are set forth at §§ 679.30 and 679.31.

Pursuant to section 206(b) of the AFA, NMFS allocates a pollock ICA of 5 percent of the pollock TAC after subtraction of the 10-percent CDQ reserve. This allowance is based on an examination of the incidental catch of pollock in non-pollock target fisheries from 1996 through 1999. During this 4-year period, the incidental catch of pollock ranged from a low of 3 percent in 1998 to a high of about 6 percent in 1997, with a 4-year average of 5 percent.

The regulations do not designate the remainder of the non-specified reserve by species or species group, and any amount of the reserve may be reapportioned to a target species or to the ''other species'' category during the year, providing that such reapportionments do not result in overfishing. The Regional Administrator has determined that the ITACs specified for the species listed in Table 2 need to be supplemented from the non-specified

reserve because U.S. fishing vessels have demonstrated the capacity to harvest their full TAC allocations. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 2 from the nonspecified reserve to increase the ITAC to an amount that is equal to the TAC minus the CDQ reserve.

TABLE 2.—APPORTIONMENT OF RESERVES TO ITAC CATEGORIES

[All amounts are in metric tons]

Species—area or subarea	Reserve amount	Final ITAC
Atka mackerel—Western Aleutian Islands	2,227	27,472
Atka mackerel—Central Aleutian Islands	1,852	22,847
Atka mackerel—Eastern Aleutian Is. & Bering Sea subarea	1,230	15,170
Pacific ocean perch—Western Aleutian Islands	425	5,245
Pacific ocean perch—Central Aleutian Islands	263	3,247
Pacific ocean perch—Eastern Aleutian Islands	234	2,886
Pacific cod—BSAI	14,475	178,525
Shortraker/rougheye rockfish—Aleutian Islands	66	819
Sharpchin/Northern rockfish—Aleutian Islands	386	4,764
Greenland turbot—Bering Sea subarea	467	5,764
Greenland turbot—Aleutian Islands	230	2,839
Total	21,855	269,578

Apportionment of Pollock TAC to Vessels Using Nonpelagic Trawl Gear

Regulations at § 679.20(a)(5)(i)(B) authorize NMFS, in consultation with the Council, to limit the amount of pollock that may be taken in the directed fishery for pollock using nonpelagic trawl gear. In June 1998, the Council adopted management measures that, if approved by NMFS, would prohibit the use of nonpelagic trawl gear in the directed fishery for pollock and reduce specified prohibited species bycatch limits by amounts equal to anticipated savings in bycatch or bycatch mortality that would be expected from this prohibition. These measures could be effective by mid-2000. Therefore, NMFS allocates zero mt of pollock to non-pelagic trawl gear.

Pollock Allocations Under the AFA

Section 206(a) of the AFA requires the allocation of 10 percent of the BSAI pollock TAC as a directed fishing allowance to the CDQ program. The remainder of the BSAI pollock TAC, after the subtraction of an allowance for the incidental catch of pollock by vessels, including CDQ vessels, harvesting other groundfish species, must be allocated as follows: 50 percent to catcher vessels harvesting pollock for processing by the inshore component, 40 percent to catcher/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component, and 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component. These amounts are listed in Table 3.

The AFA also contains several specific requirements concerning pollock and pollock allocations. First, paragraph 210(c) of the AFA requires that not less than 8.5 percent of the pollock allocated to vessels for processing by offshore catcher/processors be available for harvest by offshore catcher vessels listed in section 208(b) harvesting pollock for processing by offshore catcher/processors listed in paragraph 208(e). Second, paragraph 208(e)(21) of the AFA specifies that catcher/processors eligible to fish for pollock under such paragraph are prohibited from harvesting in the aggregate a total of more than one-half of a percent (0.5) of the pollock allocated to vessels for processing by offshore catcher/processors. Other provisions of the AFA, including inshore pollock cooperative allocations, AFA catcher vessel harvest limitations, and excessive harvest and processing shares as well as their rationale are described in the emergency interim rule that implements the AFA (65 FR 4520; January 28, 2000). Table 3 lists the 2000 allocations of pollock TAC as described by the AFA.

Implementation of Steller Sea Lion Conservation Measures

In an emergency interim rule published January 25, 2000 (65 FR 3892), NMFS implemented revised final reasonable and prudent alternatives (RFRPAs) to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. The emergency interim rule implements three types of management measures for the pollock fisheries of the BSAI and GOA: (1) Measures to temporally disperse fishing effort, (2) measures to spatially disperse fishing effort, and (3) measures to provide sufficient protection from competition with pollock fisheries for prey in waters immediately adjacent to rookeries and important haulouts.

The emergency rule established a Steller Sea Lion Conservation Area (SCA) to facilitate regulation of total removals of pollock in an area considered to be critical to the recovery of the endangered western population of Steller sea lions. This area was referred to as the Critical Habitat/Catcher Vessel Operational Area (CH/CVOA) in previous emergency rulemaking and in the 1999 specifications. The emergency rule restricts pollock harvests within the SCA to a percentage of each sector's seasonal allocation as recommended by the Council. The seasonal apportionments and SCA limits described in Table 3 are consistent with the requirements of the RFRPAs in order to avoid jeopardy and adverse modification of critical habitat.

Additionally, directed fishing for pollock is prohibited within the Aleutian Islands subarea. The amounts of pollock specified are for incidental catch only. NMFS determined that this region is especially sensitive to the recovery of the western population of Steller sea lions because of the significant reductions in the population over the past 20 years. The emergency rule also implements fishing closures or partial closures for 25 sites in the Bering Sea subarea. These fishing closures alleviate competition for pollock prey resources in critical foraging areas around Steller sea lion rookeries and haulouts.

NMFS has concluded that these harvest specifications are not an irreversible or irretrievable commitment

of resources that has the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives that might be developed as part of the biological opinion that is currently under development for the BSAI and GOA groundfish fishery management plans. This conclusion is based on the best scientific and commercial data available on population dynamics, fish stock dynamics, fishery management measures, the population dynamics of groundfish stocks in the Aleutian Islands, Bering Sea, and Gulf of Alaska, and interactions between these fisheries and the endangered western population of Steller sea lions. In reaching the conclusion that the year 2000 groundfish fisheries in the BSAI and GOA can proceed as approved at the levels contained in the final harvest specifications for the BSAI and GOA, and as dictated by the groundfish FMPs for the BSAI and GOA, we considered factors pertinent to section 7(d) of the ESA.

Our concerns about the effect of these groundfish fisheries on the Steller sea lions' likelihood of survival and recovery in the wild has resulted from apparent competition between some of the fisheries and sea lions when and where sea lions forage. The total number or biomass of the groundfish species (*e.g.*, pollock, Pacific cod, Atka mackerel, and flatfish) has not been, and does not appear to be, an issue with these fish stocks: the high recruitment rates, relatively short life-histories, and migratory patterns of these species throughout the BSAI and GOA should allow these species to recover relatively quickly. The substantial basis for this assumption comes from the scientific literature on sustainable harvest rates (*e.g.*, Beddington and Cooke, 1983; Clarke, 1991; Sissenwine and Shepard, 1987). The issue is whether the way these fisheries are managed allows the fish stocks to recover and become available again to foraging Steller sea lions before the fishery can compete with the sea lions.

The spatial and temporal distribution of the groundfish fisheries, as opposed to the allowable catch, has been the essence of our concern for Steller sea lions, which was also expressed by the National Research Council in its 1996 review of these issues in the Bering Sea (National Research Council, Committee on the Bering Sea Ecosystem: The Bering Sea Ecosystem, 1996). The need for spatial and temporal distribution has also been the foundation for our development and implementation of management measures that avoid competition between the fisheries and foraging Stellar sea lions.

The TAC-setting process, specified in the FMPs, is very conservative with respect to harvest rate by internationally accepted scientific standards (*e.g.,* Precautionary Approach to Capture Fisheries and Species Introductions, FAO, 1996; Code of Conduct for Responsible Fisheries, FAO, 1995). Harvesting of the TACs established by this process is not expected to deplete groundfish resources. Conducting a fishery in 2000 should not irreversibly or irretrievably alter the ability of these groundfish species to recover from the proposed harvest. A fishery in 2000 would not alter recruitment rates for any of these species and it would not alter their ability to redistribute throughout the area of concern in a way that would reduce their availability for foraging Steller sea lions. While the biological opinion will examine the TAC setting process, we do not believe that the 2000 TAC specifications will threaten the survival and recovery of Stellar sea lions or diminish the value of designated critical habitat for sea lions. Groundfish species should be able to recover quickly enough after the 2000 harvest to effect reasonable and prudent alternatives that avoid the likelihood of jeopardizing Steller sea lions or adversely modifying critical habitat designated for them.

The conduct of this fishery, therefore, would not foreclose any of our options to develop and implement reasonable and prudent alternatives that avoid the likelihood of jeopardizing the sea lions. We intend to complete the comprehensive biological opinion, which will evaluate all activities that govern the groundfish fisheries authorized and managed under the current fishery management plans, prior to the start of the 2001 fisheries. These same activities are also being evaluated in the programmatic supplemental environmental impact statement that we currently are drafting.

TABLE 3.—ALLOCATIONS OF THE POLLOCK TAC AND DIRECTED FISHING ALLOWANCE TO THE INSHORE, CATCHER/PROCESSOR, MOTHERSHIP, AND CDQ COMPONENTS [1]

[All amounts are in metric tons]

Area and sector	2000 DFA	A/B Season			C/D Season [2]		
		A/B DFA	A SCA limit	B SCA Limit	C/D DFA	C SCA Limit	D SCA Limit
Bering Sea subarea	1,139,000	440,794	166,751	55,497	646,951	48,210	80,142
CDQ	113,900	45,560	28,247	9,339	68,340	9,567	15,718
ICA [3]	51,257	.....	.....	.....	.....	.....	.....
AFA Inshore	486,922	194,769	81,802	27,267	292,153	39,440	65,734
AFA C/Ps [4]	389,537	155,815	38,564	12,854	233,722	0	0
Catch by C/Ps	356,426	142,570	.....	.....	213,855	.....	.....
Catch by CVs [4]	33,111	13,245	.....	.....	19,867	.....	.....
Restricted C/P cap [5]	1,848	779	.....	.....	1,069	.....	.....
AFA Motherships	97,384	38,954	14,607	4,869	58,430	0	0
Excessive shares cap [6]	170,442	.....	.....	.....	.....		
Aleutian Islands							
ICA [7]	2,000	.....	.....	.....	.....	.....	.....
Bogoslof District							
ICA [7]	1,000	.....	.....	.....	.....	.....	.....

[1] After subtraction for the CDQ reserve and the incidental catch allowance, the pollock TAC is allocated as follows: inshore component—50 percent, catcher/processor component—40 percent, and mothership component—10 percent. Under paragraph 206(a) of the AFA, the CDQ reserve for pollock is 10 percent. NMFS, under regulations at § 679.20(a)(5)(i)(B), allocates zero mt of pollock to nonpelagic trawl gear. This action is based on Council intent to prohibit the use of nonpelagic trawl gear in 2000 because of concerns of unnecessary incidental catch with bottom trawl gear in the pollock fishery.

[2] Emergency interim regulations (65 FR 3892; January 25, 2000) for pollock in the BS subarea which specify A/B and C/D season dates and SCA limitations, expire on July 19, 2000, before the C/D season is scheduled to begin. Therefore, the C/D season is not authorized unless either the emergency interim rule is extended, or proposed and final rulemaking is completed.

[3] The pollock incidental catch allowance for the BS subarea is 5 percent of the TAC after subtraction of the CDQ reserve.

[4] Subsection 210(c) of the AFA requires that not less than 8.5 percent of the directed fishing allowance allocated to listed catcher/processors (C/Ps) shall be available for harvest only by eligible catcher vessels (CVs) delivering to listed catcher/processors.

[5] The AFA requires that vessels described in section 208(e)(21) be prohibited from exceeding a harvest amount of one-half of 1 percent of the directed fishing allowance allocated to vessels for processing by AFA catcher/processors.

[6] Paragraph 210(e)(1) of the AFA specifies that ''No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.''

[7] Consistent with the revised final RPAs, the Aleutian Islands subarea and the Bogoslof District are closed to directed fishing for pollock. The amounts specified are for incidental catch amounts only, and are not apportioned by season or sector.

Allocation of the Atka Mackerel TAC

Due to concerns about the potential impact of the Atka mackerel fishery on Steller sea lions and their critical habitat, NMFS issued regulations that implement temporal and spatial dispersion of fishing effort in the Atka mackerel fisheries. Regulations at 50 CFR 679.20(a)(8)(ii) apportion the Atka mackerel ITAC into two equal seasonal allowances. The first allowance is made available for directed fishing from January 1 to April 15 (A season), and the second seasonal allowance is made available from September 1 to November 1 (B season) as shown in Table 4. According to § 679.22(a)(8), fishing with trawl gear in areas defined as Steller sea lion critical habitat (see Figure 4 of 50 CFR part 226) within the Western and Central Aleutian Islands subareas, is prohibited during each Atka mackerel season after specified percentages of the TAC are harvested within designated critical habitat areas. In 2000, the specified percentage of each seasonal allowance within critical habitat is 57 percent in the Western Aleutian Islands and 67 percent in the Central Aleutian Islands (§ 679.22(a)(8)(iii)(B)). A Steller sea lion critical habitat closure to fishing with trawl gear within an area will remain in effect until NMFS closes Atka mackerel to directed fishing within the same area. The regulations do not establish critical habitat closures based on Atka mackerel catch percentages inside critical habitat areas for the Eastern Aleutian Islands and Bering Sea subarea.

Under § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian Islands district and the Bering Sea subarea Atka mackerel ITAC may be allocated to the jig gear fleet. The Council determines the amount of this allocation annually, based on several criteria including the anticipated harvest capacity of the jig gear fleet. At its December 1999 meeting, the Council recommended that 1 percent of the Atka mackerel TAC in the Eastern Aleutian Islands district/ Bering Sea subarea be allocated to the jig gear fleet based on historic harvest capacity of the fleet. NMFS finds that this is consistent with the status of the stock and with the regulatory framework stated earlier in this document. Based on an ITAC of 15,170 mt, the jig gear allocation is 152 mt.

TABLE 4.—SEASONAL AND SPATIAL APPORTIONMENTS, GEAR SHARES, AND CDQ RESERVE OF THE BSAI ATKA MACKEREL TAC

[All amounts are in metric tons]

Subarea and Component	TAC	CDQ reserve	ITAC	Seasonal apportionment			
				A Season [2]		B Season [3]	
				Total	CH Limit [4]	Total	CH Limit [4]
Western Aleutian Islands	29,700	2,227	27,473	13,736	7,829	13,736	7,829
Central Aleutian Islands	24,700	1,852	22,848	11,424	7,654	11,424	7,654
Eastern AI/BS subarea [5]	16,400	1,230	15,170				
Jig (1%) [6]			152				
Other gear (99%)			15,018	7,509		7,509	
Total	70,800	5,309	65,491	32,669		32,669	

[1] The reserves have been released for Atka mackerel see (Table 2).
[1] The seasonal apportionment of Atka mackerel is 50 percent in the A season and 50 percent in the B season.
[2] January 1 through April 15.
[3] September 1 through November 1.
[4] Critical habitat (CH) allowance refers to the amount of each seasonal allowance that is available for fishing inside critical habitat (Figure 4 of 50 CFR part 226). In 2000, the percentage of each seasonal allowance available for fishing inside critical habitat is 57 percent in the Western AI and 67 percent in the Central AI. When these critical habitat allowances are reached, critical habitat areas will be closed to trawling until NMFS closes Atka mackerel to directed fishing within the same district.
[5] Eastern Aleutian Islands District and Bering Sea subarea.
[6] Regulations at § 679.20 (a)(8) require that up to 2 percent of the Eastern AI area ITAC be allocated to the Jig gear fleet. The amount of this allocation is 1 percent and was determined by the Council based on anticipated harvest capacity of the jig gear fleet. The jig gear allocation is not apportioned by season.

Allocation of the Pacific Cod TAC

Under § 679.20(a)(7), 2 percent of the Pacific cod ITAC is allocated to vessels using jig gear, 51 percent to vessels using hook-and-line or pot gear, and 47 percent to vessels using trawl gear. Under § 679.20(a)(7)(b), the portion of the Pacific cod TAC allocated to trawl gear is further allocated 50 percent to catcher vessels and 50 percent to catcher/processors. In December 1999, the Council recommended seasonal allowances for the portion of the Pacific cod TAC allocated to the hook-and-line and pot gear fisheries. The seasonal allowances are authorized under § 679.20(a)(7)(iv) and are based on the criteria set forth at § 679.20(a)(7)(iv)(B). They are intended to provide for the harvest of Pacific cod when flesh quality and market conditions are optimum and when Pacific halibut bycatch rates are low. Table 5 lists the 2000 allocations and seasonal apportionments of the Pacific cod ITAC. Consistent with § 679.20(a)(7)(iv)(C), any portion of the first seasonal allowance of the hook-and-line and pot gear allocation that is not harvested by the end of the first season will become available on September 1, the beginning of the third season.

TABLE 5.—GEAR SHARES AND SEASONAL APPORTIONMENTS OF THE BSAI PACIFIC COD TAC

Gear	Percent of ITAC	Share of ITAC (mt)[1]	Seasonal apportionment	
			Date	Amount (mt)
Jig	2	3,571	Jan 1–Dec 31	3,571
Hook-and-line/pot gear	51	91,048	[2] Jan 1–Apr 30	65,000
			May 1–Aug 31	0
			Sept 1–Dec 31	26,048
Trawl gear	47	83,905	Jan 1–Dec 31	83,905
Catcher vessels (50%)	.....	41,953		
Catcher/processors (50%)	.....	41,953	.....	.....
Total	100	178,525		

[1] For Pacific cod in the BSAI, the reserve has been released (see Table 2).
[2] Any unused portion of the first seasonal Pacific cod allowance specified for the Pacific cod hook-and-line or pot gear fishery will be reapportioned to the third seasonal allowance.

In October 1999, the Council also adopted an FMP amendment that would further allocate the hook-and-line and pot gear allocation among different sectors of the fixed gear fleet. If NMFS approves this amendment, after public notice and comment, the 2000 harvest specifications would be revised accordingly.

Allocation of the Shortraker and Rougheye Rockfish TAC

Under § 679.20(a)(9), the ITAC of shortraker rockfish and rougheye rockfish specified for the Aleutian Islands subarea is allocated 30 percent to vessels using non-trawl gear and 70 percent to vessels using trawl gear. Based on a 2000 ITAC of 819 mt, the trawl allocation would be 573 mt and the non-trawl allocation would be 246 mt.

Sablefish Gear Allocation

Regulations at § 679.20(a)(4) (iii) and (iv) require that sablefish TACs for the BSAI subareas be allocated between trawl and hook-and-line or pot gear types. Gear allocations of TACs for the Bering Sea subarea are 50 percent for trawl gear and 50 percent for hook-and-line/pot gear and for the Aleutian Islands subarea, 25 percent for trawl gear, 75 percent for hook-and-line/pot gear. Regulations at § 679.20(b)(1)(iii)(B) require that 20 percent of the hook-and-line and pot gear allocation of sablefish be reserved as sablefish CDQ. Additionally, regulations at § 679.20(b)(iii)(A) require that 7.5 percent of the trawl gear allocation of sablefish (one half of the reserve) be reserved as groundfish CDQ. Gear allocations of the sablefish TAC and CDQ reserve amounts are specified in Table 6.

TABLE 6.—GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TAC

[All amounts are in metric tons]

Subarea and Gear	Percent of TAC	Share of TAC	ITAC[1]	CDQ reserve
Bering Sea				
Trawl[2]	50	735	624	55
Hook-&-line/pot gear[3]	50	735	N/A	147
Total	100	1,470	624	202
Aleutian Islands				
Trawl[2]	25	607	515	45
Hook-&-line/pot gear[3]	75	1,823	N/A	364
Total	100	2,430	515	409

[1] Except for the sablefish hook-and-line and pot gear allocation, 15 percent of TAC is apportioned to reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.
[2] For the portion of the sablefish TAC allocated to vessels using trawl gear, one half of the reserve (7.5 percent of the specified TAC) is reserved for the multi-species CDQ program.
[3] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. Regulations in § 679.20(b)(1) do not provide for the establishment of an ITAC for sablefish allocated to hook-and-line or pot gear.

Allocation of Prohibited Species Catch (PSC) Limits for Halibut, Crab, and Herring

PSC limits for halibut are set forth in regulations at § 679.21(e). For the BSAI trawl fisheries, the limit is 3,775 mt mortality of Pacific halibut. For non-trawl fisheries, the limit is 900 mt mortality. PSC limits for crab and herring are specified annually based on abundance and spawning biomass.

The criteria for determining the PSC limits for red king crab in zone 1 are set forth at § 679.21(e)(1)(ii). For 2000, the PSC limit of red king crab in Zone 1 for trawl vessels is 100,000 animals. The number of mature female red king crab was estimated in 1999 to be above the threshold of 8.4 million animals, and the effective spawning biomass is estimated to be 47.1 million pounds (21,364 mt), which is less than the 55 million pound (24,948 mt) threshold level. Based on the criteria set out at § 679.21(e)(1)(ii)(B), the limit is 100,000 animals.

The criteria for determining the PSC limits for *C. bairdi* crabs are set forth in § 679.21(e)(1)(iii). The 2000 *C. bairdi* PSC limit for trawl gear is 900,000 animals in Zone 1 and 2,550,000 animals in Zone 2. These limits are based on survey data from 1999. In Zone 1, *C. bairdi* abundance was estimated to be greater than 270 million and less than 400 million animals. In Zone 2, *C. bairdi* abundance was estimated to be greater than 290 million animals and less than 400 million animals.

Under § 679.21(e)(1)(iv), the PSC limit for *C. opilio* is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* PSC limit is set at 0.1133 percent of the Bering Sea abundance index, with a minimum PSC of 4.5 million animals and a maximum PSC of 13 million animals. Based on the 1999 survey estimate of 1.4 billion animals, the calculated limit would be 1,586,000 animals. Because this limit falls below the minimum level of 4.5 million, under § 679.21(e)(1)(iv)(B), the 2000 *C. opilio* PSC limit is 4.5 million animals.

Under § 679.21(e)(1)(vi), the PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. NMFS' best estimate of 2000 herring biomass is 185,300 mt. This amount was derived using 1999 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game (ADF&G). Therefore, the herring PSC limit for 2000 is 1,853 mt.

Under § 679.21(e)(1)(i), 7.5 percent of each PSC limit specified for crab and halibut is reserved as a PSQ reserve for use by the groundfish CDQ program. Regulations at § 679.21(e)(3) require the apportionment of each trawl PSC limit into PSC bycatch allowances for seven specified fishery categories. Regulations at § 679.21(e)(4)(ii) authorize the apportionment of the non-trawl halibut PSC limit among five fishery categories. The fishery bycatch allowances for the trawl and non-trawl fisheries are listed in Table 7.

Regulations at § 679.21(e)(3)(ii)(B) establish criteria by which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/''other flatfish'' fishery category and must be based on the need to optimize the groundfish harvest relative to red king crab bycatch. The Council recommended and NMFS is approving a red king crab bycatch limit of 35 percent within the RKCSS in order to maximize the harvest of groundfish relative to red king crab bycatch.

Regulations at § 679.21(e)(4)(ii) authorize exemption of specified non-trawl fisheries from the halibut PSC limit. As in past years, NMFS after consultation with the Council, is exempting pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions because these fisheries use selective gear types that take few halibut compared to other gear types such as nonpelagic trawl. In 1999, total groundfish catch for the pot gear fishery in the BSAI was approximately 17,082 mt with an associated halibut bycatch mortality of about 3 mt. The 1999 groundfish jig gear fishery harvested about 172 mt of groundfish. Most vessels in the jig gear fleet are less than 60 ft (18.3 m) length overall and are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. However, NMFS assumes a negligible amount of halibut bycatch mortality because of the selective nature of this gear type and the likelihood that halibut caught with jig gear have a high survival rate when released.

As in past years, the Council recommended that the sablefish IFQ fishery be exempt from halibut bycatch restrictions because of the sablefish and halibut IFQ program (subpart D of 50 CFR part 679). The sablefish IFQ program requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder is aboard and is holding unused halibut IFQ. NMFS is approving the Council's recommendation. This action results in less halibut discard in the sablefish fishery. In 1995, about 36 mt of halibut discard mortality was estimated for the sablefish IFQ fishery. A similar estimate for 1996 through 1999 has not been calculated, but NMFS has no information indicating that it would be significantly different.

Regulations at § 679.21(e)(5) authorize NMFS, after consultation with the Council, to establish seasonal apportionments of PSC amounts in order maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are (1) seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species, (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass, (4) expected variations in bycatch rates throughout the year, (5) expected start of fishing effort, and (6) economic effects of seasonal PSC apportionments on industry sectors. At its December meeting, the Council's AP recommended seasonal PSC apportionments in order to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based upon the above factors. NMFS is approving the PSC apportionments specified in Table 7.

The trawl PSC limits for Pacific halibut and crab are subject to change in 2000 pending approval by NMFS of a proposed prohibition of non-pelagic trawl gear in the BSAI directed pollock fishery and associated downward adjustments to the halibut and crab PSC limits. A proposed rule implementing these adjustments was published December 29, 1999 (64 FR 73003). Under the proposed rule, the 2000 halibut and crab PSC limits for the BSAI trawl fisheries would be as follows: Halibut, 3,675 mt; Zone 1 red king crab, 97,000 animals; C. opilio, 4,350,000 animals; C. bairdi Zone 1, 830,000; and

C. bairdi Zone 2, 2,520,000 animals. If approved by NMFS, these PSC limits would be established as part of the final rule implementing the non-pelagic trawl prohibition and the 2000 PSC specifications would be amended accordingly.

TABLE 7.—PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES [1]

[All amounts are in metric tons]

	Prohibited Species and Zone					
	Halibut mortality (mt) BSA [2]	Herring (mt) BSAI	Red King Crab (animals) Zone 1 [2]	C. opilio (animals) COBLZ [2 3]	C. bairdi (animals) [2]	
					Zone 1	Zone 2
TRAWL FISHERIES						
Yellowfin sole	910	169	12,015	2,975,771	295,708	1,532,715
January 20–March 31	269	.....	.....	.....	.....	.....
April 1–May 20	201	.....	.....	.....	.....	.....
May 21–July 3	50	.....	.....	.....	.....	.....
July 4–December 31	390	.....	.....	.....	.....	.....
Rocksole/oth.flat/flat sole [4]	800	24	43,392	899,932	316,780	510,905
January 20–March 31	460	.....	.....	.....	.....	.....
April 1–July 3	168	.....	.....	.....	.....	.....
July 4–December 31	172	.....	.....	.....	.....	.....
Turbot/sablefish/arrowtooth [5]	.....	11	.....	42,458	.....	.....
Rockfish (July 4–December 31) [6]	71	9	.....	42,458	.....	10,143
Pacific cod	1,473	24	12,016	127,789	158,587	279,041
Pollock/Atka/other [7]	238	1,616	1,711	74,092	15,175	25,946
RKC savings subarea [4]	.....	.....	23,366	.....	.....	.....
Total Trawl PSC	3,492	1,853	92,500	4,162,500	786,250	2,358,750
NON-TRAWL FISHERIES						
Pacific cod—Total	748	.....	.....	.....	.....	.....
Jan. 1–April 30 [8]	457	.....	.....	.....	.....	.....
May 1–August 31	0	.....	.....	.....	.....	.....
Sept. 1–Dec. 31	291	.....	.....	.....	.....	.....
Other non-trawl Total	84	.....	.....	.....	.....	.....
May 1–December 31	84	.....	.....	.....	.....	.....
Groundfish pot & jig	Exempt	.....	.....	.....	.....	.....
Sablefish hook-&-line	Exempt	.....	.....	.....	.....	.....
Total Non-Trawl	833	.....	.....	.....	.....	.....
PSQ Reserve [9]	351	.....	7,500	337,500	63,750	191,250
Grand Total	4,675	1,853	100,000	4,500,000	850,000	2,550,000

[1] Refer to § 679.2 for definitions of areas.
[2] On December 29, 1999, NMFS published a proposed rule in the Federal Register (64 FR 73003), that if adopted, would reduce the overall PSC limits by the following amounts: halibut mortality 100 mt, red king crabs 3,000 animals, *C. bairdi* crabs 50,000 animals, and *C. opilio* crabs 150,000 animals. NMFS would implement these reductions in the final rule.
[3] *C. opilio* Bycatch Limitation Zone. Boundaries are defined at § 679.21 (e)(7)(iv)(B).
[4] The Council, at its December 1999 meeting, limited red king crab for trawl fisheries within the RKCSS to 35 percent of the total allocation to the rock sole, flathead sole, and other flatfish fishery category (§ 679.21(e)(3)(ii)(B)).
[5] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[6] The Council, at its December 1999 meeting, apportioned the rockfish PSC amounts from July 4–December 31, to prevent fishing for rockfish before July 4, 2000.
[7] Pollock, Atka mackerel, and ''other species fishery category.
[8] Any unused halibut PSC from the first trimester may be rolled over into the third trimester.
[9] With the exception of herring, 7.5 percent of each PSC limit is allocated to the multi-species CDQ program as PSQ reserve. The PSQ reserve is not allocated by fishery, gear, or season.

To monitor halibut bycatch mortality allowances and apportionments, the Administrator, Alaska Region, NMFS (Regional Administrator), will use observed halibut bycatch rates, assumed mortality rates, and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The Regional Administrator monitors a fishery's halibut bycatch mortality allowances using assumed mortality rates that are based on the best information available, including information contained in the annual SAFE report.

The Council recommended, and NMFS concurs, that the assumed halibut mortality rates developed by staff of the International Pacific Halibut Commission (IPHC) for the 2000 BSAI groundfish fisheries, and set forth in Table 8, be adopted for purposes of monitoring halibut bycatch allowances established for 2000. The justification for these mortality rates is discussed in the final SAFE report dated November 1999.

TABLE 8.—ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES

Fishery	Assumed mortality (percent)
Hook-and-line gear fisheries:	
Rockfish	28
Pacific cod	11

TABLE 8.—ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES—Continued

Fishery	Assumed mortality (percent)
Greenland turbot	20
Sablefish	23
Other Species	11
Trawl gear fisheries:	
Midwater pollock	87
Non-pelagic pollock	76
Yellowfin sole	81
Rock sole	79
Flathead sole	64
Other flatfish	75
Rockfish	64
Pacific cod	66
Atka mackerel	81
Greenland turbot	81
Sablefish	23
Other species	66
Pot gear fisheries:	
Pacific cod	9
Other species	9
CDQ fisheries:	
Trawl midwater pollock	90
Trawl non-pelagic pollock	90
Hook-and-line Pacific cod	10

Small Entity Compliance Guide

The following information is a plain language guide to assist small entities in complying with this rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This rule's primary management measures are to announce final 2000 harvest specifications and prohibited species bycatch allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2000 fishing year and to accomplish the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. This action affects all fishermen who participate in the BSAI fishery. NMFS will announce closures of directed fishing in the **Federal Register** and in information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Response to Comments

NMFS received one letter commenting on the 2000 specifications. This comment contained multiple issues that are paraphrased and responded to separately in the following text.

Comment 1. NMFS did not follow specified procedures in its regulations for promulgating the annual harvest specifications. Specifically, NMFS proposes 2000 harvest specifications based on a ''roll over'' from the year previous that are merely a place holder to start the fishery, implements interim specifications on the ''roll over'' TACs without prior notice and comment, and has failed to promulgate final harvest specifications before the start of the 2000 calender year. The process is convoluted, promotes distrust in the government, and violates the law.

Response. The ABC and TAC for each species are based on the best available biological and socioeconomic information. The Council, its AP, and its SSC review current biological information about the condition of groundfish stocks in the BSAI at their October and December meetings. This information is compiled by the Council's BSAI Groundfish Plan Team and is presented in the proposed SAFE report for both groundfish FMPs in September and in a final SAFE report in November.

Regulations at § 679.20(c) require NMFS to publish the proposed harvest specifications ''as soon as practicable after consultation with the Council * * *. The proposed specifications will reflect as accurately as possible the projected changes in U.S. harvesting and processing capacity and the extent to which U.S. harvesting and processing will occur during the coming year.'' On December 13, 1999, NMFS published the proposed specifications in the **Federal Register** (64 FR 69464). These specifications were based on the best available scientific information after consultation with the Council in October 1999. NMFS acknowledges that these were the same specifications as established for 1999. Although new surveys had been performed in 1999, the stock assessment data had not been analyzed and no new information was available which indicated any of the target species ABC should be changed for conservation reasons.

NMFS published interim TAC specifications and PSC limits to authorize the fisheries from January 1 until they are superceded by the final specifications. The implementing regulations at § 679.20(c)(2) authorize one-fourth of each proposed initial Total Allowable Catch (ITAC) and apportionment thereof, one-fourth of each PSC allowance, and the first seasonal allowance of pollock (and Atka mackerel in the BSAI) to be in effect on January 1 on an interim basis and to remain in effect until superseded by final specifications. NMFS published the interim specifications for the BSAI and Gulf of Alaska (GOA) groundfish fisheries in the **Federal Register** on January 3, 2000 (65 FR 60 and 65 FR 65, respectively).

The Council recommended final groundfish harvest specifications to NMFS in mid-December 1999 that were based on the new information contained in the November, 1999 SAFE report and based on the best available scientific information. Unfortunately that information was not available in time for NMFS to complete a notice-and-comment rulemaking before January as the commenter suggested. NMFS must publish proposed specifications earlier than the final SAFE report becomes available. Therefore, NMFS relies on the best information available at the time of the proposed specifications. Although the existing procedures condense the annual harvest specification process into a short period of time at the end of the year, the procedures include multiple Plan Team meetings open to the public and multiple Council meetings in which public comment is solicited, and provide adequate opportunity for the public to comment and participate effectively.

NMFS agrees that the process should be improved and has already spent considerable time exploring different options including changing the calendar dates of the fishing year or creating a framework process which would not require proposed or interim rulemaking. NMFS plans to explore other options for the development of a new process, in consultation with the Council, as soon as practicable.

Comment 2. The proposed annual harvest specifications are based on the default harvest control rule set forth in Amendments 56/56 to the fishery management plans for the BSAI and GOA groundfish fisheries. These amendments violate national standard 1 and other overfishing provisions of the Magnuson-Stevens Act by allowing stocks that have declined below the biomass consistent with maximum sustainable yield (MSY) to remain indefinitely at the depleted biomass level. Furthermore, the agency must set the minimum stock size threshold (MSST) equal to the stock size consistent with maximum sustainable yield, so as to achieve the long-term optimum yield. Because the annual harvest specifications do not reflect any MSST the agency should withdraw the proposed specifications.

Response. NMFS disagrees that promulgation of the proposed harvest specifications violated national standard 1 or other provisions of the Magnuson-Stevens Act. The control rules set forth in Amendments 56/56 (64 FR 10952; March 8, 1999) define OFL and constrain ABC for stocks managed

under the fishery management plans for BSAI and GOA groundfish. In approving Amendments 56/56, NMFS considered public comments submitted on the proposed amendments and determined that these control rules are in compliance with national standard 1 and all other provisions of the Magnuson-Stevens Act. Comment 2 appears to presume that harvest control rules can, by themselves, force stock biomass to increase. In fact, harvest control rules are rules used to control harvest, not biomass. All harvest control rules ''allow'' a depleted stock to remain at a low abundance level indefinitely, because no harvest control rule can control the size of incoming year classes. However, the control rules adopted in Amendments 56/56 are explicitly designed to be precautionary, especially in the context of managing stocks whose biomass have fallen below reference levels.

For a stock that has been identified as overfished, the definition of optimum yield contained in section 3(28) of the Magnuson-Stevens Act states that the rebuilding target should be ''a level consistent with producing the maximum sustainable yield.'' The question then becomes whether the rebuilding target, the biomass level to which a stock must be rebuilt once the stock is identified as being overfished, must equal the MSST, the biomass level at which a stock is identified as being overfished in the first place. The question is answered by the statutory definition of optimum yield (OY), which clearly allows OY to be set as high as the MSY unless relevant economic, social, or ecological factors warrant a lower level. If the law allows OY to be set as high as MSY in some cases, then setting an MSST equal to the MSY level would mean that natural variability alone will cause such stocks to be identified as ''overfished'' approximately 50-percent of the time even if OY were achieved exactly each year. National standard 1 reflects Congress' belief that it is possible to prevent overfishing while achieving OY. Equating MSST to the MSY level would imply the exact opposite.

Currently, the best scientific information available indicates that no stock managed under the BSAI or GOA groundfish fishery management plans is being subjected to an inappropriate harvest rate, and that no stock managed under these fishery management plans is overfished (*C. bairdi* tanner crab, *C. opilio* snow crab, and St. Matthew blue king crab are considered overfished under a separate fishery management plan). The annual specifications reflect the correct use of MSSTs and NMFS finds no reason to prepare new specifications.

Comment 3. Even if the agency's current interpretation of national standard 1 is accepted and MSSTs do not have to be set at MSY stock sizes, the proposed annual harvest specifications are inconsistent with the Magnuson-Stevens Act and the National Standard Guidelines because the specifications do not identify MSSTs at all for individual stocks.

Response. NMFS disagrees. Every stock managed under Tiers 1–3 of the BSAI and GOA groundfish fishery management plans was evaluated with respect to its MSST in the most recent SAFE report dated November 1999. NMFS believes the proposed harvest specifications are consistent with the Magnuson-Stevens Act and the National Standard Guidelines, neither of which requires that MSSTs be identified in the final TAC specifications themselves. MSSTs are used in the process of developing the final TAC specifications and the TAC specifications use harvest control rules that are demonstrably related to the MSY-based management required by the Magnuson-Stevens Act. The control rules used to define overfishing level (OFL) and the maximum permissible ABC restrict fishing at all stock sizes, not just at stock sizes below 5-percent of the MSY level. Not only is fishing restricted at all stock sizes, it is restricted in a conservative manner. Furthermore, in the event that a stock declines below its B_{MSY} level (Tiers 1–2) or $B_{40\%}$ (Tier 3), the level of conservatism increases directly with the magnitude of the decline.

Comment 4. Rather than identifying MSY and OY for individual fish stocks, as required by the Magnuson-Stevens Act, the BSAI and GOA groundfish fishery management plans manage stocks through default rules that are not related to MSY-based management. Because this management system is incompatible with the Magnuson-Stevens Act, NMFS must disapprove the proposed annual harvest specifications.

Response. NMFS disagrees. The Magnuson-Stevens Act does not require that MSY and OY be identified for individual fish stocks. The Magnuson-Stevens Act does require (section 303(a)(3)) that each FMP ''assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery * * *,'' where ''fishery'' is defined (section (3)(13)) as ''(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and (B) any fishing for such stocks.''

A good estimate of the MSY for all stocks combined is not necessarily provided if MSY is determined for a single stock without regard to the effect that such fishing may have on other stocks. If, instead, MSY is determined for a stock assemblage with due regard to the effect that fishing on individual stocks may have on the other members of the assemblage, then it is irrelevant whether all of the individual stocks are simultaneously producing their individual MSYs. Such an ''assemblage'' MSY will necessarily be associated with an equilibrium level of abundance for each of the component stocks, and these abundance levels would inform the fishery manager as to whether individual stocks are being over-or underfished.

Further, the control rules specified in the BSAI and GOA groundfish fishery management plans are expressly related to MSY based management. In Tiers 1 and 2, all of the reference points are defined in terms of MSY. In Tiers 3 through 6, proxies for MSY-related reference points are based on the scientific literature, the National Standard Guidelines, and the Technical Guidance report. In approving Amendment 56/56, NMFS has already determined that use of the present control rules does not violate the Magnuson-Stevens Act. NMFS believes that it has fully complied with the Magnuson-Stevens Act and that the proposed groundfish harvest specifications should not be disapproved.

Comment 5. The proposed annual harvest specifications are inconsistent with the Magnuson-Stevens Act and the National Standard Guidelines because the OYs established for the groundfish fisheries do not take into account ecological factors and the protection of marine ecosystems in setting the annual TAC. To obey the statute, NMFS must identify the economic, social, and ecological factors relevant to a fishery, then evaluate them to determine the amount by which OY should be reduced below MSY. Because the proposed specifications do not document any consideration by NMFS of these factors in setting the TACs for the fisheries, the TACs should be reevaluated to consider these factors and modified if appropriate.

Response. The requirement to consider any relevant economic, social, or ecological factor in specifying OY has been in place since the Council adopted and NMFS approved Amendment 1 to the BSAI groundfish fishery

management plan and Amendment 15 to the GOA groundfish fishery management plan (1981 and 1984, respectively). In approving these amendments, NMFS determined that any relevant economic, social, or ecological factors had been duly considered in specifying OY.

Amendment 1 to the Bering Sea groundfish fishery management plan established the 1.4 to 2.0 million mt OY range. The amendment states that, ''The groundfish complex and its fishery are a distinct management unit of the Bering Sea * * *. This complex forms a large subsystem of the Bering Sea ecosystem with intricate interrelationships between predators and prey, between competitors, and between those species and their environment. Therefore, the productivity and MSY of groundfish should be conceived for the groundfish complex as a unit rather than for many individual species groups.'' When recommending the OY level, the Council considered the results of ecosystem simulations that included numerous ecosystem components (*e.g.,* mammals, birds, demersal fish, semi-demersal fish, pelagic fish, squid, crabs, benthos). The model considered their fluctuations in abundance caused by predation, natural mortality, environmental anomalies, and fishing. The simulations showed that the minimum sustainable exploitable biomass may have been higher than 2.0 million mt.

Under Amendment 15 to the GOA groundfish fishery management plan, the GOA OY is specified also as a range, 116,000–800,000 mt. The lower end of the GOA OY range is equal to the lowest historical groundfish catch during the 21-year period 1965–1985. The upper end of the range is approximately equal to 97-percent of the mean MSY from the years 1983–1987.

In addition, in 1989 the Council began including a separate ecosystem consideration section in the annual SAFE document. In 1993 this section was expanded and devoted to both marine mammals and ecosystem consideration. In 1994, this section was expanded into a separate chapter of the SAFE and entitled ''Ecosystem Considerations.'' NMFS further expanded the ecological advice given for the 2000 specification process by enhancing the document to include status and trend information on key ecosystem components in the BSAI and the GOA.

Recent examples of inclusion of ecosystem considerations in the 2000 SAFE Report are provided by the pollock and Atka mackerel chapters. The pollock chapter was modified to included a spatial and temporal analysis of the pollock fishery to facilitate discussion of its possible effects on Steller sea lions. The Atka mackerel chapter authors, adhering to advice supplied by Congress' Ecosystem Principles Advisory Panel and recognizing the importance of this species in the diet of Steller sea lions, explored alternative harvest strategies to determine an ABC that, in their view, was consistent with the Panel's advocated precautionary approach.

This information is used to identify stocks or ecosystem elements that may be at risk. The SSC uses this information to recommend adjustments to harvest strategies and alternative management measures in order to protect the marine environment. Furthermore, the EA accompanying the specifications outlines the impacts of fishing on the environment and describes mitigation measures incorporated in the specifications. NMFS believes that it has evaluated the marine environment using the best available scientific information and does not believe that the specifications should be reevaluated.

Comment 6. The annual harvest specifications allow overfishing to continue on overfished crab stocks because the proposed specifications promulgate a ''roll over'' from the 1999 harvest specifications.

Response. Overfishing is defined as any rate of fishing mortality in excess of the maximum fishing mortality threshold. Three Bering Sea crab stocks have been declared overfished: Bering Sea Tanner crab, Bering Sea Snow crab, and St. Matthews Blue King crab. All other crab FMP stocks are not overfished or their status is unknown. Overfishing is not occurring for any Bering Sea crab stock that has been declared overfished. The maximum fishing mortality rate (MFMT) for all species of King crab is 0.2 and for all *Chionoecetes* species (including Tanner and Snow crab) the MFMT is 0.3. The St. Matthews Island Blue King crab and Eastern Bering Sea Tanner crab stocks are closed to directed commercial fishing. The current PSC limits on Bering Sea Tanner crab are 0.005 multiplied by the most recent survey abundance (numbers) with a cap of 1,000,000 crab in Zone 1 and 0.012 times the most recent survey abundance (numbers) with a cap of 3,000,000 crab in Zone 2. These bycatch caps are far below the maximum fishing mortality rate that defines overfishing. The 2000 guideline harvest level (GHL) for Snow crab is 28.5 million pounds or 10-percent of the mature biomass, which represents about 23.75 million crabs. The 2000 PSC limit is 4.5 million Snow crab for the entire year. A harvest in excess of about three times the 2000 GHL, or about 71.25 million crabs, would constitute overfishing. The 2000 GHL plus the PSC limit is about 28.25 million crab, well below the overfishing level. Furthermore, the actual catch levels in Zones 1 and 2 are well below the caps.

It is true that NMFS proposed to ''roll over'' the 1999 PSC levels for the year 2000. However, it is incorrect to conclude that the action fails to recognize that many crab stocks are overfished or approaching an overfished condition. NMFS recognized that it is unlikely that the ''roll over'' would result in overfishing of any crab stock.

Comment 7. NMFS prepared an EA for this action that specifically ''tiers off'' the legally inadequate discussion of impacts and alternatives of the 1998 Supplemental Environmental Impact Statement (SEIS). Furthermore, the existence of a previous programmatic EIS does not eliminate the requirement to prepare another, action-specific EIS, if the impacts of the specific action are significant. The 2000 TAC specification have potentially significant environmental impacts that must be addressed in an EIS and an EA is therefore inadequate.

Response. NMFS recognizes that in a July 8, 1999 order, amended on July 13, 1999, the Court in *Greenpeace v. NMFS,* Civ No. 98–0492 (W.D. Wash.) held that the 1998 SEIS did not adequately address aspects of the GOA and BSAI groundfish fishery management plans other than TAC setting, and therefore was insufficient in scope under the National Environmental Policy Act. In response to the Court's order, NMFS is currently preparing a programmatic SEIS for the GOA and BSAI groundfish fishery management plans.

Notwithstanding the less expansive scope of the 1998 SEIS, NMFS believes that the discussion and analysis of impacts and alternatives in the 1998 SEIS—which focused on the issue of TAC setting—is directly applicable to the EA prepared in support of this action—the setting of TACs for the 2000 fishery. Consequently, the EA adopts the discussion and analysis in the 1998 SEIS.

Finally, NMFS believes that the 1998 SEIS' extensive discussion and analysis of the environmental impacts associated with various levels of TACs, coupled with the EA's additional discussion, provides ample support for its determination that the 2000 specifications will not have significant environmental impacts.

Comment 8. The Magnuson-Stevens Act requires that conservation and management measures contained in fishery management plans shall, to the extent practicable, minimize bycatch and the mortality of bycatch that cannot be avoided. The annual harvest specifications fail to take any steps to minimize bycatch and must contain a full analysis of bycatch minimization, must minimize bycatch to the extent practicable, and must establish an adequate standardized bycatch reporting methodology.

Response. NMFS disagrees that the annual harvest specifications are the proper venue for meeting statutory requirements to minimize bycatch and bycatch mortality to the extent practicable. The annual specifications rely on a frameworked process that does not involve changes to regulations. Changes to regulations that promote reduction in bycatch must be accomplished through separate fishery management plan amendments and/or regulatory amendments and are outside the scope of the 2000 harvest specifications. The annual harvest specifications do implement existing regulations intended to limit or reduce prohibited species incidental catch in that annual prohibited species limits and seasonal fishery bycatch allowances are specified with the intent to optimize the amount of groundfish harvest relative to available incidental catch constraints.

Comment 9. The existing groundfish fishery management plans do not comply with Magnuson-Stevens Act mandates to minimize bycatch to the extent practicable, or to minimize the mortality of bycatch that is unavoidable. Existing bycatch avoidance programs implemented prior to the passage of these mandates cannot be used to satisfy the bycatch provisions of the Magnuson-Stevens Act.

Response. This comment is outside the scope of the annual harvest specifications. Notwithstanding that fact, NMFS disagrees that fishery management plan measures to reduce bycatch or bycatch mortality that were implemented prior to the passage of these statutory provisions cannot be considered when assessing overall compliance of a fishery management plan with the Magnuson-Stevens Act. Further, the Council and NMFS continue to assess, develop, and implement reasonable approaches to reduce bycatch to the extent practicable. This standard is not static and will continue to support the evolution of bycatch avoidance programs as the fishery and associated management measures change.

Comment 10. The annual harvest specifications fail to prevent takes of endangered short-tailed albatross.

Response. NMFS disagrees. Regulations at § 679.24(e) and § 679.42(b)(2) contain specific seabird avoidance measures required for vessels using hook-and-line gear. Under terms of the 1999 biological opinion and incidental take statement prepared by the U.S. Fish and Wildlife Service, a take of up to four endangered short-tailed albatross is allowed during the 2-year period from 1999 through 2000 for the BSAI and GOA hook-and-line groundfish fisheries. To date, there have been no reported takes of endangered short-tailed albatross in this time period.

In February 1999, NMFS presented an analysis on seabird mitigation measures to the Council that investigated possible revisions to the currently required seabird avoidance methods that could be employed by the hook-and-line fleet to further reduce the take of seabirds. The Council took final action at its April 1999 meeting to revise the existing requirements for seabird avoidance measures. These revised seabird avoidance measures are expected to be effective as soon in 2000.

Classification

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866.

Pursuant to section 7 of the Endangered Species Act, NMFS has completed a consultation on the effects of the 1999 through 2002 pollock and Atka mackerel fisheries on listed species, including the Steller sea lion, and designated critical habitat. The Biological Opinion prepared for this consultation, dated December 3, 1998, concluded that the Atka mackerel fisheries in the BSAI are not likely to jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. However, the Biological Opinion concluded that the pollock fisheries in the BSAI and the GOA would cause jeopardy and adverse modification of designated critical habitat.

The Biological Opinion, and subsequent revised documents, require that a suite of revised final RPAs be implemented to mitigate the adverse impacts of the pollock fisheries on the western population of Steller sea lions and its critical habitat. The revised final RPAs were implemented by NMFS through emergency rulemaking effective on January 20, 2000 and published in the **Federal Register** on January 25, 2000 (65 FR 3892). As discussed above, these final specifications are consistent with the RFRPAs as required by the Biological Opinion.

NMFS also completed consultations on the effects of the 2000 BSAI groundfish fisheries on listed species, including the Steller sea lion and salmon, and on designated critical habitat. These consultations were completed on December 23, 1999, and concluded that the proposed fisheries were not likely to cause jeopardy or adverse modification to designated critical habitat. However, in an order dated January 25, 2000, the District Court for the Western District of Washington concluded that NMFS must consult pursuant to section 7 of the ESA on the fishery management plans for the groundfish fisheries of the BSAI and GOA. *Greenpeace* v. *NMFS,* Civ. No. 98–49ZZ (W.D. Wash). Prior to the issuance of the court's order, NMFS had begun consultation to evaluate the cumulative effects of the BSAI and GOA groundfish fisheries over a multi-year period on candidate and listed species and critical habitat. NMFS is currently reviewing this ongoing consultation for compliance with the court's January 25, 2000 order and will continue consultation. NMFS has determined that publication of these fishery specifications will not result in an irreversible or irretrievable commitment of resources which would have the effect of foreclosing the formulation or implementation of any reasonable or prudent alternative measures which may be necessary.

A Biological Opinion on the BSAI hook-and-line groundfish fishery and the BSAI trawl groundfish fishery for the ESA listed short-tailed albatross was issued by the U.S. Fish and Wildlife Service in March 1999. The conclusion continued the no jeopardy determination and the incidental take statement expressing the requirement to immediately re-initiate consultations if incidental takes exceed four short-tailed albatross over 2 years' time (1999–2000).

NMFS has prepared a final EA for this action, which describes the impact on the human environment that would result from implementation of the final harvest specifications. In December 1998, NMFS issued an SEIS on the groundfish TAC specifications and PSC limits under the BSAI and GOA groundfish FMPs. In July 1999, the District Court for the Western District of Washington held that the 1998 SEIS did not adequately address aspects of the BSAI and GOA FMPs. Notwithstanding the deficiencies the court noted in the 1998 SEIS, NMFS believes that the discussion of impacts and alternatives in the 1998 SEIS is directly applicable

to this action. The final EA for the 2000 harvest specifications incorporates by reference the 1998 SEIS. Additionally, given the foregoing conclusions that publication of the final specifications for the 2000 Alaska groundfish fisheries will not amount to an irreversible or irretrievable commitment of resources which would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures for the Alaska groundfish fisheries, NMFS finds that it is unnecessary to revise, amend, or supplement the environmental assessment and ''finding of no significant impact'' prepared for publication of the final specifications for the 2000 fisheries.

NMFS prepared an initial regulatory flexibility analysis (IRFA) pursuant to the Regulatory Flexibility Act that describes the impact the 2000 harvest specifications may have on small entities. The IRFA considered the impacts of a range of alternative harvest levels that included no action (i.e., no harvest in 2000) and harvest levels equal to those proposed. NMFS solicited public comment on the IRFA. Although NMFS did not receive any public comments directly addressing the IRFA, NMFS and the Council have considered additional information on the fishery that became available in December. Based on that information, the Council recommended and NMFS hereby establishes final harvest specifications that have been revised from the preferred alternative identified in the proposed rule. NMFS has prepared an FRFA which analyzes the new TAC levels, recommended by the Council in December 1999, and based on updated survey and stock assessment information, for the final 2000 specifications. A copy of this analysis is available from NMFS (see **ADDRESSES**). This action authorizes the BSAI groundfish fisheries to continue under final specifications set at 2000 levels until the TAC is harvested or until the fishery is closed due to attainment of a PSC limit, or for other management reasons. The 2000 TACs are based on the most recent scientific information as reviewed by the Plan Teams, SSC, AP, and Council and which commented on through public testimony and comment from the October and December Council meetings and those comments sent to NMFS on the proposed specifications. This action also achieves optimum yield while preventing overfishing. Small entities would receive the maximum benefits under this alternative, in that they will be able to harvest target species and species groups at the highest available level based on stock status and ecosystem concerns.

The six Community Development Quota (CDQ) groups are comprised of 64 small governmental jurisdictions with direct involvement in groundfish CDQ fisheries that are within the RFA definition of small entities. Based on 1998 data, NMFS estimates less than 280 small entities harvest groundfish in the BSAI.

The establishment of differing compliance or reporting requirements or timetables, and the use of performance rather than design standards, or exempting affected small entities from any part of this action would not be appropriate.

This action is necessary to establish harvest limits for the BSAI groundfish fisheries for the 2000 fishing year. The groundfish fisheries in the BSAI are governed by Federal regulations at 50 CFR part 679 that require NMFS, after consultation with the Council, to publish and solicit public comments on proposed annual TACs, PSC allowances, and seasonal allowances of the TACs. No recordkeeping and reporting requirements are implemented with this final action. NMFS is not aware of any other Federal rules which duplicate, overlap or conflict with the final specifications.

This action is not subject to a 30-day delay in effectiveness because it relieves a restriction as contemplated under 5 U.S.C. 553(d)(1). This rule allows fishing to continue. Without this rule, fishermen who are already on the fishing grounds fishing on interim TAC would have to stop fishing and return to port.

Authority: 16 U.S.C. 773 *et seq.*, 16 U.S.C. 1801 *et seq.*, and 3631 *et seq.*

Dated: February 14, 2000.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–3912 Filed 2–15–00; 2:50 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000211040–0040–01; I.D. 021400E]

Fisheries of the Exclusive Economic Zone Off Alaska; Closures of Specified Groundfish Fisheries in the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is closing specified groundfish fisheries in the Bering Sea and Aleutian Islands management area (BASI). This action is necessary to prevent exceeding the prohibited species bycatch allowances and directed fishing allowances specified for the 2000 BSAI groundfish fisheries.

DATES: Effective February 15, 2000, through 2400 hrs, A.l.t., December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907– 586–7228.

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

In accordance with § 679.20(d)(1)(i), if the Administrator, Alaska Region, NMFS (Regional Administrator) determines that any allocation or apportionment of a target species or ''other species'' category has been or will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (§ 697.20(d)(1)(iii)). Similarly, under § 679.21(e), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, or *C. bairdi* Tanner crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in the category in the specified area.

The Regional Administrator has determined that the following remaining allocation amounts will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2000 fishing year:

Bogoslof District: 1,000 mt
Pollock
Aleutian Islands subarea:
Pollock: 2,000 mt
Sharpchin/northern rockfish 4,764 mt
Shortraker/rougheye rockfish 819 mt

''Other rockfish'' 583 mt
Bering Sea subarea:
Pacific ocean perch 2,210 mt
''Other rockfish'' 314 mt
''Other red rockfish'' 1657 mt

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed fishing allowances for the listed species or species groups as zero.

Therefore, in accordance with § 679.20(d)(1)(iii) NMFS is prohibiting directed fishing for these species in the specified areas and these closures will remain in effect through 2400 hrs, Alaska local time (A.l.t), December 31, 2000.

In addition, the BSAI, Zone 1, annual red king crab allowance specified for the trawl rockfish fishery (§ 679.21(e)(3)(iv)(D)) is 0 mt and the BSAI first seasonal halibut bycatch allowance specified for the trawl rockfish is 0 mt. The BSAI annual halibut bycatch allowance specified for the trawl Greenland turbot/arrowtooth flounder/sablefish fishery categories, (§ 679.21(e)(3)(iv)(C)) is 0 mt. Therefore, in accordance with § 679.21(e)(7)(ii) and (v), NMFS is prohibiting directed fishing for rockfish by vessels using trawl gear in Zone 1 of the BSAI, directed fishing for rockfish by vessels using trawl gear in the entire BSAI and directed fishing for Greenland turbot/arrowtooth flounder/sablefish by vessels using trawl gear in the BSAI. These closures will remain in effect through 2400 hrs, A.l.t., December 31, 2000, for directed fishing for Greenland turbot/arrowtooth flounder/sablefish by vessels using trawl gear in the BSAI, and for directed fishing for rockfish by vessels using trawl gear in Zone 1 in the BSAI, and the 1200 hrs, A.l.t., July 4, 2000, for directed fishing for rockfish by vessels using trawl gear in the entire BSAI.

Under authority of the interim 2000 harvest specifications (65 FR 60, January 3, 2000), NMFS closed directed fishing for Atka mackerel for gears other than jig in the Eastern Aleutian District and the Bering Sea subarea of the BSAI effective 1200 hrs, A.l.t., January 29, 2000, through 2400 hrs, A.l.t., September 1, 2000 (65 FR 4893, February 2, 2000); directed fishing for pollock by vessels, not participating in cooperatives, greater than 99 ft (30.2 m) LOA catching pollock for processing by the inshore component in the SCA of the BSAI effective 12 noon, A.l.t., January 30, 2000, until 1200 hrs, A.l.t., April 1, 2000 (65 FR 5284, February 3, 2000); and prohibited trawling within Steller sea lion critical habitat in the Central Aleutian District of the BSAI, effective 12 noon, A.l.t., February 10, 2000, until the directed fishery for Atka mackerel closes within the entire Central Aleutian District (65 FR xxxx, February x, 2000). The amount of available TAC remaining for these fisheries under the final 2000 harvest specifications for groundfish, following the closures under the interim 2000 harvest specifications for groundfish, will be taken as incidental catch in directed fishing for other species. Thus, these closures remain effective under authority of final 2000 harvest specifications.

These closures supersede the closures announced in the interim 2000 harvest specifications (65 FR 60, January 3, 2000). While these closures are in effect, the maximum retainable bycatch amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679. Refer to § 679.2 for definitions of areas. In the BSAI, ''Other rockfish'' includes Sebastes and Sebastolobus species except for Pacific ocean perch, shortraker, rougheye, sharpchin, and northern rockfish.

Classification

This action is required by § 679.20 and § 679.21 and is exempt from review under E.O. 12866.

This action responds to the TAC limitations and other restrictions on the fisheries established in the Final 2000 Harvest Specification for Groundfish for the BSAI. It must be implemented immediately to prevent overharvesting the 2000 TAC of several groundfish species in the BSAI. A delay in the effective date is impracticable and contrary to the public interest. The fleet is currently harvesting groundfish, and further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

Dated: February 14, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–3911 Filed 2–15–00; 2:50 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000211039–0039–01; I.D. 111899A]

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2000 Harvest Specifications for Groundfish

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

ACTION: Final 2000 harvest specifications for groundfish and associated management measures.

SUMMARY: NMFS announces final 2000 harvest specifications, reserves, allocations, and apportionments for groundfish, Pacific halibut prohibited species catch (PSC) limits, and assumed Pacific halibut mortality rates for the groundfish fisheries of the Gulf of Alaska (GOA). This action is necessary to establish harvest specifications for GOA groundfish for the 2000 fishing year and to conserve and manage the groundfish resources in the GOA, and is intended to implement the goals and objectives contained in the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: The final 2000 harvest specifications are effective at noon on February 15, 2000 through 2400 hrs, Alaska local time (A.l.t.), December 31, 2000.

ADDRESSES: Copies of the Final Environmental Assessment (EA), the Final Regulatory Flexibility Analysis (FRFA) prepared for this action, and the Final Stock Assessment and Fishery Evaluation Report (SAFE report), dated November 1999, are available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501–2252, or by calling 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–481–1780, fax 907–481–1781, or tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Federal regulations at 50 CFR part 679 implement the FMP and govern the groundfish fisheries in the GOA. The North Pacific Fishery Management Council (Council) prepared the FMP and NMFS approved it under the authority of the Magnuson-Stevens

Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 600 and 50 CFR part 679.

NMFS announces for the 2000 fishing year: (1) Specifications of total allowable catch (TAC) amounts for each groundfish species category in the GOA, and reserves; (2) apportionments of reserves; (3) allocations of the sablefish TAC to vessels using hook-and-line and trawl gear; (4) apportionments of pollock TAC among regulatory areas, seasons, and allocations for processing between inshore and offshore components; (5) allocations for processing of Pacific cod TAC between inshore and offshore components; (6) Pacific halibut PSC limits; (7) fishery and seasonal apportionments of the Pacific halibut PSC limits; and (8) Pacific halibut assumed discard mortality rates. A discussion of each of these measures follows.

Regulations implementing the FMP establish the process of determining TACs for groundfish species in the GOA. Pursuant to § 679.20(a)(2), the sum of the TACs for all species must fall within the combined optimum yield (OY) range of 116,000–800,000 metric tons (mt) established for these species at § 679.20(a)(1)(ii).

The Council met from October 12 through 18, 1999, and developed recommendations for proposed 2000 TAC specifications for each species category of groundfish on the basis of the best available scientific information. The Council also recommended associated management measures pertaining to the 2000 fishing year. The Council proposed rolling over all the 1999 final specifications for 2000, pending an update of the preliminary 1999 SAFE report to include new information collected during 1999 and revised stock assessments to be incorporated in the final SAFE report. Pursuant to § 679.20(c)(1)(ii), the proposed 2000 harvest specifications for the GOA groundfish fishery were published in the **Federal Register** on December 13, 1999 (64 FR 69457), and comments were accepted through January 12, 2000. NMFS received one letter of comment on the proposed 2000 GOA specifications, which is responded to in the following text. Interim TAC and PSC amounts equal to one-fourth of the proposed amounts were published in the **Federal Register** on January 3, 2000 (65 FR 65). The interim TACs for pollock subsequently were revised by an emergency interim rule effective January 20, 2000 (65 FR 3892, January 25, 2000), that implemented revised final reasonable and prudent alternatives (RFRPAs) to avoid the likelihood the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. The emergency interim rule implements three types of management measures for the pollock fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and GOA: (1) Measures to temporally disperse fishing effort, (2) measures to spatially disperse fishing effort, and (3) measures to provide full protection from pollock fisheries that compete with Steller sea lions for prey in waters immediately adjacent to rookeries and important haulouts.

The interim TACs were revised further under a second emergency interim rule effective January 20, 2000 (65 FR 4520, January 28, 2000), that established GOA groundfish and PSC limits for specified catcher vessels authorized to harvest BSAI pollock under the American Fisheries Act (AFA).

With the exception of the pollock harvest specifications implementing the RFRPAs and the AFA harvest limits, the final 2000 groundfish harvest specifications and PSC limits contained in this action supersede the interim 2000 specifications.

The Council met December 7 through 12, 1999, to review the best available scientific information concerning groundfish stocks, and to consider public testimony regarding 2000 groundfish fisheries. The best available scientific information is contained in the current SAFE report, dated November 1999. The SAFE report includes the most recent information concerning the status of groundfish stocks based on the most recent catch data, survey data, and biomass projections using alternative modeling approaches or assumptions. The Council's GOA Plan Team prepared the SAFE report and presented it to the Council and the Council's Scientific and Statistical Committee (SSC) and Advisory Panel (AP) at the December 1999 Council meeting. The Plan Team's recommendations for acceptable biological catch (ABC) levels and overfishing levels (OFL) are contained in the SAFE report along with the rationale supporting those recommendations.

For establishment of the ABCs and TACs, the Council considered the ecological, socioeconomic, and ecosystem information in the SAFE report, recommendations from its SSC and AP, as well as public testimony. The SSC adopted the OFL recommendations from the Plan Team, which were provided in the SAFE report, for all groundfish species categories. The SSC also adopted the ABC recommendations from the Plan Team, which were provided in the SAFE report, for all of the groundfish species categories, except pollock in the combined Western, Central, West Yakutat (W/C/WYK) area.

The SSC did not adopt the Plan Team's recommendation of ABC for pollock in the W/C/WYK area of the GOA. The Plan Team's recommendation was to roll over the 1999 ABCs for the area in consideration of: (1) The pollock stock biomass level is in a downward trend, (2) projected year 2000 biomass will be at an all time low, and (3) high variability about the 1999 trawl survey abundance estimate. The SSC shared these concerns with the Plan Team, but recommended that the year 2000 ABC be explicitly based on the current stock assessment. The SSC recommended setting the 2000 ABC for the W/C/WYK area at an adjusted F45 percent exploitation strategy, resulting in an ABC of 93,540 mt for the area.

The Council adopted the SSC's ABC and AP's TAC recommendations for all species except sablefish. The SSC's ABC recommendation for sablefish area apportionments were based on the Plan Team's 5-year weighted average of hook-and-line survey relative abundance. The AP's recommendations were to set TAC equal to ABC in these areas. The Council recommended ABCs and TACs based on an alternative model for apportionment of ABC among management areas, which includes commercial fishery as well as survey data. The fishery and survey data were combined by computing a weighted average of the survey and fishery estimates, with the weight inversely proportional to the variability of each data source. The Council's recommendation for sablefish area apportionments also takes into account the prohibition on the use of trawl gear in the Southeast Outside (SEO) District of the Eastern GOA and makes available 5 percent of the combined Eastern GOA ABCs to trawl gear for use as incidental catch in other directed groundfish fisheries in the West Yakutat (WYK) District.

NMFS agrees with the Council's approach for the 2000 harvest specifications. NMFS stock assessment scientists believe that the use of unbiased commercial fishery data reflecting catch-per-unit effort provides a desirable input for stock distribution assessments. The use of commercial fishery data would need to be evaluated annually to assure that unbiased

information is included in stock distribution models.

As in previous years the Plan Team, SSC, and Council recommended that total removals of Pacific cod from the GOA not exceed ABC recommendations. Accordingly, the Council recommended that the TACs be adjusted downward from the ABCs by amounts equal to the 2000 guideline harvest levels (GHL) established for Pacific cod by the State of Alaska (State) for a State-managed fishery in State waters. The effect of the State's GHL on the Pacific cod TAC is discussed in greater detail below.

The Council's recommended ABCs, listed in Table 1, reflect harvest amounts that are less than the specified overfishing amounts. The sum of 2000 ABCs for all groundfish is 448,010 mt, which is lower than the 1999 ABC total of 532,590 mt.

2000 Harvest Specifications

Specifications of TAC and Reserves

The Council recommended TACs equal to ABCs for pollock, deep-water flatfish, rex sole, sablefish, shortraker and rougheye rockfish, other slope rockfish, northern rockfish, Pacific ocean perch, pelagic shelf rockfish, thornyhead rockfish, demersal shelf rockfish, and Atka mackerel. The Council recommended TACs less than the ABC for Pacific cod, flathead sole, shallow-water flatfish, and arrowtooth flounder (Table 1).

The TAC for pollock has decreased in the combined W/C/WYK areas of the GOA from 94,590 mt in 1999 to 93,540 mt in 2000. It has increased from 6,330 mt in 1999 to 6,460 mt in 2000 in the SEO District of the Eastern GOA. The apportionment of TAC in the W/C/WYK area of the GOA reflects the current biomass distribution.

Under the January 25, 2000, emergency interim rule implementing the RFRPAs for Steller sea lions (65 FR 3892), the annual pollock TAC in the Western and Central GOA is divided into four seasonal apportionments. Thirty percent of the annual TAC in the Western and Central Regulatory Areas in the GOA is apportioned to the A season (January 20 through March 1) in the Western GOA, Shelikof Strait, and Statistical Areas 620 and 630 (outside of Shelikof Strait) in the Central GOA (§ 679.20(a)(5)(ii)); 15 percent to the B season (March 15 through May 31) in the Western GOA, Shelikof Strait, and Statistical Areas 620 and 630 (outside of Shelikof Strait) in the Central GOA; 30 percent to the C season (August 20 through September 15) in the Western GOA and Statistical Areas 620 and 630 in the Central GOA; and 25 percent to the D season (October 1 through November 1) in the Western GOA and Statistical Areas 620 and 630 in the Central GOA (§ 679.23(d)(3)(i) through (iv)). The Shelikof area (defined at § 679.22(a)(3)(iii)(B)) apportionments during the A and B seasons are derived from the estimate of pollock biomass (489,900 mt) in the critical habitat of the Shelikof Strait divided by the pollock biomass (933,000 mt) estimated for the entire GOA multiplied by the A and B seasonal apportionments of pollock TAC (*i.e.,* 30 percent of the annual TACs (27,361 mt) in the A season and 15 percent of the annual TACs in the B season (13,680 mt) in the GOA (§ 679.22(a)(3)(iii)(C))). These specifications under the emergency rule expire July 19, 2000. NMFS anticipates that a final rule permanently implementing these management measures will be in effect prior to the expiration of the emergency rule. This final rule would revise the annual specifications to establish pollock harvest specifications for the remainder of 2000 consistent with the RFRPAs.

NMFS has concluded that these harvest specifications are not an irreversible or irretrievable commitment of resources that has the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives that might be developed as part of the biological opinion that is currently under development for the BSAI and GOA groundfish fishery management plans. This conclusion is based on the best scientific and commercial data available on population dynamics, fish stock dynamics, fishery management measures, the population dynamics of groundfish stocks in the Aleutian Islands, Bering Sea, and Gulf of Alaska, and interactions between these fisheries and the endangered western population of Steller sea lions. In reaching the conclusion that the year 2000 groundfish fisheries in the BSAI and GOA can proceed as approved at the levels contained in the final harvest specifications for the BSAI and GOA, and as dictated by the groundfish FMPs for the BSAI and GOA, NMFS considered factors pertinent to section 7(d) of the ESA.

Our concerns about the effect of these groundfish fisheries on the Steller sea lions' likelihood of survival and recovery in the wild has resulted from apparent competition between some of the fisheries and sea lions when and where sea lions forage. The total number or biomass of the groundfish species (*e.g.,* pollock, Pacific cod, Atka mackerel, and flatfish) has not been, and does not appear to be, an issue with these fish stocks: the high recruitment rates, relatively short life-histories, and migratory patterns of these species throughout the BSAI and GOA should allow these species to recover relatively quickly. The substantial basis for this assumption comes from the scientific literature on sustainable harvest rates (*e.g.,* Beddington and Cooke, 1983; Clarke, 1991; Sissenwine and Shepard, 1987). The issue is whether the way these fisheries are managed allows the fish stocks to recover and become available again to foraging Steller sea lions before the fishery can compete with the sea lions.

The spatial and temporal distribution of the groundfish fisheries, as opposed to the allowable catch, has been the essence of concern for Steller sea lions, which was also expressed by the National Research Council in its 1996 review of these issues in the Bering Sea (National Research Council, Committee on the Bering Sea Ecosystem: The Bering Sea Ecosystem, 1996). The need for spatial and temporal distribution has also been the foundation for the development and implementation of management measures that avoid competition between the fisheries and foraging Steller sea lions.

The TAC-setting process, specified in the FMPs, is very conservative with respect to harvest rate by internationally accepted scientific standards (*e.g.,* Precautionary Approach to Capture Fisheries and Species Introductions, FAO, 1996; Code of Conduct for Responsible Fisheries, FAO, 1995). Harvesting of the TACs established by this process is not expected to deplete groundfish resources. Conducting a fishery in 2000 should not irreversibly or irretrievably alter the ability of these groundfish species to recover from the proposed harvest. A fishery in 2000 would not alter recruitment rates for any of these species and it would not alter their ability to redistribute throughout the area of concern in a way that would reduce their availability for foraging Steller sea lions. While the biological opinion will examine the TAC setting process, we do not believe that the 2000 TAC specifications will threaten the survival and recovery of Steller sea lions or diminish the value of designated critical habitat for sea lions. Groundfish species should be able to recover quickly enough after the 2000 harvest to effect reasonable and prudent alternatives that avoid the likelihood of jeopardizing Steller sea lions or adversely modifying critical habitat designated for them.

The conduct of this fishery, therefore, would not foreclose any of our options to develop and implement reasonable

and prudent alternatives that avoid the likelihood of jeopardizing the sea lions. NMFS intends to complete the comprehensive biological opinion, which will evaluate all activities that govern the groundfish fisheries authorized and managed under the current fishery management plans, prior to the start of the 2001 fisheries. These same activities are also being evaluated in the programmatic supplemental environmental impact statement that we currently are drafting.

The 2000 Pacific cod TAC is affected by the State's developing fishery for Pacific cod in State waters in the Central and Western GOA, as well as Prince William Sound. The SSC, AP, and Council recommended that the sum of all State and Federal water Pacific cod removals should not exceed the ABC. Accordingly the Council recommended that Pacific cod TAC be reduced from ABC levels to account for State GHLS in each regulatory area of the GOA so that the TAC for: (1) The Eastern GOA be lower than the ABC by 1,340 mt, (2) the Central GOA be lower than the ABC by 8,385 mt, and (3) the Western GOA be lower than the ABC by 6,875 mt.

Subsequent to the Council's December 1999 meeting, harvests of Pacific cod in State waters of the Kodiak District in the Central GOA increased to over 90 percent of the 1999 GHL for the area. This results in an unanticipated increase in the 2000 GHL for the Kodiak District (*i.e.,* from 10 percent to 12.5 percent of the Central GOA ABC for a total of 21.75 percent of the Central GOA ABC). NMFS is adjusting the Council's recommended Pacific cod TAC downward for the Central GOA from 35,615 mt to 34,080 mt to reflect the increased 2000 GHLs in the Central GOA. These amounts reflect the increased percentages the State has established for GHLs in these areas. In the Western GOA, the State Pacific cod GHL has increased from 20 percent in 1999, to 25 percent in 2000. The Pacific cod GHL in the Central GOA has increased from 19.25 percent in 1999 to 21.75 percent in 2000. The State's Pacific cod GHL of 1,340 mt for PWS is based on 25 percent of the 2000 Eastern GOA ABC.

The FMP specifies that the amount for the ''other species'' category is calculated as 5 percent of the combined TAC amounts for target species. The GOA-wide ''other species'' TAC is 14,215 mt, which is 5 percent of the sum of the combined TAC amounts for the target species. The sum of the TACs for all GOA groundfish is 298,510 mt, which is within the OY range specified by the FMP. The sum of the TACs is lower than the 1999 TAC sum of 306,535 mt. NMFS has reviewed the Council's recommended TAC specifications and apportionments and hereby approves these specifications under § 679.20(c)(3)(ii). The 2000 ABCs, TACs, and OFLs are shown in Table 1. The initial TAC amounts shown for Pacific cod reflect the reserve of 20 percent of the TACs in this fishery.

TABLE 1.—2000 ABCS, TACS, INITIAL TACS (PACIFIC COD ONLY) AND OVERFISHING LEVELS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), SHELIKOF STRAIT, EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULF-WIDE (GW) DISTRICTS OF THE GULF OF ALASKA

[Values are in metric tons]

Species	Area [1]	ABC	TAC	Initial	TAC	Overfishing
Pollock: [2]						
Shumagin	(610)	29,290	29,290			
Chirikof	(620)	17,430	17,430			
Kodiak	(630)	22,930	22,930			
Shelikof		21,550	21,550			
WYK	(640)	2,340	2,340			
Subtotal	W/C/WYK	93,540	93,540			130,760
SEO	(650)	6,460	6,460			8,610
Total		100,000	100,000			139,370
Pacific cod: [3]						
	W	27,500	20,625	16,500		
	C	43,550	34,080	27,264		
	E	5,350	4,010	3,208		
Total		76,400	58,715	46,972		102,000
Flatfish [4] (deep-water)	W	280	280			
	C	2,710	2,710			
	WYK	1,240	1,240			
	SEO	1,070	1,070			
Total		5,300	5,300			6,980
Rex sole [4]	W	1,230	1,230			
	C	5,660	5,660			
	WYK	1,540	1,540			
	SEO	1,010	1,010			
Total		9,440	9,440			12,300
Flathead sole	W	8,490	2,000			
	C	15,720	5,000			
	WYK	1,440	1,440			
	SEO	620	620			

TABLE 1.—2000 ABCS, TACS, INITIAL TACS (PACIFIC COD ONLY) AND OVERFISHING LEVELS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), SHELIKOF STRAIT, EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULF-WIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are in metric tons]

Species	Area [1]	ABC	TAC	Initial	TAC	Overfishing
Total		26,270	9,060			34,210
Flatfish [5] (shallow-water)	W	19,510	4,500			
	C	16,400	12,950			
	WYK	790	790			
	SEO	1,160	1,160			
Total		37,860	19,400			45,330
Arrowtooth flounder	W	16,160	5,000			
	C	97,710	25,000			
	WYK	23,770	2,500			
	SEO	7,720	2,500			
Total		145,360	35,000			173,910
Sablefish [6]	W	1,840	1,840			
	C	5,730	5,730			
	WYK	2,207	2,207			
	SEO	3,553	3,553			
Subtotal	E	5,760	5,760			
Total		13,330	13,330			16,660
Pacific [7] ocean perch	W	1,240	1,240			1,460
	C	9,240	9,240			10,930
	WYK	840	840			
	SEO	1,700	1,700			
Subtotal	E					3,000
Total		13,020	13,020			15,390
Short raker/rougheye [8]	W	210	210			
	C	930	930			
	E	590	590			
Total		1,730	1,730			2,510
Other rockfish [10]	W	20	20			
	C	740	740			
	WYK	250	250			
	SEO	3,890	3,890			
Total		4,900	4,900			6,390
Northern Rockfish [12]	W	630	630			
	C	4,490	4,490			
	E	N/A	N/A			
Total		5,120	5,120			7,510
Pelagic shelf rockfish [13]	W	550	550			
	C	4,080	4,080			
	WYK	580	580			
	SEO	770	770			
Total		5,980	5,980			9,040
Thornyhead rockfish	W	430	430			
	C	990	990			
	E	940	940			
Total		2,360	2,360			2,820
Demersal shelf rockfish [11]	SEO	340	340			420
Atka mackerel	GW	600	600			6,200
Other [14] species	GW	[15] N/A	14,215			N/A

TABLE 1.—2000 ABCS, TACS, INITIAL TACS (PACIFIC COD ONLY) AND OVERFISHING LEVELS OF GROUNDFISH FOR THE WESTERN/CENTRAL/WEST YAKUTAT (W/C/WYK), WESTERN (W), CENTRAL (C), SHELIKOF STRAIT, EASTERN (E) REGULATORY AREAS, AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE (SEO), AND GULF-WIDE (GW) DISTRICTS OF THE GULF OF ALASKA—Continued

[Values are in metric tons]

Species	Area [1]	ABC	TAC	Initial	TAC	Overfishing
Total [16]	.....	448,010	298,510	.....	.....	581,040

[1] Regulatory areas and districts are defined at § 679.2.

[2] Under the emergency interim rule (65 FR 3892, January 25, 2000) pollock is apportioned in the Western/Central Regulatory areas to the Shelikof Strait conservation area (defined at § 679.22(b)(2)(iii)(B)) in the A and B seasons only (§ 679.22(b)(2)(iii)) in accordance with § 679.22(b)(2)(iii)(C) and the remainder to the three statistical areas in the combined Western/Central Regulatory Area outside the Shelikof Strait based on the relative distribution of pollock biomass at 42 percent, 25 percent, and 33 percent in Regulatory areas 610, 620, and 630 respectively. During the C and D seasons pollock is apportioned based on the relative distribution of pollock biomass at 42 percent, 25 percent, and 33 percent in Regulatory Areas 610, 620, and 630 respectively. These seasonal apportionments are shown in Tables 3 and 4. In the Eastern Regulatory Area, pollock is not divided into seasonal allowances.

[3] Pacific cod is allocated 90 percent for processing by the inshore component and 10 percent for processing by the offshore component. Component allocations of the initial TACs are shown in Table 5.

[4] ''Deep-water flatfish'' means Dover sole, Greenland turbot, and deepsea sole.

[5] ''Shallow-water flatfish'' means flatfish not including ''deep-water flatfish,'' flathead sole, rex sole, or arrowtooth flounder.

[6] Sablefish is allocated to trawl and hook-and-line gears (Table 2).

[7] ''Pacific ocean perch'' means *Sebastes alutus*.

[8] ''Shortraker/rougheye rockfish'' means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).

[9] ''Other rockfish'' in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The category ''other rockfish'' in the Southeast Outside District means Slope rockfish.

[10] ''Slope rockfish'' means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. babcocki* (redbanded), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), and *S. reedi* (yellowmouth). In the Eastern GOA only, ''slope rockfish'' also includes northern rockfish, *S. polyspinous*.

[11] ''Demersal shelf rockfish'' means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

[12] ''Northern rockfish'' means *Sebastes polyspinis*.

[13] ''Pelagic shelf rockfish'' means *Sebastes ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

[14] ''Other species'' means sculpins, sharks, skates, squid, and octopus. The TAC for ''other species'' equals 5 percent of the TACs of target species.

[15] N/A means not applicable.

[16] The total ABC is the sum of the ABCs for target species.

Apportionment of Reserves

Regulations implementing the FMP require 20 percent of each TAC for pollock, Pacific cod, flatfish, and the ''other species'' category be set aside in reserves for possible apportionment at a later date (§ 679.20(b)(2)). For the preceding 12 years, including 1999, NMFS reapportioned all of the reserves in the final harvest specifications except for Pacific cod. Beginning in 1997, NMFS retained the Pacific cod reserve. NMFS proposed reapportionment of all reserves for 2000, except for Pacific cod, in the proposed GOA groundfish specifications published in the **Federal Register** on December 13, 1999 (64 FR 69457). NMFS received no public comments on the proposed reapportionments. For 2000, NMFS has reapportioned all of the reserve for pollock, flatfish, and ''other species.'' NMFS is retaining the Pacific cod reserve at this time to provide for a management buffer to account for excessive fishing effort and/or incomplete or late catch reporting. In recent years, unpredictable increases in fishing effort and harvests, uncertainty of incidental catch needs in other directed fisheries throughout the year, and untimely submission and revision of weekly processing reports have resulted in early and late closures of the Pacific cod fishery. NMFS believes that retention of the Pacific cod reserve to provide for TAC management difficulties later in the year is a conservative approach that will lead to a more orderly fishery and provide greater assurance that incidental catch of Pacific cod may be retained throughout the year. Specifications of TAC shown in Table 1 reflect apportionment of reserve amounts for pollock, flatfish species, and ''other species.'' Table 1 also lists the initial TACs for Pacific cod, which reflect the withholding of the Pacific cod TAC reserve.

Allocations of the Sablefish TACs to Vessels Using Hook-and-Line and Trawl Gear

Under § 679.20(a)(4)(i) and (ii), sablefish TACs for each of the regulatory areas and districts are allocated to hook-and-line and trawl gear. In the Western and Central Regulatory Areas, 80 percent of each TAC is allocated to hook-and-line gear and 20 percent of each TAC is allocated to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is allocated to hook-and-line gear and 5 percent is allocated to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may only be used to support incidental catch of sablefish in directed fisheries for other target species. In recognition of the trawl ban in the SEO District of the Eastern Regulatory Area, the Council recommended that 5 percent of the combined Eastern GOA sablefish be allocated to trawl gear in the WYK District and the remainder to vessels using hook-and-line gear. In the SEO District, 100 percent of the sablefish TAC is allocated to vessels using hook-and-line gear. This recommendation results in an allocation of 288 mt to trawl gear and 1,919 mt to hook-and-line gear in the WYK District. Table 2 shows the allocations of the 2000 sablefish TACs between hook-and-line gear and trawl gear.

TABLE 2.—2000 SABLEFISH TAC SPECIFICATIONS IN THE GULF OF ALASKA AND ALLOCATIONS THEREOF TO HOOK-AND-LINE AND TRAWL GEAR

[Values are in metric tons]

Area/district	TAC	Hook-and-line apportionment	Trawl apportionment
Western	1,840	1,472	368
Central	5,730	4,584	1,146
West Yakutat	2,207	1,919	288
Southeast Outside	3,553	3,553	0
Total	13,330	11,528	1,802

Apportionments of Pollock TAC Among Seasons and Regulatory Areas, and Allocations for Processing by Inshore and Offshore Components

In the GOA, pollock is apportioned by season and area, and is further allocated for processing by inshore and offshore components. Under the emergency interim rule published January 25, 2000 (65 FR 3892), implementing the RFRPAs, the annual pollock TAC specified for the Western and Central Regulatory Areas of the GOA is apportioned into four seasonal allowances of 30, 15, 30, and 25 percent, respectively (§ 679.20(a)(5)(ii)(B)). As established by § 679.23(d)(2), the A, B, C, and D season allowances are available from January 20 through March 1, from March 15 through May 31, from August 20 through September 15, and from October 1 through November 1 respectively.

To prevent localized depletions of pollock outside the Shelikof Strait conservation area (defined at § 679.20(b)(2)(iii)(B)), the emergency rule also establishes seasonal TACs of pollock within Shelikof Strait during the A and B seasons. The derivation of these harvest limits is explained here and listed in Tables 1 and 3.

The remainder of the A and B seasonal allowances of pollock TAC in the Western and Central Regulatory Areas are apportioned among statistical area 610, and statistical areas 620 and 630 outside Shelikof Strait conservation area in proportion to the distribution of pollock biomass as determined by the four most recent NMFS surveys. Pollock TACs in the Western and Central Regulatory Areas in the C and D seasons are apportioned among statistical areas 610, 620, and 630 in proportion to the distribution of pollock biomass as determined by the four most recent NMFS surveys. Within any fishing year, underage or overage of a seasonal allowance may be added to or subtracted from subsequent seasonal allowances in a manner to be determined by the Regional Administrator, Alaska Region, NMFS, provided that a revised seasonal allowance does not exceed 30 percent of the annual TAC apportionment (§ 679.20(a)(5)(ii)(C)). The WYK and SEO District pollock TACs of 2,340 mt and 6,460 mt, respectively, are not allocated seasonally.

Regulations at § 679.20(a)(6)(ii) require that 100 percent of the pollock TAC in all regulatory areas and all seasonal allowances thereof be allocated to vessels catching pollock for processing by the inshore component after subtraction of amounts that are projected by the Regional Administrator to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species. The amount of pollock available for harvest by vessels harvesting pollock for processing by the offshore component is that amount actually taken as bycatch during directed fishing for groundfish species other than pollock, up to the maximum retainable bycatch amounts allowed under regulations at § 679.20(e) and (f). At this time, these bycatch amounts are unknown and will be determined during the fishing year.

The biomass distribution of pollock in the Western and Central GOA, area apportionments, and seasonal apportionments for the A and B seasons are summarized in Table 3 and for the C and D seasons in Table 4, except that amounts of pollock for processing by the inshore and offshore component are not shown.

TABLE 3.—DISTRIBUTION OF POLLOCK IN THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA (W/C GOA); BIOMASS DISTRIBUTION, AREA APPORTIONMENTS, AND SEASONAL ALLOWANCES OF ANNUAL TAC FOR THE A AND B SEASONS IN 2000

Statistical area	Biomass percent	2000 annual TAC	Seasonal allowances of annual TAC	
			A (30%)	B (15%)
Shelikof	52.5	21,550	14,366	7,183
Shumagin (610)	11.9	29,290	5,465	2,732
Chirikof [1] (620)	20.0	17,430	3,252	1,626
Kodiak [1] (630)	15.6	22,930	4,278	2,139
Total	100.0	91,200	27,361	13,680

[1] A and B seasonal allowances in the Chirikof and Kodiak Districts are outside the Shelikof Strait defined at § 679.20(b)(2)(iii)(B).

TABLE 4.—DISTRIBUTION OF POLLOCK IN THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA (W/C GOA); BIOMASS DISTRIBUTION, AREA APPORTIONMENTS, AND SEASONAL ALLOWANCES OF ANNUAL TAC FOR THE C AND D SEASONS IN 2000

Statistical area	Biomass percent	2000 annual TAC	Seasonal allowances of annual TAC [1]	
			C (30%)	D (25%)
Shelikof		21,550	Not Apportioned	
Shumagin (610)	25	29,290	11,506	9,588
Chirikof (620)	42	17,430	6,847	5,706
Kodiak (630)	33	22,930	9,008	7,506
Total	100	91,200	27,361	22,800

[1] Emergency interim regulations (65 FR 3892; January 25, 2000) for pollock in the GOA which specify A and B season dates and harvest limitations, expire July 19, 2000, before the C and D seasons are scheduled to begin. Therefore, the C and D seasons are not authorized unless either the emergency rule is extended, or proposed and final rulemaking is completed.

Allocations for Processing of Pacific Cod TAC Between Inshore and Offshore Components

Regulations at § 679.20(a)(6)(iii) require that the TAC apportionment of Pacific cod in all regulatory areas be allocated to vessels catching Pacific cod for processing by the inshore and offshore components. Ninety percent of the Pacific cod TAC in each regulatory area is allocated to vessels catching Pacific cod for processing by the inshore component. The remaining 10 percent of the TAC is allocated to vessels catching Pacific cod for processing by the offshore component. These allocations of the Pacific cod initial TAC for 2000 are shown in Table 5. The Pacific cod reserves are not included in Table 5.

TABLE 5.—2000 ALLOCATION (METRIC TONS) OF PACIFIC COD INITIAL TAC AMOUNTS IN THE GULF OF ALASKA; ALLOCATIONS FOR PROCESSING BY THE INSHORE AND OFFSHORE COMPONENTS

Regulatory area	Initial TAC	Component allocation	
		Inshore (90%)	Offshore (10%)
Western	16,500	14,850	1,650
Central	27,264	24,538	2,726
Eastern	3,208	2,887	321
Total	46,972	42,275	4,697

Pacific Halibut PSC Mortality Limits

Under § 679.21(d), annual Pacific halibut PSC limits are established and apportioned to trawl and hook-and-line gear and may be established for pot gear.

As in 1999, the Council recommended that pot gear, jig gear, and the hook-and-line sablefish fishery be exempted from the non trawl halibut limit for 2000. The Council recommended these exemptions because of the low halibut bycatch mortality experienced in the pot gear fisheries (41 mt in 1999) and because of the 1995 implementation of the sablefish and halibut Individual Fishing Quota program, which allows legal-sized halibut to be retained in the sablefish fishery. Halibut mortality for the jig gear fleet cannot be estimated because these vessels do not carry observers. However, halibut mortality is assumed to be very low given the small amount of fish harvested by this gear type (186 mt in 1999) and the assumed high survival rate of any halibut that are incidentally taken and discarded.

As in 1999, the Council recommended a hook-and-line halibut PSC mortality limit of 300 mt. Ten mt of this limit are apportioned to the demersal shelf rockfish fishery in the Southeast Outside District. The fishery is defined at § 679.21(d)(3) and historically has been apportioned this amount in recognition of its small scale harvests. Observer data are not available to verify actual bycatch amounts given most vessels are less than 60 ft (18.3 m) LOA and are exempt from observer coverage. The remainder of the PSC limit is seasonally apportioned among the non-sablefish hook-and-line fisheries as shown in Table 6.

The Council continued to recommend a trawl halibut PSC mortality limit of 2,000 mt. The PSC limit has remained unchanged since 1989. Regulations at § 679.21(d)(3)(iii) authorize separate apportionments of the trawl halibut PSC limit between trawl fisheries for deep-water and shallow-water species. Regulations at § 679.21(d)(5) authorize seasonal apportionments of halibut PSC limits. For 2000, the Council recommended delaying the release of the third seasonal apportionment of trawl halibut PSC limits to July 4 to facilitate inseason management of directed trawl fisheries, particularly rockfish.

NMFS concurs in the Council's recommendations described and listed in Table 6. The following types of information as presented in, and summarized from, the current SAFE report, or as otherwise available from NMFS, Alaska Department of Fish and Game, the International Pacific Halibut Commission (IPHC), or public testimony, were considered:

(A) Estimated Halibut Bycatch in Prior Years

The best available information on estimated halibut bycatch is data collected by observers during 1999. The calculated halibut bycatch mortality by trawl, hook-and-line, and pot gear through December 25, 1999, is 2,127 mt, 348 mt, and 41 mt, respectively, for a total halibut mortality of 2,516 mt.

Halibut bycatch restrictions seasonally constrained trawl gear fisheries during all quarters of the 1999 fishing year. Trawling for the deep-water fishery complex was closed for the first quarter on March 24 (64 FR 14840, March 29, 1999), for the second

quarter on April 25 (64 FR 22815, April 28, 1999), for the third quarter on July 21 (64 FR 40293, July 26, 1999), and for the fourth quarter on October 16, 1999 (64 FR 56473, October 20, 1999). The shallow-water fishery complex was closed for the first quarter on March 20 (64 FR 14155, March 24, 1999), for the second quarter on April 1 (64 FR 16654, April 6, 1999), for the third quarter on July 4 (64 FR 35080, June 30, 1999), and for the fourth quarter on October 16, 1999 (64 FR 56473, October 20, 1999). The three seasonal apportionments of the hook-and-line halibut bycatch mortality limit resulted in closures of hook-and-line fisheries for groundfish other than sablefish and demersal shelf rockfish on April 24 (64 FR 22814, April 28, 1999), May 18 (64 FR 27476, May 20, 1999), and on September 1 (64 FR 46317, August 25, 1999).

(B) Expected Changes in Groundfish Stocks

At its December 1999 meeting, the Council adopted higher ABCs for rex sole, flathead sole, sablefish, shortraker and rougheye rockfish, northern rockfish, pelagic shelf rockfish, and thornyhead rockfish than those established for 1999. The Council adopted lower ABCs for pollock, Pacific cod, deep-water flatfish, shallow-water flatfish, arrowtooth flounder, Pacific ocean perch, other rockfish, and demersal shelf rockfish than those established for 1999. More information on these changes is included in the final SAFE report (November 1999) and in the Council and SSC minutes.

(C) Expected Changes in Groundfish Catch

The total of the 2000 TACs for the GOA is 298,510 mt, a decrease of 3 percent from the 1999 TAC total of 306,535 mt. Those fisheries for which the 2000 TACs are lower than in 1999 are pollock (decreased to 100,000 mt from 100,920 mt), Pacific cod (decreased to 58,715 mt from 67,835 mt), deep-water flatfish (decreased to 5,300 mt from 6,050 mt), other rockfish (decreased to 4,900 mt from 5,270 mt), demersal shelf rockfish (decreased to 340 mt from 560 mt), and other species (decreased to 14,215 mt from 14,600 mt). Those species for which the 2000 TACs are higher than in 1999 are rex sole (increased to 9,440 mt from 9,150 mt), flathead sole (increased to 9,060 mt from 9,040 mt), shallow-water flatfish (increased to 19,400 mt from 18,770 mt), sablefish (increased to 13,330 mt from 12,700 mt), Pacific ocean perch (increased to 13,020 mt from 12,590 mt), shortraker and rougheye rockfish (increased to 1,730 mt from 1,590 mt), northern rockfish (increased to 5,120 mt from 4,990 mt), pelagic shelf rockfish (increased to 5,980 mt from 4,880 mt), and thornyhead rockfish (increased to 2,360 mt from 1,990 mt).

(D) Current Estimates of Halibut Biomass and Stock Condition

The stock assessment for 1999 conducted by the IPHC indicates total exploitable biomass estimates of Pacific halibut in the BSAI and GOA management areas together to be 135,172 mt using an age-specific estimate for 2000. In the age-specific estimate, the assumption is that the selection of fish by the survey is based primarily on the age of the fish and reflects the availability of fish of different ages on the grounds.

New information used in the stock assessment in 1999 includes updated assessment methods and results, IPHC hook-and-line surveys, NMFS trawl survey catches of halibut, and updated information on removals of halibut from all sources. The only significant change to the assessment in 1999 was introducing an increase in the hook-and-line survey catchability, beginning with the 1993 survey data, to account for a change in bait used between the 1980s and 1990s. Estimates of exploitable biomass for 2000 are substantially lower than last year's (227,366 mt) because of the allowance for increased catchability, lower mean weights at age, and recent declines in recruitment. In IPHC management areas 2C and 3A the cumulative effect is a 35- and 40-percent reduction, respectively.

Recruitment has declined from the high levels of the 1985 to 1995 period, and size at age continues to decline. Numerical abundance is still quite high relative to the levels of 1975 or 1985, but biomass levels are not as high and the prospect is for a continuing decline as relatively strong year-classes pass out of the stock and relatively weak ones enter (and grow more slowly). Additional information on the Pacific halibut stock assessment may be found in the final SAFE report (November 1999).

(E) Other Factors

Potential impacts of expected fishing for groundfish on halibut stocks, as well as methods available for, and costs of, reducing halibut bycatch in the groundfish fisheries were discussed in the proposed 2000 specifications (64 FR 69457, December 13, 1999). That discussion is not repeated here.

Fishery and Seasonal Apportionments of the Halibut PSC Limits

Under § 679.21(d)(5), NMFS seasonally apportions the halibut PSC limits based on recommendations from the Council. The FMP requires that the following information be considered by the Council in recommending seasonal apportionments of halibut PSC limits: (a) Seasonal distribution of halibut; (b) seasonal distribution of target groundfish species relative to halibut distribution; (c) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catches of target groundfish species; (d) expected bycatch rates on a seasonal basis; (e) expected changes in directed groundfish fishing seasons; (f) expected actual start of fishing effort; and (g) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

The publication of the final 1999 groundfish and PSC specifications (64 FR 12094, March 11, 1999) summarizes Council findings with respect to each of the FMP considerations set forth here. The Council reiterated its findings with respect to these FMP considerations and recommended no change from the 1999 seasonal apportionments. Pacific halibut PSC limits, and apportionments thereof, are presented in Table 6. Regulations at § 679.21(d)(5)(iii) and (iv) specify that any overages or shortfalls in a seasonal apportionment of a PSC limit will be deducted from or added to the next respective seasonal apportionment within the 2000 season.

TABLE 6.—FINAL 2000 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS. THE PACIFIC HALIBUT PSC LIMIT FOR HOOK-AND-LINE GEAR IS ALLOCATED TO THE DEMERSAL SHELF ROCKFISH (DSR) FISHERY AND FISHERIES OTHER THAN DSR

[Values are in metric tons. The hook-and-line sablefish fishery is exempt from halibut PSC limits.]

Trawl gear		Hook-and-line gear			
		Other than DSR		DSR	
Dates	Amount	Dates	Amount	Dates	Amount
Jan. 1–Mar. 31	600 (30%)	Jan. 1–May 17	250 (86%)	Jan. 1–Dec. 31	10 (100%)
Apr. 1–July 3	400 (20%)	May 18–Aug. 31	15 (5%)		
July 4–Sept. 30	600 (30%)	Sept. 1–Dec. 31	25 (9%)		
Oct. 1–Dec. 31	400 (20%)				
Total	2,000 (100%)		290 (100%)		10 (100%)

Regulations at § 679.21(d)(3)(iii) authorize apportionments of the trawl halibut PSC limit to a deep-water species complex, comprised of sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder; and a shallow-water species complex, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and ''other species.'' The apportionment for these two fishery complexes is presented in Table 7.

TABLE 7.—Final 2000 Apportionment of Pacific Halibut PSC Trawl Limits Between the Trawl Gear Deep-Water Species Complex and the Shallow-Water Species Complex

[Values are in metric tons]

Season	Shallow-water	Deep-water	Total
Jan. 20–Mar. 31	500	100	600
Apr. 1–July 3	100	300	400
July 4–Sept. 30	200	400	600
Subtotal:			
Jan. 20–Sept. 30	800	800	1,600
Oct. 1–Dec. 31			400
Total			2,000
No apportionment between shallow-water and deep-water fishery complexes during the 4th quarter.			

Halibut Discard Mortality Rates

The Council recommended that the revised halibut discard mortality rates recommended by the IPHC be adopted for purposes of monitoring halibut bycatch mortality limits established for the 2000 groundfish fisheries. NMFS concurs in the Council's recommendation. Most of the IPHC's assumed halibut mortality rates were based on an average of mortality rates determined from NMFS observer data collected during 1997 and 1998. Rates for 1997 and 1998 were lacking for some fisheries, so rates from the most recent years were used. For fisheries where insufficient mortality data are available, the mortality rate of halibut caught in the Pacific cod fishery for that gear type was recommended as a default rate. The majority of the assumed mortality rates recommended for 2000 differ slightly from those used in 1999, except for the pot gear groundfish fisheries discard mortality rate that increased to 14 percent for 2000 from 6 percent in 1999. The Council recommended that a single discard mortality rate be used in 2000 for the catcher vessel and the catcher/processor vessel fleets in the trawl flathead sole fishery. The recommended rates for hook-and-line targeted fisheries range from 11 to 17 percent, an increase from 1999. The recommended rates for most trawl targeted fisheries are unchanged or lower than those used in 1999 and range from 53 to 75 percent. The 2000 assumed halibut mortality rates are listed in Table 8.

TABLE 8.—2000 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA

[Listed values are percent of halibut bycatch assumed to be dead]

Gear and target	Mortality rate
Hook-and-line:	
Pacific cod	17
Rockfish	11
Other species	17
Trawl:	
Midwater pollock	75
Rockfish	66
Shallow-water flatfish	69
Pacific cod	63
Deep-water flatfish	56
Flathead sole	57
Rex sole	53

TABLE 8.—2000 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA—Continued

[Listed values are percent of halibut bycatch assumed to be dead]

Gear and target	Mortality rate
Bottom pollock	61
Arrowtooth Flounder	55
Atka mackerel	57
Sablefish	71
Other species	66
Pot:	
Pacific cod	14
Other species	14

Small Entity Compliance Guide

The following information satisfies the Small Business Regulatory Enforcement Fairness Act of 1996, which requires a plain language guide to assist small entities in complying with this rule. This rule's primary management measures are to announce final 2000 harvest specifications and

prohibited species bycatch allowances for the groundfish fishery of the GOA. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2000 fishing year and to accomplish the goals and objectives of the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska. This action affects all fishermen who participate in the GOA fishery. NMFS will announce closures of directed fishing in the **Federal Register** and in information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Response to Comments

NMFS received one letter commenting on the 2000 specifications. This comment contained multiple issues that are paraphrased and responded to separately in the following text.

Comment 1. NMFS did not follow specified procedures in its regulations for promulgating the annual harvest specifications. Specifically, NMFS proposes 2000 harvest specifications based on a ''roll over'' from the year previous that are merely a place holder to start the fishery, implements interim specifications on the ''roll over'' TACs without prior notice and comment, and has failed to promulgate final harvest specifications before the start of the 2000 calender year. The process is convoluted, promotes distrust in the government, and violates the law.

Response. The ABC and TAC for each species are based on the best available biological and socioeconomic information. The Council, its AP, and its SSC review current biological information about the condition of groundfish stocks in the BSAI and GOA at their October and December meetings. This information is compiled by the Council's BSAI Groundfish Plan Team and is presented in the proposed SAFE report for both groundfish FMPs in September and in a final SAFE report in November.

Regulations at § 679.20(c) require NMFS to publish the proposed harvest specifications ''as soon as practicable after consultation with the Council * * *. The proposed specifications will reflect as accurately as possible the projected changes in U.S. harvesting and processing capacity and the extent to which U.S. harvesting and processing will occur during the coming year.'' On December 13, 1999, NMFS published the proposed specifications in the **Federal Register** (64 FR 69464). These specifications were based on the best available scientific information after consultation with the Council in October 1999. NMFS acknowledges that these were the same specifications as established for 1999. Although new surveys had been performed in 1999, the stock assessment data had not been analyzed and no new information was available that indicated any of the target species' ABC should be changed for conservation reasons.

NMFS published interim TAC specifications and PSC limits to authorize the fisheries from January 1 until they are superseded by the final specifications. The implementing regulations at § 679.20(c)(2) authorize one-fourth of each proposed initial total allowable catch (ITAC) and apportionment thereof, one-fourth of each PSC allowance, and the first seasonal allowance of pollock (and Atka mackerel in the BSAI) to be in effect on January 1 on an interim basis and to remain in effect until superseded by final specifications. NMFS published the interim specifications for the BSAI and GOA groundfish fisheries in the **Federal Register** on January 3, 2000 (65 FR 60 and 65 FR 65, respectively).

The Council recommended final groundfish harvest specifications to NMFS in mid-December 1999 that were based on the new information contained in the November 1999 SAFE report. In order for NMFS to complete notice-and-comment rulemaking before January 1, as the commenter suggested. NMFS seeks to provide as much opportunity for comment as possible and therefore must publish proposed specifications earlier than the final SAFE report becomes available. NMFS relies on the best information available when publishing the proposed specifications. NMFS must publish proposed specifications earlier than the final SAFE report becomes available. Therefore NMFS relies on the best information available at the time of the proposed specifications. Although the existing procedures condense the annual harvest specification process into a short period of time at the end of the year, procedures include multiple Plan Team meetings open to the public and multiple Council meetings in which public comment is solicited and provides adequate opportunity for the public to comment and participate effectively.

NMFS agrees that the process should be improved and has explored different options including changing the calendar dates of the fishing year or creating a framework process that would not require proposed or interim rulemaking. NMFS plans to explore other options for the development of a new process, in consultation with the Council, as soon as practicable.

Comment 2. The proposed annual harvest specifications are based on the default harvest control rule set forth in Amendments 56/56 to the fishery management plans for the BSAI and GOA groundfish fisheries. These amendments violate national standard 1 and other overfishing provisions of the Magnuson-Stevens Act by allowing stocks that have declined below the biomass consistent with maximum sustainable yield (MSY) to remain indefinitely at the depleted biomass level. Furthermore, the agency must set the minimum stock size threshold (MSST) equal to the stock size consistent with MSY, so as to achieve the long-term OY. Because the annual harvest specifications do not reflect any MSST the agency should withdraw the proposed specifications.

Response. NMFS disagrees that promulgation of the proposed harvest specifications violate national standard 1 or other provisions of the Magnuson-Stevens Act. The control rules set forth in Amendments 56/56 (64 FR 10952; March 8, 1999) define OFL and constrain ABC for stocks managed under the FMPs for BSAI and GOA groundfish. In approving Amendments 56/56, NMFS considered public comments submitted on the proposed amendments and determined that these control rules are in compliance with national standard 1 and all other provisions of the Magnuson-Stevens Act. Comment 2 appears to presume that harvest control rules can, by themselves, force stock biomass to increase. In fact, harvest control rules are rules used to control harvest, not biomass. All harvest control rules ''allow'' a depleted stock to remain at a low abundance level indefinitely, because no harvest control rule can control the size of incoming year classes. However, the control rules adopted in Amendments 56/56 are explicitly designed to be precautionary, especially in the context of managing stocks whose biomass have fallen below reference levels.

For a stock that has been identified as overfished, the definition of optimum yield contained in section 3(28) of the Magnuson-Stevens Act states that the rebuilding target should be ''a level consistent with producing the maximum sustainable yield.'' The question then becomes whether the rebuilding target, the biomass level to which a stock must be rebuilt once the stock is identified as being overfished, must equal the MSST, the biomass level at which a stock is identified as being overfished in the first place. The

question is answered by the statutory definition of OY, which clearly allows OY to be set as high as MSY unless relevant economic, social, or ecological factors warrant a lower level. If the law allows OY to be set as high as MSY in some cases, then setting an MSST equal to the MSY level would mean that natural variability alone will cause such stocks to be identified as ''overfished'' approximately 50 percent of the time even if OY were achieved exactly each year. National standard 1 reflects Congress' belief that it is possible to prevent overfishing while achieving OY. Equating MSST to the MSY level would imply the exact opposite.

Currently, the best scientific information available indicates that no stock managed under the BSAI or GOA groundfish FMPs is being subjected to an inappropriate harvest rate, and that no stock managed under these FMPs is overfished. The annual specifications reflect the correct use of MSSTs and NMFS finds no reason to prepare new specifications.

Comment 3. Even if the agency's current interpretation of national standard 1 is accepted and MSSTs do not have to be set at MSY stock sizes, the proposed annual harvest specifications are inconsistent with the Magnuson-Stevens Act and the National Standard Guidelines because the specifications do not identify MSSTs at all for individual stocks.

Response. NMFS disagrees. Every stock managed under Tiers 1–3 of the BSAI and GOA groundfish fishery management plans was evaluated with respect to its MSST in the most recent SAFE report dated November 1999. NMFS believes the proposed harvest specifications are consistent with the Magnuson-Stevens Act and the National Standard Guidelines, neither of which requires that MSSTs be identified in the final TAC specifications themselves. MSSTs are used in the process of developing the final TAC specifications and the TAC specifications use harvest control rules that are demonstrably related to the MSY-based management required by the Magnuson-Stevens Act. The control rules used to define OFL and the maximum permissible ABC restrict fishing at all stock sizes, not just at stock sizes below 5 percent of the MSY level. Not only is fishing restricted at all stock sizes, it is restricted in a conservative manner. Furthermore, in the event that a stock declines below its B_{MSY} level (Tiers 1–2) or B_{40}% (Tier 3), the level of conservatism increases directly with the magnitude of the decline.

Comment 4. Rather than identifying MSY and OY for individual fish stocks, as required by the Magnuson-Stevens Act, the BSAI and GOA groundfish FMPs manage stocks through default rules that are not related to MSY-based management. Because this management system is incompatible with the Magnuson-Stevens Act, NMFS must disapprove the proposed annual harvest specifications.

Response. NMFS disagrees. The Magnuson-Stevens Act does not require that MSY and OY be identified for individual fish stocks. The Magnuson-Stevens Act does require (paragraph 303(a)(3)) that each FMP ''assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery* * *,'' where ''fishery'' is defined (section (3)(13)) as ''(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and (B) any fishing for such stocks.''

A good estimate of the MSY for all stocks combined is not necessarily provided if MSY is determined for a single stock without regard to the effect that such fishing may have on other stocks. If, instead, MSY is determined for a stock assemblage with due regard to the effect that fishing on individual stocks may have on the other members of the assemblage, then it is irrelevant whether all of the individual stocks are simultaneously producing their individual MSYs. Such an ''assemblage'' MSY will necessarily be associated with an equilibrium level of abundance for each of the component stocks, and these abundance levels would inform the fishery manager as to whether individual stocks are being over- or underfished.

Further, the control rules specified in the BSAI and GOA groundfish fishery management plans are expressly related to MSY-based management. In Tiers 1 and 2, all of the reference points are defined in terms of MSY. In Tiers 3 through 6, proxies for MSY-related reference points are based on the scientific literature, the National Standard Guidelines, and the Technical Guidance report. In approving Amendment 56/56, NMFS has already determined that use of the present control rules does not violate the Magnuson-Stevens Act. NMFS believes that it has fully complied with the Magnuson-Stevens Act and that the proposed groundfish harvest specifications should not be disapproved.

Comment 5. The proposed annual harvest specifications are inconsistent with the Magnuson-Stevens Act and the National Standard Guidelines because the OYs established for the groundfish fisheries do not take into account ecological factors and the protection of marine ecosystems in setting the annual TAC. To obey the statute, NMFS must identify the economic, social, and ecological factors relevant to a fishery, then evaluate them to determine the amount by which OY should be reduced below MSY. Because the proposed specifications do not document any consideration by NMFS of these factors in setting the TACs for the fisheries, the TACs should be reevaluated to consider these factors and modified if appropriate.

Response. The requirement to consider any relevant economic, social, or ecological factor in specifying OY has been in place since the Council adopted and NMFS approved Amendment 1 to the BSAI groundfish fishery management plan and Amendment 15 to the GOA groundfish fishery management plan (1981 and 1984, respectively). In approving these amendments, NMFS determined that any relevant economic, social, or ecological factors had been duly considered in specifying OY.

Amendment 1 to the Bering Sea groundfish fishery management plan established the 1.4 to 2.0 million mt OY range. The amendment states that, ''The groundfish complex and its fishery are a distinct management unit of the Bering Sea. * * *. This complex forms a large subsystem of the Bering Sea ecosystem with intricate interrelationships between predators and prey, between competitors, and between those species and their environment. Therefore, the productivity and MSY of groundfish should be conceived for the groundfish complex as a unit rather than for many individual species groups.'' When recommending the OY level, the Council considered the results of ecosystem simulations that included numerous ecosystem components (*e.g.*, mammals, birds, demersal fish, semi-demersal fish, pelagic fish, squid, crabs, and benthos). The model considered their fluctuations in abundance caused by predation, natural mortality, environmental anomalies, and fishing. The simulations showed that the minimum sustainable exploitable biomass may have been higher than 2.0 million mt.

Under Amendment 15 to the GOA groundfish fishery management plan, the GOA OY is specified also as a range, 116,000–800,000 mt. The lower end of

the GOA OY range is equal to the lowest historical groundfish catch during the 21-year period 1965–1985. The upper end of the range is approximately equal to 97 percent of the mean MSY from the years 1983–1987.

In addition, in 1989 the Council began including a separate ecosystem consideration section in the annual SAFE document. In 1993 this section was expanded and devoted to both marine mammals and ecosystem consideration. In 1994, this section was expanded into a separate chapter of the SAFE and entitled ''Ecosystem Considerations.'' NMFS further expanded the ecological advice given for the 2000 specification process by enhancing the document to include status and trend information on key ecosystem components in the BSAI and the GOA.

Recent examples of inclusion of ecosystem considerations in the 2000 SAFE Report are provided by the pollock and Atka mackerel chapters. The pollock chapter was modified to include a spatial and temporal analysis of the pollock fishery to facilitate discussion of its possible effects on Steller sea lions. The Atka mackerel chapter authors, adhering to advice supplied by Congress' Ecosystem Principles Advisory Panel and recognizing the importance of this species in the diet of Steller sea lions, explored alternative harvest strategies to determine an ABC that, in their view, was consistent with the Panel's advocated precautionary approach.

This information is used to identify stocks or ecosystem elements that may be at risk. The SSC uses this information to recommend adjustments to harvest strategies and alternative management measures in order to protect the marine environment. Furthermore, the EA accompanying the specifications outlines the impacts of fishing on the environment and describes mitigation measures incorporated in the specifications. NMFS believes that it has evaluated the marine environment using the best available scientific information and does not believe that the specifications should be reevaluated.

Comment 6. The annual harvest specifications allow overfishing to continue on overfished crab stocks because the proposed specifications promulgate a ''roll over'' from the 1999 harvest specifications.

Response. Overfishing is defined as any rate of fishing mortality in excess of the maximum fishing mortality threshold. Three Bering Sea crab stocks have been declared overfished: Bering Sea Tanner crab, Bering Sea Snow crab, and St. Matthews Blue King crab. All other crab FMP stocks are not overfished or their status is unknown. Overfishing is not occurring for any Bering Sea crab stock that has been declared overfished. The maximum fishing mortality rate (MFMT) for all species of King crab is 0.2 and for all *Chionoecetes* species (including Tanner and Snow crab) the MFMT is 0.3. The St. Matthews Island Blue King crab and Eastern Bering Sea Tanner crab stocks are closed to directed commercial fishing. The current PSC limits on Bering Sea Tanner crab are 0.005 multiplied by the most recent survey abundance (numbers) with a cap of 1,000,000 crab in Zone 1 and 0.012 times the most recent survey abundance (numbers) with a cap of 3,000,000 crab in Zone 2. These bycatch caps are far below the maximum fishing mortality rate that defines overfishing. The 2000 GHL for Snow crab is 28.5 million lb (12,927.6 mt) or 10 percent of the mature biomass, which represents about 23.75 million crabs. The 2000 PSC limit is 4.5 million Snow crab for the entire year. A harvest in excess of about three times the 2000 GHL, or about 71.25 million crabs, would constitute overfishing. The 2000 GHL plus the PSC limit is about 28.25 million crabs, well below the overfishing level. Furthermore, the actual catch levels in Zones 1 and 2 are well below the caps.

It is true that NMFS proposed to ''roll over'' the 1999 PSC levels for the year 2000. However, it is incorrect to conclude that the action fails to recognize that many crab stocks are overfished or approaching an overfished condition. NMFS recognized that it is unlikely that the ''roll over'' would result in overfishing of any crab stock.

Comment 7. NMFS prepared an EA for this action that specifically ''tiers off'' the legally inadequate discussion of impacts and alternatives of the 1998 Supplemental Environmental Impact Statement (SEIS). Furthermore, the existence of a previous programmatic EIS does not eliminate the requirement to prepare another, action-specific EIS, if the impacts of the specific action are significant. The 2000 TAC specification have potentially significant environmental impacts that must be addressed in an EIS and an EA is therefore inadequate.

Response. NMFS recognizes that in a July 8, 1999, order, amended on July 13, 1999, the Court in *Greenpeace* v. *NMFS* Civ No. 98–0492 (W.D. Wash.) held that the 1998 SEIS did not adequately address aspects of the GOA and BSAI groundfish FMPs other than TAC setting, and therefore was insufficient in scope under the National Environmental Policy Act. In response to the Court's order, NMFS is currently preparing a programmatic SEIS for the GOA and BSAI groundfish FMPs plans.

Notwithstanding the less expansive scope of the 1998 SEIS, NMFS believes that the discussion and analysis of impacts and alternatives in the 1998 SEIS, which focused on the issue of TAC setting, is directly applicable to the EA prepared in support of this action, the setting of TACs for the 2000 fishery. Consequently, the EA adopts the discussion and analysis in the 1998 SEIS.

Finally, NMFS believes that the 1998 SEIS's extensive discussion and analysis of the environmental impacts associated with various levels of TACs, coupled with the EA's additional discussion, provides ample support for its determination that the 2000 specifications will not have significant environmental impacts.

Comment 8. The Magnuson-Stevens Act requires that conservation and management measures contained in fishery management plans shall, to the extent practicable, minimize bycatch and the mortality of bycatch that cannot be avoided. The annual harvest specifications fail to take any steps to minimize bycatch and must contain a full analysis of bycatch minimization, must minimize bycatch to the extent practicable, and must establish an adequate standardized bycatch reporting methodology.

Response. NMFS disagrees that the annual harvest specifications are the proper venue for meeting statutory requirements to minimize bycatch and bycatch mortality to the extent practicable. The annual specifications rely on a frameworked process that does not involve changes to regulations. Changes to regulations that promote reduction in bycatch must be accomplished through separate fishery management plan amendments and/or regulatory amendments and are outside the scope of the 2000 harvest specifications. The annual harvest specifications do implement existing regulations intended to limit or reduce prohibited species incidental catch in that annual prohibited species limits and seasonal fishery bycatch allowances are specified with the intent to optimize the amount of groundfish harvest relative to available incidental catch constraints.

Comment 9. The existing groundfish fishery management plans do not comply with Magnuson-Stevens Act mandates to minimize bycatch to the extent practicable, or to minimize the mortality of bycatch that is unavoidable. Existing bycatch avoidance programs implemented prior to the passage of

these mandates cannot be used to satisfy the bycatch provisions of the Magnuson-Stevens Act.

Response. This comment is outside the scope of the annual harvest specifications. Notwithstanding that fact, NMFS disagrees that FMP measures to reduce bycatch or bycatch mortality that were implemented prior to the passage of these statutory provisions cannot be considered when assessing overall compliance of an FMP with the Magnuson-Stevens Act. Further, the Council and NMFS continue to assess, develop, and implement reasonable approaches to reduce bycatch to the extent practicable. This standard is not static and will continue to support the evolution of bycatch avoidance programs as the fishery and associated management measure changes.

Comment 10. The annual harvest specifications fail to prevent takes of endangered short-tailed albatross.

Response. NMFS disagrees. Regulations at § 679.24(e) and § 679.42(b)(2) contain specific seabird avoidance measures required for vessels using hook-and-line gear. Under terms of the 1999 biological opinion and incidental take statement prepared by the U.S. Fish and Wildlife Service, a take of up to four endangered short-tailed albatross is allowed during the 2-year period from 1999 through 2000 for the BSAI and GOA hook-and-line groundfish fisheries. To date, there have been no reported takes of endangered short-tailed albatross in this time period.

In February 1999, NMFS presented an analysis on seabird mitigation measures to the Council that investigated possible revisions to the currently required seabird avoidance methods that could be employed by the hook-and-line fleet to further reduce the take of seabirds. The Council took final action at its April 1999 meeting to revise the existing requirements for seabird avoidance measures. These revised seabird avoidance measures are expected to be effective as soon in 2000.

Classification

This action is authorized under 50 CFR 679.20 and is exempt from review under E.O. 12866.

Pursuant to section 7 of the Endangered Species Act, NMFS has completed a consultation on the effects of the 1999 through 2002 pollock and Atka mackerel fisheries on listed species, including the Steller sea lion, and designated critical habitat. The Biological Opinion prepared for this consultation, dated December 3, 1998, concluded that the Atka mackerel fisheries in the BSAI are not likely to jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. However, the Biological Opinion concluded that the pollock fisheries in the BSAI and the GOA would cause jeopardy and adverse modification of designated critical habitat.

The Biological Opinion, and subsequent revised documents, require that a suite of revised final RPAs be implemented to mitigate the adverse impacts of the pollock fisheries on the western population of Steller sea lions and its critical habitat. The revised final RPAs were implemented by NMFS through emergency rulemaking effective on January 20, 2000 and published in the **Federal Register** on January 25, 2000 (65 FR 3892). As discussed above, these final specifications are consistent with the RFRPAs as required by the Biological Opinion.

NMFS also completed consultations on the effects of the 2000 BSAI groundfish fisheries on listed species, including the Steller sea lion and salmon, and on designated critical habitat. These consultations were completed on December 23, 1999, and concluded that the proposed fisheries were not likely to cause jeopardy or adverse modification to designated critical habitat. However, in an order dated January 25, 2000, the District Court for the Western District of Washington concluded that NMFS must consult pursuant to section 7 of the ESA on the fishery management plans for the groundfish fisheries of the BSAI and GOA. *Greenpeace* v. *NMFS,* Civ. No. 98–49ZZ (W.D. Wash). Prior to the issuance of the court's order, NMFS had begun consultation to evaluate the cumulative effects of the BSAI and GOA groundfish fisheries over a multi-year period on candidate and listed species and critical habitat. NMFS is currently reviewing this ongoing consultation for compliance with the court's January 25, 2000, order and will continue consultation. NMFS has determined that publication of these fishery specifications will not result in an irreversible or irretrievable commitment of resources which would have the effect of foreclosing the formulation or implementation of any reasonable or prudent alternative measures which may be necessary.

A Biological Opinion on the BSAI hook-and-line groundfish fishery and the BSAI trawl groundfish fishery for the ESA listed short-tailed albatross was issued by the U.S. Fish and Wildlife Service in March 1999. The conclusion continued the no jeopardy determination and the incidental take statement expressing the requirement to immediately re-initiate consultations if incidental takes exceed four short-tailed albatross over 2 years' time (1999–2000).

NMFS has prepared a final EA for this action, which describes the impact on the human environment that would result from implementation of the final harvest specifications. In December 1998, NMFS issued an SEIS on the groundfish TAC specifications and PSC limits under the BSAI and GOA groundfish FMPs. In July 1999, the District Court for the Western District of Washington held that the 1998 SEIS did not adequately address aspects of the BSAI and GOA FMPs. Notwithstanding the deficiencies the court noted in the 1998 SEIS, NMFS believes that the discussion of impacts and alternatives in the 1998 SEIS is directly applicable to this action. The final EA for the 2000 harvest specifications incorporates by reference the 1998 SEIS. Additionally, given the foregoing conclusions that publication of the final specifications for the 2000 Alaska groundfish fisheries will not amount to an irreversible or irretrievable commitment of resources which would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures for the Alaska groundfish fisheries, NMFS finds that it is unnecessary to revise, amend, or supplement the environmental assessment and ''finding of no significant impact'' prepared for publication of the final specifications for the 2000 fisheries.

NMFS prepared an initial regulatory flexibility analysis (IRFA) pursuant to the Regulatory Flexibility Act that describes the impact the 2000 harvest specifications may have on small entities. The IRFA considered the impacts of a range of alternative harvest levels that included no action (*i.e.,* no harvest in 2000) and harvest levels equal to those proposed. NMFS solicited public comment on the IRFA. Although NMFS did not receive any public comments directly addressing the IRFA, NMFS and the Council have considered additional information on the fishery that became available in December. Based on that information, the Council recommended and NMFS hereby establishes final harvest specifications that have been revised from the preferred alternative identified in the proposed rule. NMFS has prepared an FRFA which analyzes the new TAC levels, recommended by the Council in December 1999, and based on updated survey and stock assessment information, for the final 2000 specifications. A copy of this analysis is

available from NMFS (see **ADDRESSES**). This action authorizes the BSAI groundfish fisheries to continue under final specifications set at 2000 levels until the TAC is harvested or until the fishery is closed due to attainment of a PSC limit, or for other management reasons. The 2000 TACs are based on the most recent scientific information as reviewed by the Plan Teams, SSC, AP, and Council and which were commented on through public testimony and comment from the October and December Council meetings and those comments sent to NMFS on the proposed specifications. This action also achieves OY while preventing overfishing. Small entities would receive the maximum benefits under this alternative, in that they will be able to harvest target species and species groups at the highest available level based on stock status and ecosystem concerns.

Based on 1998 data, NMFS estimates that 1,122 vessels harvesting groundfish in the GOA operate as small entities.

The establishment of differing compliance or reporting requirements or timetables, and the use of performance rather than design standards, or exempting affected small entities from any part of this action would not be appropriate because of the nature of this action.

This action is necessary to establish harvest limits for the GOA groundfish fisheries for the 2000 fishing year. The groundfish fisheries in the GOA are governed by Federal regulations at 50 CFR part 679 that require NMFS, after consultation with the Council, to publish and solicit public comments on proposed annual TACs, PSC allowances, and seasonal allowances of the TACs. No recordkeeping and reporting requirements are implemented with this final action. NMFS is not aware of any other Federal rules which duplicate, overlap or conflict with the final specifications.

This action is not subject to a 30-day delay in effectiveness because it relieves a restriction as contemplated under 5 USC 553(d)(1). This rule allows fishing to continue. Without this rule, fishermen who are already on the fishing grounds fishing on interim TAC would have to stop fishing and return to port.

Authority: 16 U.S.C. 773 *et seq.*, 16 U.S.C. 1801 *et seq.*, and 3631 *et seq.*

Dated: February 14, 2000.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–3910 Filed 2–15–00; 2:49 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 65, No. 34
Friday, February 18, 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 928

[Docket No. FV00–928–1 PR]

Papayas Grown in Hawaii; Removal of Suspension Regarding Grade, Inspection, and Related Reporting Requirements and Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on removing the suspension of grade, inspection, inspection waiver procedure, and related exempt shipment reporting requirements under the marketing order regulating papayas grown in Hawaii. These requirements were suspended in July of 1994 because the industry was exploring alternative methods of quality control to reduce costs. The alternative methods have not been as successful as the industry had hoped. This rule also announces the Agricultural Marketing Service's (AMS) intention to request a revision to the currently approved information collection requirements issued under the marketing order. This action is expected to facilitate the shipment of satisfactory quality papayas and program compliance.

DATES: Comments must be received by April 18, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. 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. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, 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 compliance with this regulation by contacting Jay Guerber, 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, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement No. 155 and Marketing Order No. 928, both as amended (7 CFR part 928), regulating the handling of papayas grown in Hawaii, 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 proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

Pursuant to a recommendation of the Papaya Administrative Committee (committee or PAC), this proposal invites comments on the removal of the suspension of three sections of the order's rules and regulations regarding grade and inspection (§ 928.313), maturity shipment exemptions (§ 928.152), and inspection waiver procedures (§ 928.150). The proposal also would amend § 928.160 regarding reporting requirements to require handlers to add the inspection certificate number on PAC Form 1, Papaya Utilization. The removal of the suspension of the grade requirements in § 928.313 would require handlers of papayas to adhere to the minimum quality requirements that were in effect prior to their suspension on July 1, 1994, except that a 5 percent tolerance for immature papayas in Hawaii No. 1 would be removed, as recommended by the committee. An interim final rule implementing these suspensions was published in the **Federal Register** on July 27, 1994 (59 FR 38102). A final rule finalizing the interim final rule was published in the **Federal Register** on October 18, 1994, (59 FR 52409).

Removal of the suspension on minimum quality requirements would require handlers to obtain inspection through the Federal or Federal-State Inspection Service (inspection service) prior to shipment. Removal of the suspension of the maturity exemption and related reporting requirements in § 928.152 would require handlers interested in becoming approved handlers of immature papayas to apply to the committee for approval, and to report handling of immature papayas. Immature papayas are used in a popular dish called green papaya salad and as a vegetable substitute in recipes. In addition, amendment of § 928.160 would require handlers to include the number of the inspection certificate issued by the inspection service on each

PAC Form 1, Utilization Report, filed with the committee. Finally, removal of the suspension of the inspection waiver procedures in § 928.150 would allow handlers to ship papayas without inspection under certain conditions when it is not practicable for the inspection service to provide such inspection.

This proposal was recommended by the committee at its meeting on February 18, 1999, by a vote of seven in favor, two opposed, and one abstention. The two dissenters believed that the cost of mandatory inspection continues to outweigh its benefits to the industry and that there are other less expensive methods of achieving quality control, and that voluntary quality control should be continued. Those in favor believed that voluntary controls have not been effective, and that mandatory controls were needed to ensure that buyers receive the quality they desire and help the industry compete more effectively in the marketplace.

Section 928.52 of the papaya marketing order authorizes the establishment of grade, size, quality, maturity, and pack and container regulations for shipments of papayas. Section 928.53 allows for the modification, suspension, or termination of such regulations when warranted. Section 928.55 provides that whenever papayas are regulated pursuant to §§ 928.52 or 928.53, such papayas must be inspected by the inspection service and certified as meeting the applicable requirements. The cost of inspection and certification is borne by handlers. Section 928.54 authorizes regulation exemptions when shipping papayas for commercial processing, relief agencies, or charitable institutions. In addition, the Secretary may relieve from any or all requirements under or established pursuant to §§ 928.41, 928.52, 928.53, and 928.55, the handling of papayas in such minimum quantities, in such types of shipments, or for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to § 928.45) as the committee, with the approval of the Secretary, may prescribe. Section 928.60 of the papaya marketing order authorizes handler reporting requirements.

In 1994, §§ 928.150, 928.152, and 928.313 of the order's rules and regulations were suspended. Section 928.313 established minimum grade requirements for shipments of papayas prior to its suspension. This section required that papayas grade at least Hawaii No. 1, except that not more than 5 percent of the fruit may be immature. Also, the weight requirements specified in the Hawaiian grade standards did not apply. This proposed rule would remove the suspension of these regulations with some changes. First, paragraph (a) of § 928.313 would be amended to remove the 5 percent tolerance for immature fruit. The committee believes that the quality of papayas shipped needs to improve for the industry to regain buyer confidence and that removal of that tolerance would improve the quality shipped into the fresh market. Second, paragraph (b) of that section would be amended to correct the information regarding the name, address, and telephone number of the Department contact to obtain copies of the Hawaii papaya quality standards which are incorporated by reference. The standards for Hawaii-grown papaya are dated August 6, 1990, and replace standards dated May 29, 1981, previously incorporated.

As a result of removing the suspension of the grade regulations issued pursuant to § 928.52, mandatory inspection would also be required, except where specifically exempted.

Prior to its suspension, § 928.152 of the order's rules and regulations defined immature papayas and established the procedures for handling immature papayas exempt from regulation. This section also required handlers to apply to the PAC to become approved handlers of immature papayas and report the handling of immature papayas. This rule would remove the suspension of these regulations in their entirety, thus affording approved handlers the opportunity to handle immature papayas, exempt from minimum grade, size, quality, and maturity regulations. PAC Form 7 (Application to be an Approved Handler of Immature Papayas) and PAC Form 7(c) (Maturity Exemption Report) would also be reinstated so the committee could approve handlers of immature papayas and such handlers could report their handling of immature papayas. Handlers pay assessments on such shipments.

Section 928.150 established the procedures for granting inspection waivers under certain conditions prior to its suspension. This rule would remove the suspension of § 928.150, giving the inspection service the flexibility to issue inspection waivers to handlers when it is impracticable to provide inspection services. For example, a handler might be in a remote location and the inspection service might not be able to provide an inspector to perform the inspection at the time and place requested.

Section 928.160 was amended in 1994 as a result of the suspension of §§ 928.150, 928.152, and 928.313. Because the quality requirements, and, thus, the requirement for mandatory inspection was suspended, § 928.160 was amended to remove the requirement to include the inspection certificate number on the PAC Form 1, Utilization Report. Since the quality and inspection requirements would be reinstituted, a change would be necessary in § 928.160 to require the inspection certificate number to be reported by the handler on the PAC Form 1. PAC Form 1 would also be revised to include this additional information collection.

Minimum grade and inspection requirements were initially established to assure that only acceptable quality fruit entered fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to papaya producers. The reporting requirements were established to authorize the committee to allow approved handlers to handle immature papayas, and to aid the committee in assessment billings and program compliance.

In committee discussions on the suspension of grade, inspection, and reporting requirements in 1994, members who supported the suspension advised that the papaya industry was committed to instituting alternative quality assurance procedures in the absence of mandatory inspection. This was to be achieved by handlers providing financial incentives to producers to harvest and deliver only high quality fruit. Such a program was to be arranged with handlers by the newly-formed producers' bargaining cooperative. It was anticipated that this program would provide incentives for growers to deliver high-quality fruit to handlers. However, the producer's bargaining cooperative was not as successful as hoped in implementing this program. To date, the industry has not instituted any effective alternative means of quality control. As a result, the overall quality of papayas shipped from Hawaii has declined and the industry has lost market share.

Most committee members also believed that the elimination of inspection requirements would increase producer returns because handlers would pass on to producers the savings they realized when inspection costs were eliminated. This has happened to a limited extent. Finally, the committee hoped that buyers of fresh papayas would encourage handlers to continue to ship high-quality fruit by paying premium prices for higher-quality fruit.

As handlers became more aware of the price differentials between various quality levels, the committee believed that competition among handlers would ensure shipments of good quality fruit. This has not occurred like the committee had hoped.

At the time the suspension was recommended, the industry was suffering from an infestation of Papaya Ringspot Virus (PRSV), a debilitating disease which attacks papaya trees, eventually killing them. Production from the Island of Hawaii, the primary growing region, declined substantially, and the papayas produced from those trees were of lower quality.

Since 1994, the committee has reported deteriorating wholesale buyer and consumer confidence with Hawaiian papayas, resulting in lost market share. The condition of poor quality papayas often deteriorates during shipment, frequently requiring buyers to discard some fruit and repack the rest. This has resulted in financial losses for some buyers, decreased buyer confidence, and reduced market opportunities for handlers of Hawaii papayas. As a result, competing supplies from the Philippines, Brazil, and Mexico have made inroads into existing Hawaii papaya markets.

This is of great concern to the committee, especially because the domestic production from two PRSV-resistant papaya varieties is increasing significantly, and production is expected to continue growing. The committee would like to regain the confidence of buyers by shipping high-quality Hawaii papayas. It believes that mandatory quality control is needed to ensure buyers the quality they prefer. Removing the suspension of the grade, inspection, and reporting requirements in place prior to July 1, 1994, should help the industry achieve its goals and compete more effectively in the marketplace.

During its deliberations on the removal of the suspension of grade, inspection, and reporting requirements on February 18, 1999, the committee discussed the current state of the industry and what actions the committee could take to enhance the quality of shipments, improve grower and handler returns, increase wholesale buyer and consumer confidence, and regain lost market share. The committee decided that to successfully market the increasing production from the PRSV-resistant papaya varieties, the industry must reestablish a quality image for Hawaii papayas among buyers and consumers. It would be counterproductive, they noted, to utilize assessment dollars promoting a product which was not of acceptable quality.

In addition, the committee noted that reinstituting mandatory inspection would augment information available to the committee on assessments owed by handlers. Once inspections begin, a copy of each inspection certificate would be provided to the committee staff by the inspection service. This third-party information would permit the committee staff to have accurate and timely data upon which to bill each handler for papayas handled. Currently, the committee staff utilizes information gathered from transshippers (air freight and shipping companies) to augment and confirm information provided by handlers' reports for assessment collection compliance purposes under § 928.31(n). This information is obtained at a significant cost of committee time and resources. While information from transshippers would continue to be used as a random check, data provided from the inspection certificates would be the primary source of third-party information for assessment billings by the committee staff.

Inspection costs on handlers would result from this action. Inspection costs incurred would total $24.24 per hour for on site inspections and mileage travel costs of 37 cents a mile round-trip from the office to the processing plant or handler's premises. For a trip less than 10 minutes or 7 miles, no travel time cost is charged, just the mileage cost. For a trip taking 10 or more minutes, or covering 7 or more miles, the travel time cost is based on the $24.24 hourly rate.

The committee members who opposed the recommendation believe that the cost of inspection would be passed on to producers, lowering overall producer returns, and that the benefits of mandatory quality control would not outweigh the costs. In addition, they believed that voluntary quality control should be given more time to work. However, most committee members favored the recommendation, as they believe the alternatives attempted have not been successful, and that prompt action is imperative to assure the long-term viability of the Hawaii papaya industry.

The committee's recommendation resulted from the efforts of a task force assigned by the committee chairman in 1998. The task force reviewed the current marketing and quality conditions affecting the Hawaii papaya industry for several months, and urged the committee to consider removing the suspension of quality control-related requirements.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action 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 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 400 producers of papayas in the production area and approximately 60 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on a reported average f.o.b. price of $1.30 per pound of papayas, a handler would have to ship in excess of 3.85 million pounds of papayas to have annual receipts of $5,000,000. Last year, two handlers each shipped in excess of 3.85 million pounds of papayas, and, therefore, could be considered large businesses. The remaining handlers could be considered small businesses under SBA's definition.

Based on a reported average grower price of $0.45 per pound and industry shipments of 36 million pounds, total grower revenues would be $16.2 million. Average grower revenue would, thus, be $40,500. Based on the foregoing, the majority of handlers and producers of papayas may be classified as small entities.

This proposal would remove the suspension of grade, inspection, and related reporting requirements under the order's rules and regulations. As a result of removing the suspension, §§ 928.150, 928.152, and 928.313 would be reinstated; and § 928.160 would be amended to include the requirement that inspection certificate numbers be added to the utilization reports filed by handlers. Section 928.313 would also be amended to remove the 5 percent tolerance for immature papayas since the committee believes that the quality of papayas shipped into fresh market channels must be improved dramatically. Section 928.313 would also be amended to correct the name and address of Department references

for obtaining copies of the Hawaii papaya quality standards which are incorporated by reference. References to Department contacts are outdated, as is the mailing address listed in that section. The quality standards for Hawaii-grown papayas have been revised as of August 6, 1990, and would replace the standards dated May 29, 1981, currently incorporated by reference.

During its deliberations, the committee discussed the current state of the industry with the advent of the two PRSV-resistant papaya varieties. Production is increasing and overall production levels of Hawaii papayas are expected to reach pre-1994 levels by the 2001 crop year, and then continue growing. Such increasing production could reduce handler and producer returns if the quality of papayas shipped is not improved.

Since the suspension of the grade and inspection requirements in 1994, the quality of Hawaii papayas in the marketplace has been deteriorating. The condition of poor quality fruit has often deteriorated during shipment, requiring buyers to discard some fruit and repack the remaining fruit. This has resulted in financial losses for some buyers and caused decreased buyer confidence in Hawaii papaya quality, resulting in reduced market share.

With the new varieties, the industry is now in a position to provide ample supplies of good quality fruit, and restore wholesale buyer and consumer confidence in Hawaii papayas. Ample supplies of good quality fruit would allow the industry to regain its market share, thus, improving returns to handlers and producers.

The committee discussed continuing the suspension as an alternative to this change. However, the committee believes that removing the suspension of the grade, inspection, and reporting requirements would benefit producers and handlers by enhancing the market quality of papayas grown in Hawaii. The committee estimated that the increased cost of inspection would be offset by the increased market value of the inspected papayas. Inspection costs incurred would total $24.24 per hour for on site inspections and mileage travel costs of 37 cents a mile round-trip from the office to the processing plant or handler's premises. For a trip of less than 10 minutes or 7 miles, no travel time cost is charged, just the mileage cost. For a trip taking 10 or more minutes, or covering 7 or more miles, the travel time cost is based on the $24.24 hourly rate. The majority of committee members agreed that removing the suspension of the grade, inspection, and reporting requirements is in the long-term best interests of the industry. Improved quality of Hawaii papayas is expected to result in increased consumer satisfaction and repeat purchases, thereby improving handler and producer returns. The increased handling costs due to mandatory inspection is expected to be offset by the aforementioned benefits. In addition, greater information collection authority may result in enhanced assessment collections, permitting the committee to utilize more funds to promote a larger and higher-quality crop, if they deem it appropriate.

This action would impose additional reporting requirements on an estimated five papaya handlers by requiring handlers to file PAC Form 7, the Application to be an Approved Handler of Immature Papayas, and PAC Form 7(c), Maturity Exemption Report. It would also require including the inspection certificate number on PAC Form 1. PAC Form 7 is estimated to take 15 minutes to complete, and PAC Form 7(c) is estimated to take less than 10 minutes to complete. There is no additional measurable reporting burden estimated for PAC Form 1. In all, requiring both forms would result in an estimated additional reporting burden to the previously-mentioned five handlers of 9.25 annual hours. The current burden is approximately 1,000 hours. The benefits of the additional reporting requirements are expected to outweigh the costs. Handlers would be able to utilize exemptions to the grade and inspection requirements, and the committee would have additional information to aid in assessment collections and program compliance.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule are being submitted to the Office of Management and Budget (OMB) for approval. This rule would not become effective until this additional information collection is approved by the OMB. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

In addition, the committee's meeting was widely publicized throughout the papaya industry and all interested persons were encouraged to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the February 18, 1999, meeting was a public meeting and all entities, both large and small, were encouraged to express views on this issue. The committee itself is comprised of 13 members, of which nine are producers and three are handlers. The committee also includes a public member who does not represent an agricultural interest nor have a financial interest in papayas. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces AMS'' intention to request a revision to a currently approved information collection for Papayas Grown in Hawaii, Marketing Order No. 928.

Title: Papayas Grown in Hawaii, Marketing Order No. 928.

OMB Number: 0581–0102.

Expiration Date of Approval: November 30, 2000.

Type of Request: Revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables, and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Act, industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order's operations and issue regulations recommended by a committee of representatives from each commodity industry.

The Hawaii papaya marketing order program, which has been in operation since 1971, authorizes the issuance of grade, size, maturity regulations,

inspection requirements, and marketing and production research, including paid advertising. Regulatory provisions apply to papayas shipped within and out of the area of production to any market, except those specifically exempted by the marketing order.

The order, and rules and regulations issued thereunder, authorize the committee, the agency responsible for local administration of the order, to require handlers and growers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in marketing decisions. The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Hawaii papaya marketing order program.

The committee has developed forms as a convenience to persons who are required to file information with the committee that is needed to carry out the purposes of the Act and the order. These forms require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the Act as expressed in the order, and the rules and regulations issued thereunder. Papayas may be shipped year-round and these forms are utilized accordingly.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Program regional and headquarters staff, and authorized employees of the committee. Authorized committee employees and the industry are the primary users of the information and AMS is the secondary user.

This proposed collection consists of the requirement for handlers to provide information on PAC Forms 7 and 7(c) for their application to become an approved handler of immature papayas and on their handling of immature papayas. Shipments of immature papayas for special markets are exempt from certain requirements under the order. A conforming change to the PAC Form 1, the papaya utilization report, would require the addition of the inspection certificate number on the form. Use of these forms is authorized under §§ 928.152 and 928.160 of the order. Form 7 would be filed once annually and Form 7(c) would be filed approximately 10 times per year by each of the estimated five reporting handlers. The estimated increase in burden hours is 1.25 hours for PAC Form 7 and 8 hours for PAC Form 7(c), bringing the total annual hours added to the current response burden to 9.25. The current burden is approximately 1,000 hours. There would be no measurable increase in burden hours resulting from including the number of the inspection certificate on PAC Form 1.

The committee recommended reinstating the reporting requirement in conjunction with removing the suspension of the grade and inspection requirements. With information provided by handlers, the committee would be able to approve handlers' requests to handle immature papayas exempt from regulation and to track such handling of immature papayas. In addition, by adding the inspection certificate number to the PAC Form 1, the committee will have accurate and timely data with which to bill handlers for assessments. Such revisions to the information collection authority would enhance program administration and improve information available to the committee for assessment billings.

The proposed revision to the currently approved information requirements issued under the order is as follows:

Estimate of Burden": Public reporting burden for PAC Form 7 of this collection of information is estimated to average 15 minutes per response.

Respondents: Handlers of papayas grown in the production area of Hawaii.

Estimated Number of Respondents: 5.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1.25 hours.

Estimate of Burden: Public reporting burden for PAC Form 7(c) of this collection of information is estimated to average 9.60 minutes per response.

Respondents: Handlers of papayas grown in the production area of Hawaii.

Estimated Number of Respondents: 5.

Estimated Number of Responses per Respondent: 10.

Estimated Total Annual Burden on Respondents: 8.00 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the functioning of the Hawaii papaya marketing order program and USDA's oversight of that program; (2) the accuracy of the collection burden estimate and the validity of the methodology and assumptions used in estimating the burden on respondents; (3) ways to enhance the quality, utility, and clarity of the information requested; and (4) ways to minimize the burden, including use of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0102 and Hawaii Papaya Marketing Order No. 928, and be sent to the USDA in care of the docket clerk at the address referenced above. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at the same address.

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

A 60-day comment period is provided to allow interested persons to respond to this proposal.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 928 is proposed to be amended as follows:

PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR part 928 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. The suspensions of §§ 928.150 and 928.152 are removed.

3. In § 928.160, paragraph (a)(1) is revised to read as follows:

§ 928.160 Utilization reports.

(a) * * *

(1) Quantity of papayas handled subject to assessments and regulations including the date, destination, and inspection certificate number of each shipment;

* * * * *

3. The suspension of § 928.313 is removed and the section is revised to read as follows:

§ 928.313 Hawaiian Papaya Regulation 13.

(a) No handler shall ship any container of papayas to any destination (except immature papayas handled pursuant to § 928.152) unless such papayas grade at least Hawaii No. 1: *Provided,* That the weight requirements specified in this grade shall not apply to such shipments.

(b) "Hawaii No. 1" cited in this section is specified in the Hawaii Department of Agriculture Standards for Fruits and Vegetables (Title 4, Subtitle 4, Chapter 41, Subchapter 7, § 4–41–52) (8/6/90). Copies of the grade specifications are available from the Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; and they are also available for inspection at the Office of the

Federal Register Information Center, 800 North Capitol Street, NW., suite 700, Washington, DC 20408; telephone: (202) 720–2491. This incorporation by reference was approved by the Director of the Federal Register. The materials are incorporated as they exist on the date of approval and a notice of any changes in the material will be published in the **Federal Register**.

Dated: February 14, 2000.

Eric M. Forman,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–3874 Filed 2–17–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 2 and 3

[Docket No. 97–001–4]

RIN 0579–AA85

Animal Welfare; Draft Policy on Training and Handling of Potentially Dangerous Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Draft policy statement and request for comments.

SUMMARY: We have developed a draft policy statement to provide guidance to exhibitors and other regulated entities on how to comply with the regulations regarding training and handling of potentially dangerous animals (e.g., lions, tigers, bears, and elephants). We are seeking public comment on the policy statement before we implement it.

DATES: We invite you to comment. We will consider all comments that we receive by April 18, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 97–001–4 Regulatory Analysis and Development PPD, APHIS Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238 Please state that your comment refers to Docket No. 97–001–4.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, Senior Staff Veterinarian, AC, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234; (301)734–7833.

SUPPLEMENTARY INFORMATION: The Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, exhibitors, and other regulated entities. The Secretary of Agriculture has delegated the responsibility for enforcing the AWA to the Administrator of the Animal and Plant Health Inspection Service (APHIS). Regulations established under the AWA are contained in 9 CFR parts 1, 2, and 3. The APHIS Animal Care program ensures compliance with the AWA regulations by conducting inspections of premises with regulated animals.

Regulations regarding training and handling of animals are found in 9 CFR part 2. Section 2.131 contains provisions for the humane training and handling of animals. In § 2.131, paragraph (a) states that handling of all animals must be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort. Paragraph (a) also prohibits physical abuse and deprivation of food or water as tools to train, work, or otherwise handle animals (except that short-term withholding of food or water is allowed as long as the animals receive their full dietary requirements each day). Paragraphs (b) and (c) of § 2.131 set forth humane conditions for public exhibition of animals, including providing that animals must be handled in a manner that minimizes risk to the animals and the public, be given rest periods, not be exposed to rough handling or extended periods of exhibition that would be inconsistent with their good health and well-being, and be under the supervision and control of knowledgeable handlers at all times.

Regulations regarding personnel qualifications for trainers and handlers are found in 9 CFR part 3, § §3.85, 3.108, and 3.132. These sections generally require that personnel have adequate knowledge and experience to care for and handle the animals. Section 3.85 concerns nonhuman primates, § 3.108 concerns marine mammals, and § 3.132 concerns animals such as bears, big cats, and elephants.

The general public, regulated industries, and APHIS inspectors have requested that we provide more guidance on how to meet the requirements of the regulations as they pertain to potentially dangerous animals. On July 24, 1997 (62 FR 39802, Docket No. 97–001–1), we published a notice in the **Federal Register** requesting information concerning what practices are currently used for training and handling potentially dangerous animals and what training and experience levels trainers and handlers of such animals have. We requested this information to help us more thoroughly examine all issues pertaining to the training and handling of potentially dangerous animals. We received over 400 comments in response to the request for information. Some comments contained guidance or training manuals used by individual facilities in caring for and handling specific animals (elephants, big cats). Many comments supported efforts to clarify the existing regulations to help ensure the safe and humane handling of animals in exhibition.

Based on information received in the comments and our experience in enforcing the AWA and the regulations, we have developed a draft policy statement to provide more guidance to our inspectors and regulated entities as to what we consider acceptable under the regulations for the safe and humane handling and training of potentially dangerous animals. We intend this policy to be used by exhibitors of potentially dangerous animals as a basis for assessing the qualifications of their personnel and evaluating their training and handling procedures. We also intend that the policy statement place regulated entities on notice regarding APHIS' interpretation of the regulations.

This policy statement is not a comprehensive guide on training and handling potentially dangerous animals, nor is the policy intended to replace any existing regulations or any existing industry standards. We are unaware of any written standards recognized by the industry as a whole. However, individual facility guides and many books and articles exist that contain standards used by members of the industry for training and handling a variety of potentially dangerous animals, and adoption of this policy would not preclude use of those guides and information. We believe the

guidance provided in this draft policy is reflective of industry standards as they relate to the specific requirements in the AWA regulations and is based on our experience in enforcing the AWA.

Further, the draft policy addresses a wide array of situations and a variety of animals that have very different training and handling needs. We recognize, for example, that what works for a polar bear may not be applicable to a large cat. Likewise, what works for a permanent exhibit may not be applicable to a traveling one. We intend the draft policy to be used with this in mind, recognizing that certain situations may warrant alternative arrangements, but with the goal always being the safe and humane handling and training of the particular animal in question.

The policy appears at the end of this document.

The draft policy statement is divided into three sections: Personnel, Handling Techniques and Procedures, and Contingency Plans. It describes what levels of knowledge and experience handlers, trainers, and other personnel should have, what handling techniques and procedures are unacceptable or inadvisable under the regulations because they could result in harm to the animals or the public, and what contingency plans should cover in the event that an animal becomes aggressive.

We are seeking public comment on the content of the draft policy statement before we implement it. We will also be holding a public meeting at which the draft policy will be discussed further. The date and location of the public meeting will be announced in a separate notice in the **Federal Register**.

The draft policy is as follows:

Policy on Potentially Dangerous Animals; Personnel Requirements and Training and Handling Requirements

References

Animal Welfare Act, section 13
9 CFR part 2, subpart I, section 2.131
9 CFR part 3, subpart D, section 3.85
9 CFR part 3, subpart E, section 3.108 (for polar bears only)
9 CFR part 3, subpart F, section 3.132

History

This is a new policy statement.

Justification

Personnel and training and handling regulations currently in use under the Animal Welfare Act (AWA)(7 U.S.C. 2131 *et seq.*) are performance-based. The general public, regulated industries, and APHIS inspectors have requested over the past few years that we provide more guidance to our inspectors and regulated entities on how to comply with these regulations. Recent incidents of injury and/or death to members of the public, handlers, and regulated animals have brought these issues to the forefront. The following draft policy statement has been developed to address these concerns and to assist regulated entities by providing more guidance on how to comply with the regulations. This policy statement is not intended to replace any existing regulations or any existing industry standards, and adoption of this policy does not preclude use of available industry guidance. The guidance provided in this policy is reflective of industry standards as they relate to the specific requirements in the AWA regulations and is based on our experience in enforcing the AWA. Further, this policy addresses a wide array of situations and a variety of animals that have very different training and handling needs. We intend the draft policy to be used with this in mind, recognizing that certain situations may warrant alternative arrangements, but with the goal always being the safe and humane handling and training of the particular animal in question in accordance with the requirements of the regulations.

Policy

This draft policy is divided into three sections: Personnel, Handling Techniques and Procedures, and Contingency Plans.

Section 1—Personnel

This section of the policy clarifies the requirements of §§ 2.131(c)(2) and (c)(3), 3.85, 3.108, and 3.132. In § 2.131, paragraph (c)(2) requires that, during periods of public contact (with any type of animal) a responsible, knowledgeable, and readily identifiable employee or attendant must be present at all times. Paragraph (c)(3) of § 2.131 requires that, during public exhibition, potentially dangerous animals must be under the direct control and supervision of a knowledgeable and experienced animal handler. Sections 3.85 (for nonhuman primates), 3.108 (for marine mammals), and 3.132 (for animals such as big cats, elephants, wolves, and bears) generally require that there be a sufficient number of adequately trained employees to maintain husbandry and care of the animals and that such practices be under the supervision of someone who has a background in care of that type of animal. The only marine mammals that APHIS considers ''potentially dangerous'' within the context of this policy statement are polar bears.

The following guidelines apply to personnel (trainers, handlers, and attendants, whether volunteers or employees) who handle potentially dangerous animals, including, but not limited to, big cats, elephants, bears (including polar bears), and nonhuman primates. Questions or concerns regarding personnel qualifications should be referred to the appropriate Animal Care Regional Office for resolution.

What constitutes a sufficient number and adequate knowledge and experience for animal handlers must be measured in the context of the virtually infinite variety of public contact exhibitions. Sometimes the animals are allowed to interact physically with the public; an example would be photography sessions for the public with a lion cub. In other cases it is intended that the animal will only be observed from a safe distance although it is not physically confined as in a facility or structure; an example would be an elephant in a circus ring.

A handler should have demonstrable knowledge of and skill in currently accepted professional standards and techniques in animal training and handling and in the husbandry and care requirements of the species he or she is exhibiting. A handler should also be able to recognize normal and abnormal behavior and signs of behavioral distress for the species he or she is exhibiting. It is essential that the handler be experienced and able to apply this knowledge for the safe exhibition of the animal. Although it is difficult to quantify the necessary length of experience, APHIS will closely scrutinize situations where animals are placed under the care and control of a handler without at least 2 years experience involving the species being exhibited, including at least 1 year of experience handling that type of animal in public contact situations.

As required by the regulations, every facility must use a sufficient number of adequately trained employees or attendants for normal husbandry and care, and, during public contact, must use knowledgeable and experienced handlers. This is necessary to ensure the safety and well-being of the animals, facility personnel, and the public. To meet these requirements, a sufficient number of handlers relative to the number of potentially dangerous animals should be present whenever there is a public contact venue or high possibility of public contact. Although it is difficult to quantify the number of personnel which might be required, APHIS will closely scrutinize situations

where there are not at least two qualified handlers present. In addition, it may be necessary to have employees to guard against members of the public inappropriately approaching animals; these employees would need to be responsible but would not necessarily need much experience in handling dangerous animals. APHIS will closely scrutinize situations where attendants hired as day-labor or for the term of a performance at a particular location are employed for any of these purposes.

Section 2—Handling Techniques and Procedures

This section of the draft policy clarifies the requirements of—2.131(a)(1), (a)(2)(i), (b)(1), (b)(3), and (c)(1–3). Paragraph (a)(1) requires that handling of any animal must be done expeditiously and carefully so as to not cause trauma, overheating, excessive cooling, behavioral distress, physical harm, or discomfort. Paragraph (a)(2)(i) prohibits the use of physical abuse to train, work, or handle any animal. Paragraph (b)(1) requires that animals be handled during public exhibition so there is minimal risk of harm to the animal and the public, with sufficient distance and/or barriers between the animal and the public to assure the safety of both. Paragraph (b)(3) prohibits young or immature animals from being exposed to rough or excessive public handling or from being exhibited for periods of time that would be detrimental to their health or well-being. Paragraphs (c)(1) through (c)(3) provide that the length and conditions of exhibition for any animal must be consistent with the animal's health and well-being; a responsible, knowledgeable, and readily identifiable employee or attendant must be present at all times during public contact; and potentially dangerous animals must be under the direct control and supervision of a knowledgeable and experienced animal handler during public exhibition.

Potentially dangerous animals can become aggressive during public handling or exhibition and can cause serious harm to themselves, their handlers, and members of the public. These regulations are intended to ensure the safety and welfare of animals when they are being worked or trained and to minimize the risk of harm to animals, facility personnel, and the public during public exhibition.

We consider the following factors to be ones that may contribute to physical harm or behavioral stress or be inconsistent with the animal's good health and well-being. Other factors may also be harmful under the regulations to the well-being of exhibited animals.

- Excessive environmental noise
- Excessive crowding around the animal
- Inappropriate age of the animal (too young or too old for the type of exhibition)
- Excessive repeated posing or repositioning of the animal
- Failure to maintain flight (escape) distance
- Lifting animals by their limbs
- Too many or too long interactive sessions
- Threatening or aggressive postures or movements by other animals or persons

This list is, of course, only representative of the virtually infinite variety of practices which may be harmful and prohibited.

Dangerous animals such as bears and big cats should not be walked or ''paraded'' among the public on a leash or tether unless the licensee can show that the handler (alone or with other handlers and attendants) has such physical control of the animal and the situation so as to prevent contact with the public. Animals with a history of aggressive or uncontrolled behavior should not be used for this purpose.

During any activity in which a member of the public rides a regulated animal (such as an elephant), an experienced handler must be in direct physical control of the animal. In these situations and others where the animal is restrained primarily by its training rather than by physical means, an animal with a prior history (including even a single incident) of aggressive and uncontrolled behavior should not be used.

Photo booths open to the general public should not use animals that cannot be physically restrained by the handler. APHIS will closely scrutinize situations involving animals which weigh more than 75 pounds or are over 4 months of age. Once again, an animal with a prior history (including even a single incident) of aggressive and uncontrolled behavior should not be used for this purpose.

Public contact venues must provide adequate safety barriers for members of the general viewing public. These may include physical barriers of sufficient strength and location to protect the public from unwanted contact with animals, sufficient space between animals and the public to afford the same protection, use of a sufficient number of trained attendants to prevent unwanted contact, and/or equivalent measures to assure the safety of the animals and the public.

Animals used in public contact venues should have sufficient training and exposure to a variety of people and environmental situations, for example, noise, crowds, and bright colors. This training should be accomplished under rigidly controlled circumstances that do not put people at risk. Once again, an animal with a prior history (including even a single incident) of aggressive and uncontrolled behavior should not be used for this purpose.

Exhibitors engaged in theatrical or entertainment activities (television programs, movies, stage productions, commercials, photo shoots, etc.) that use potentially dangerous animals where there is the potential for direct contact with actors or models should use only animals appropriately trained for the circumstances.

All fights (*i.e.,* movie, television, theatrical productions, etc.) between two or more animals should be simulated. Protected or staged fights, in which one or more animals are muzzled, are discouraged and would be closely scrutinized.

The following must also be considered in order to ensure that handling is done in a manner that does not cause trauma, behavioral stress, physical harm, or unnecessary discomfort, as required by § 2.131(a)(1), and because physical abuse to train, work, or handle animals is prohibited under § 2.131(a)(2)(i):

- Hot shots, shocking collars, or shocking belts should not be used for training or to handle the animals during exhibition and any such use will be closely scrutinized.
- An ankus may not be used in an abusive manner that causes wounds or other injuries.

We would be remiss if we did not note that macaques should not be used in situations where public contact is likely because they present a risk of serious and fatal disease transmission and because of other health and safety concerns (macaques carry diseases that are particularly harmful to humans).

Section 3—Contingency Plans

Section 2.131(b)(1) of the regulations requires that handling of animals during public exhibition must minimize the risk to animals and the public. We would be remiss if we did not emphasize the importance of contingency plans for addressing emergency situations and extended periods of travel. In the event that a potentially dangerous animal behaves in an aggressive or unexpected manner, contingency plans provide methods to prevent the animal from harming the trainer, handler, or members of the

public, which in turn minimizes the risk to the animal. A good contingency plan can prevent the need to take action resulting in injury to the animal in order to bring the animal under control.

We will closely scrutinize public exhibitions that do not employ meaningful contingency plans. All employees responsible for using emergency and recapture equipment should be trained in their use. Contingency plans should be available to employees at all traveling unit sites and home sites.

Contingency plans and related standard operating procedures should address, but not be limited to, the following:

• Procedures for handling and recapturing escaped animals, including, but not limited to, equipment to be used, people to be contacted, and the chain of command during such a crisis.

• Criteria for deciding when to use various restraint methods, and identification of the person who is responsible for making such a decision. The level of force used, up to and including lethal force, should be consistent with the situation.

• Protocols for euthanasia (for example, how the decision is made; when lethal force is required and when an animal needs to be euthanized for humane and/or safety reasons; methods to be used).

• Provisions concerning when to contact local law enforcement and/or animal control officials and who to contact.

Based on the species, venue, and type of activities undertaken, the availability and appropriate use of any or all of the following emergency equipment should be considered in a contingency plan:

• CO_2 Fire Extinguishers—These are a well-accepted means of breaking up fights between big cats and of breaking off an attack on a person. Operational CO_2 fire extinguishers, or an equivalent distraction, should be available whenever cats are in contact with the handlers or the public.

• High Pressure Hoses/Fire Hoses—These can be used in the same manner as CO_2 fire extinguishers.

• Pepper Sprays/Mace, etc.—The effectiveness may vary between species and individuals, but these may be a useful emergency tool.

• Darting Equipment—Consider use of darting equipment in contingency planning, although reliability, onset of tranquilization, and safety of the public need to be evaluated.

• Radios—Radios allow for quick communication to management and support personnel. Also, during public contact exhibition, handlers and other personnel should carry radios.

• Capture Nets—These may be useful in controlling/capturing escaped or uncooperative animals.

• Cell Phones—Consider use whenever animals are moved off-site for demonstrations/exhibition.

• Crowd Control Fencing—This fencing (such as rolls of plastic fencing) can be used to keep the viewing public out of restricted areas.

Done in Washington, DC, this 14th day of February 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–3920 Filed 2–17–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–03]

Proposed Modification of Class D Airspace; Rapid City, SD; Modification of Class D Airspace; Rapid City Ellsworth AFB, SD; and Modification of Class E Airspace; Rapid City, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class D airspace at Rapid City, SD, modify Class D airspace at Ellsworth AFB, SD, and modify Class E airspace at Rapid City, SD. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 32 has been developed for Rapid City Regional Airport. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing this approach. This action would increase the radius of the existing Class D and Class E airspace for Rapid City Regional Airport, and modify the legal description of the Class D airspace for Ellsworth AFB to include the formentioned modification.

DATES: Comments must be received on or before April 3, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 00–AGL–03, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–AGL–03.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the

notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class D airspace and Class E airspace at Rapid City, SD, and modify the Class D airspace at Rapid City Ellsworth AFB, SD, by increasing the radius of the existing Class D airspace and Class E airspace for Rapid City Regional Airport, and to modify the legal description of the Class D airspace for Ellsworth AFB to incorporate the aforementioned change. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class D airspace designations are published in paragraph 5000, Class E airspace areas designated as extensions to a Class D airspace area are published in paragraph 6004, and Class E airspace areas designated as surface areas are published in paragraph 6002, of FAA Order 7400.9G dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(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 proposed 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).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

Authority: 49 U.S.C. 106(g), 401013, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 5000 Class D airspace.

* * * * *

AGL SD D Rapid City, SD [Revised]

Rapid City Regional Airport, SD
(Lat. 44°02′43″N., long. 103°03′27″W.)
Ellsworth AFB, SD
(Lat. 44°08′42″N., long. 103°06′13″W.)

That airspace extending upward from the surface to and including 5,700 feet MSL within an 4.4-mile radius of the Rapid City Regional Airport, excluding the portion north of a line between the intersection of the Rapid City Regional Airport 4.4-mile radius and the Ellsworth AFB, SD, 4.7-mile radius. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AGL SD D Rapid City Ellsworth AFB, SD [Revised]

Rapid City Ellsworth AFB, SD
(Lat. 44°08′42″N., long. 103°06′13″W.)
Ellsworth AFB TACAN
(Lat. 44°08′20″N., long. 103°06′06″W.)

That airspace extending upward from the surface to and including 5,800 feet MSL within an 4.7-mile radius of Ellsworth AFB, and within 2.2 miles each side of the Ellsworth AFB TACAN 322° radial, extending from the 4.7-mile radius to 6.1 miles northwest of the TACAN, excluding that airspace south of a line between the intersection of the Ellsworth AFB 4.7-mile radius and the Rapid City Regional Airport 4.4-mile radius.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D airspace area.

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AGL SD E4 Rapid City, SD [Revised]

Rapid City Regional Airport, SD
(Lat. 44°02′43″N., long. 103°03′27″W.)
Ellsworth AFB, SD
(Lat. 44°08′42″N., long. 103°06′13″W.)
Rapid City VORTAC
(Lat. 43°58′34″N., long. 103°00′44″W.)

That airspace extending upward from the surface within 2.6 miles each side of the Rapid City VORTAC 155°/335° radials extending from the 4.4-mile radius of the Rapid City Regional Airport to 7.0 miles southeast of the VORTAC, excluding that airspace within the Rapid City, SD, Class D airspace area. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace designated as a surface area.

* * * * *

AGL SD E2 Rapid City, SD [Revised]

Rapid City Regional Airport, SD
(Lat. 44°02′43″N., long. 103°03″27Prime;W.)
Ellsworth AFB, SD
(Lat. 44°08′42″N., long. 103°06′13″W.)
Rapid City VORTAC
(Lat. 43°58′34″N., long. 103°00′44″W.)

Within an 4.4-mile radius of the Rapid City Regional Airport, excluding the portion north of a line between the intersection of the Rapid City Regional Airport 4.4 mile radius and the Ellsworth AFB 4.7-mile radius, and that airspace extending upward from the surface within 2.6 miles each side of the Rapid City VORTAC 155°/335° radials extending from the 4.4-mile radius of the Rapid City Regional Airport to 7.0 miles southeast of the VORTAC, excluding that airspace within the Rapid City, SD, Class D airspace area. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on February 3, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–3977 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–01]

Proposed Modification of Class D Airspace; Establishment of Class E Airspace; and Modification of Class E Airspace; Belleville, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class D airspace, modify Class E airspace and establish Class E airspace at Belleville, IL. An Instrument Landing System (ILS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 32L, a Tactical Air Navigation (TACAN) SIAP to Rwy 32L, and a TACAN SIAP to Rwy 14R, have been developed for Scott AFB/MidAmerica Airport. Controlled airspace extending upward from the surface is needed to contain aircraft executing these approaches. This action would increase the radius of the existing Class D airspace, create a new Class E airspace extension to the Class D airspace, and modify the exiting Class E airspace by increasing the radius and modifying the extensions, for Scott AFB/MidAmerica Airport.

DATES: Comments must be received on or before April 3, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 00–AGL–01, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 670018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–AGL–01.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of the Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class D airspace, establish Class E airspace, and modify Class E airspace, at Belleville, IL, by increasing the radius of the existing Class D airspace, creating a new Class E airspace extension to the Class D airspace, and modifying the existing Class E airspace by increasing the radius and modifying the extensions for Scott AFB/MidAmerica Airport. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class D airspace designations are published in paragraph 5000, Class E airspace areas designated as extensions to a Class D airspace area are published in paragraph 6004, and Class E airspace areas extending upward from 700 feet or more above the surface of the Earth are published in paragraph 6005, of FAA Order 7400.9G dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(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 proposed 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).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 5000 Class D airspace.

* * * * *

AGL IL D Belleville, IL [Revised]

Belleville, Scott AFB/MidAmerica Airport, IL (Lat. 38°32′41″N., long. 89°50′01″W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.9-mile radius of the Scott AFB/MidAmerica Airport. This Class D airspace

area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will therafter be continuously published in the Airport/Facility Director.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D airspace area.

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AGL IL E4 Belleville, IL [New]

Belleville, Scott AFB/MidAmerica Airport, IL
(Lat. 38°32′41″N., long. 89°50′01″W.)
Scott TACAN
(Lat. 38°32′43″N., long. 89°51′06″W.)

That airspace extending upward from the surface within 1.5 miles each side of the Scott TACAN 312° radial extending from the 4.9-mile radius of the Scott AFB/MidAmerica Airport to 10.0 miles northwest of the Scott TACAN. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IL E5 Belleville, IL [Revised]

Belleville, Scott AFB/MidAmerica Airport, IL
(Lat. 38°32′41″N., long. 89°50′01″W.)
Scott TACAN
(Lat. 38°32′43″N., long. 89°51′06″W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of Scott AFB/MidAmerica Airport and within 1.5 miles each side of the Scott TACAN 312° radial extending from the 7.4-mile radius to 10.0 miles northwest of the Scott TACAN and within 1.7 miles each side of the Scott TACAN 140° radial extending from the 7.4-mile radius to 14.0 miles southeast of the Scott TACAN, excluding that airspace within the St. Jacob, IL, and Cahokia, IL, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on February 3, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–3976 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–04]

Proposed Modification of Class E Airspace; Ely, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace Ely, MN. A VHF Omnidirectional Range-A (VOR–A) Standard Instrument Approach Procedure (SIAP) has been developed for Ely Municipal Airport, MN. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing this approach. This action would increase the radius and add an additional extension to the existing Class E airspace for Ely Municipal Airport.

DATES: Comments must be received on or before April 3, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 00–AGL–04, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–AGL–04.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Ely, MN, by increasing the radius and adding an additional extension to the existing Class E airspace for Ely Municipal Airport. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas designated as surface areas are published in paragraph 6002 and Class E airspace areas extending upward from 700 feet or more above the surface are published in paragraph 6005 of FAA Order 7400.9G dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(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 proposed 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).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6002 Class E airspace designated as a surface area.

* * * * *

AGL MN E2 Ely, MN [Revised]

Ely Municipal, MN
(Lat. 47°49′28″N., long. 91°49′51″W.)
Ely VOR/DME
(Lat. 47°49′19″N., long. 91°49′49″W.)

Within an 4.0-mile radius of the Ely Municipal Airport, and within 2.4 miles each side of the VOR/DME 108° radial extending from the 4.0-mile radius to 7.0 miles southeast of the VOR/DME, and 2.4 miles each side of the VOR/DME 302° radial extending from the 4.0-mile radius to 7.0 miles northwest of the VOR/DME, and within 2.4 miles each side of the VOR/DME 172° radial extending from the 4.0-mile radius to 7.0 miles south of the VOR/DME. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 Ely, MN [Revised]

Ely Municipal Airport, MN
(Lat. 47°49′28″N., long. 91°49′51″W.)

That airspace extending upward from 700 feet above the surface within an 7.7-mile radius of the Ely Municipal Airport, excluding that airspace within Prohibited Area P–204.

* * * * *

Issued in Des Plaines, Illinois on February 3, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–3975 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–5]

Proposed Amendment of Class E Airspace; McMinnville, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at McMinnville, TN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Columbia River Park Hospital, McMinnville, TN. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP. This action proposes to amend the Class E5 airspace for McMinnville, TN, to the east, in order to include the point in space approach serving Columbia River Park Hospital.

DATES: Comments must be received on or before March 20, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–5, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

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

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ASO–5.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

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

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace at McMinnville, TN. A GPS SIAP, helicopter point in

space approach, has been developed for Columbia River Park Hospital. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

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

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO TN E5 McMinnville, TN [Revised]

McMinnville, Warren County Memorial Airport, TN
(Lat. 35°41′55″N, long. 85°50′38″W)
Warri NDB
(Lat. 35°45′09″N, long. 85°45′51″W)
Columbia River Park Hospital, McMinnville, TN
Point in Space Coordinates
(Lat. 35°42′06″N, long. 85°43′45″W)

That airspace extending upward from 700 feet or more above the surface within a 11-mile radius of Warren County Memorial Airport and within 2.5 miles each side of the 051° bearing from the Warri NDB, extending from the 11-mile radius to 7 miles northeast of the NDB, and that airspace within a 6-mile radius of the point in space (lat. 35°42′06″N, long. 85°43′45″W) serving Columbia River Park Hospital, McMinnville, TN.

* * * * *

Issued in College Park, Georgia, on February 7, 2000.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–3980 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. No. 00–ASO–6]

Proposed Amendment of Class E Airspace; Dayton, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at Dayton, TN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Bledsoe County Hospital, Pikeville, TN. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP. This action proposes to amend the Class E5 airspace for Dayton, TN, to the Northwest, in order to include the point in space approach serving Bledsoe County Hospital.

DATES: Comments must be received on or before March 20, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–6, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320. The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O.Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ASO–6.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must

identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace at Dayton, TN. A GPS SIAP, helicopter point in space approach, has been developed for Bledsoe County Hospital, Pikeville, TN. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

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

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

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO TN E5 Dayton, TN [Revised]

Dayton, Mark Anton Airport, TN
(Lat. 35°29′08″ N, long. 84°55′54″ W)
Hardwick Field Airport
(Lat. 35°13′12″ N, long. 84°49′57″ W)
Bledsoe County Hospital, Pikeville, TN
Point In Space Coordinates
(Lat. 35°37′34″ N, long. 85°10′38″ W)

That airspace extending upward from 700 feet or more above the surface within a 12.5-mile radius of Mark Anton Airport, and within a 6.5-mile radius of Hardwick Field Airport, and that airspace within a 6-mile radius of the point in space (Lat. 35°37′34″ N, long. 85°10′38″ W) serving Bledsoe County Hospital, Pikeville, TN.

* * * * *

Issued in College Park, Georgia, on February 7, 2000.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–3981 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–222–FOR]

Kentucky Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Kentucky regulatory program (Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Kentucky regulations pertaining to general requirements for steep slopes. The amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

DATES: If you submit written comments, they must be received by 4:00 p.m., [E.D.T.], March 20, 2000. If requested, a public hearing on the proposed amendment will be held on March 14, 2000. Requests to speak at the hearing must be received by 4:00 p.m., [E.D.T.], on March 6, 2000.

ADDRESSES: Mail or hand-deliver your written comments and requests to speak at the hearing to William J. Kovacic, Field Office Director, at the address listed below.

You may review copies of the Kentucky program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (606) 233–2894. E-Mail: bkovacic@osmre.gov

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601. Telephone: (502) 564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone: (606) 233–2894.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21404). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated January 28, 2000 (Administrative Record No. KY–1469), Kentucky submitted a proposed amendment to its program at 405 KAR 20.060. Specifically, Kentucky is responding to 30 CFR 917.16(d)(5) by

establishing special performance standards and limited variance procedures for operations conducted on steep slopes by revising 405 KAR 20.060—Section 3(3)(b) and (c). Kentucky is requiring that the total volume of flow from the proposed permit area, during every season of the year, not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water. Kentucky is also requiring that the cabinet consider any agency comments under subsection (2) of this section regarding watershed improvement.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Comments, including names and home addresses of respondents, will be available for public review during regular business hours. You may request that we withhold your name and/or home address from the administrative record. We will honor your request to the extent allowable by law. If you make such a request, state it prominently at the beginning of your comment. We will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under DATES or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

If you wish to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., [E.D.T.] on March 6, 2000. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held. To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

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

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 9, 2000.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 00–3925 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AJ99

Review of Benefit Claims Decisions

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document concerns the Department of Veterans Affairs (VA) adjudication regulations. We are proposing new provisions to allow any claimants who have filed a timely Notice of Disagreement to obtain a de novo review of their claims at the Veterans Service Center level. We believe this would provide a more efficient means for resolving disagreements concerning claims.

DATES: Comments must be received on or before April 18, 2000.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AJ99.'' All comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Jack Bisset, Consultant, Compensation and Pension Service, Regulations Staff, or Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7213 and (202) 273–7228, respectively (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: This document proposes to amend our adjudication regulations by establishing provisions at 38 CFR 3.2600 to allow any claimants who have filed a timely Notice of Disagreement to obtain a de novo review (a new and complete review with no deference given to the decision being reviewed) by Veterans Service Center personnel. The new provisions are based on the requirement in 38 U.S.C. 7105(d)(1) that, when a claimant files a Notice of Disagreement with the decision of an agency of original jurisdiction, the agency will ''take such development or review action as it deems proper under the provisions of regulations not inconsistent with'' title 38 of the United States Code. This proposed amendment would improve VA's service to claimants by resolving disagreements more quickly and by improving claimants' and their representatives' access to the person responsible for making the decision.

We propose that the review be conducted by an Adjudication Officer, Veterans Service Center Manager, or Decision Review Officer (a new position within VA's Service Center), at VA's discretion. We believe these officials have the expertise to conduct such reviews. The review will be conducted by an individual who did not participate in the decision being reviewed. This requirement is similar to that for VA personnel conducting hearings under 38 CFR 3.103(c)(1). It will help ensure that reviews are truly de novo.

The reviewer may conduct whatever development he or she considers necessary to resolve disagreements concerning decisions with which the claimant has expressed disagreement in the Notice of Disagreement, consistent with applicable law. This may include an attempt to obtain additional evidence or the holding of an informal conference with the claimant. Upon the request of the claimant, the reviewer will conduct a hearing under § 3.103(c). We believe that such procedures will allow the reviewer to resolve the claim fairly and promptly, and will afford the claimant an opportunity to present his or her case adequately.

These proposed provisions would apply only to decisions that both have not yet become final (by appellate decision or failure to timely appeal) and with which the claimant has disagreed. This is consistent with the provisions of 38 U.S.C. 7104(b), 7105(c) and 7105(d).

The review would be based on all the evidence of record and applicable law. Further, the review decision would have to include a summary of the evidence, a citation to pertinent laws, a discussion of how those laws affect the decision, and a summary of the reasons for the decision. This would ensure that the reviewer provides a fresh look at the case and provides an appropriate record of the decisionmaking process.

Moreover, the reviewer would be authorized to grant a benefit sought in the claim, but would not be authorized to revise the decision in a manner that is less advantageous to the claimant than the decision under review. This will ensure that the claimant is not penalized for seeking a review. However, the reviewer would have the authority to reverse or revise any decision of the agency of original jurisdiction (including the decision being reviewed or any prior decision that has become final due to failure to timely appeal) on the grounds of clear and unmistakable error, even if disadvantageous to the claimant. All Service Center decisionmakers already have this authority (see 38 CFR 3.105(a)). This new delegation of authority would be consistent with 38 U.S.C. 5109A.

The proposal provides that, upon receipt of a Notice of Disagreement, VA would notify the claimant in writing of his or her right to a review. To obtain such a review, the claimant would have to request it within 60 days of the date VA mails the notice. Written notification would ensure that VA would have a record of its notification, and the 60-day period would provide sufficient time for the claimant to determine whether he or she wants this review.

The proposal also provides that a claimant may not have more than one of these reviews of the same decision and that this review would not limit the appellate rights of the claimant. We believe that one review is sufficient to resolve those claims that can be resolved before proceeding with appellate review.

Proposed § 3.2600 is one of several provisions to be set forth in a new subpart D containing ''universal adjudication rules'' that would apply to claims which are governed by part 3 of title 38. This includes claims for benefits such as compensation, pension, dependency and indemnity compensation, burial benefits, and special benefits listed at §§ 3.800 through 3.814. The ''universal adjudication rules'' would also apply to claims for eligibility determinations (such as character of military discharge, military duty status and dependency status), apportionment of benefits to dependents, and waiver of recovery of overpayments. Proposed new § 3.2100 specifies the scope of applicability of the provisions in subpart D.

We also propose to amend 38 CFR 3.105(b) (which concerns revision of decisions based on difference of opinion) to specify that a decision may be revised under § 3.2600 without being recommended to Central Office. This clarifies that the proposed review process created by § 3.2600 is not subject to the requirements of § 3.105(b).

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in

the aggregate, or by the private section of $100 million or more in any given year. This final rule will have no consequential effect on State, local, or tribal governments.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The proposed rule does not directly affect any small entities. Only VA beneficiaries are directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, 64.110, and 64.127.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: December 21, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is proposed to be amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.105, paragraph (b) is amended by adding, as the last sentence, ''However, a decision may be revised under § 3.2600 without being recommended to Central Office.''

3. A new Subpart D is added to read as follows:

Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

General

Sec.
3.2100 Subpart D's Scope of Applicability

Revisions

3.2600. Review of benefit claims decisions.

Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

Authority: 38 U.S.C. 501(a), unless otherwise noted.

General

§ 3.2100 Subpart D's Scope of Applicability.

Unless otherwise specified, the provisions of this subpart apply only to claims governed by part 3 of this title.

(Authority: 38 U.S.C. 501(a))

Revisions

§ 3.2600 Review of benefit claims decisions.

(a) A claimant who has filed a timely Notice of Disagreement with a decision of an agency of original jurisdiction on a benefit claim has a right to a review of that decision under this section. The review will be conducted by an Adjudication Officer, Veterans Service Center Manager, or Decision Review Officer, at VA's discretion. An individual who did not participate in the decision being reviewed will conduct this review. Only a decision that has not yet become final (by appellate decision or failure to timely appeal) may be reviewed. Review under this section will encompass only decisions with which the claimant has expressed disagreement in the Notice of Disagreement. The reviewer will consider all evidence of record and applicable law, and will give no deference to the decision being reviewed.

(b) VA will notify the claimant in writing of his or her right to a review under this section. To obtain such a review, the claimant must request it within 60 days of the date VA mails the notice. A claimant may not have more than one review under this section of the same decision. This review does not limit the appellate rights of a claimant.

(c) The reviewer may conduct whatever development he or she considers necessary to resolve any disagreements in the Notice of Disagreement, consistent with applicable law. This may include an attempt to obtain additional evidence or the holding of an informal conference with the claimant. Upon the request of the claimant, the reviewer will conduct a hearing under § 3.103(c).

(d) The reviewer may grant a benefit sought in the claim notwithstanding § 3.105(b), but, except as provided in paragraph (e) of this section, may not revise the decision in a manner that is less advantageous to the claimant than the decision under review. A review decision made under this section will include a summary of the evidence, a citation to pertinent laws, a discussion of how those laws affect the decision, and a summary of the reasons for the decision.

(e) Notwithstanding any other provisions of this section, the reviewer may reverse or revise (even if disadvantageous to the claimant) prior decisions of an agency of original jurisdiction (including the decision being reviewed or any prior decision that has become final due to failure to timely appeal) on the grounds of clear and unmistakable error (see § 3.105(a)).

(Authority: 38 U.S.C. 5109A and 7105(d))

[FR Doc. 00–3870 Filed 2–17–00; 8:45 am]

BILLING CODE 8320–01–P

Notices

Federal Register

Vol. 65, No. 34

Friday, February 18, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Board for International Food and Agriculture Development, One Hundred and Thirty First Meeting; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the one hundred and thirty first meeting of the Board for International Food and Agriculture Development (BIFAD). The meeting will be held from 9 a.m. to 5 p.m. on March 16, 2000, and from 9 a.m. to 4 p.m. on March 17, 2000, in the NASULGC conference room on the first floor at 1307 New York Avenue, N.W., Washington, DC 2005.

As part of its agenda, BIFAD will look at the role of agriculture in global poverty reduction. A strong agriculture sector is the cornerstone to a strong economy and poverty reduction. In developing countries the majority of the population is engaged in agriculture. BIFAD will learn how development policies as well as activities in different geographic regions are supporting poverty reduction through improved agriculture. BIFAD will hear about university/private sector partnerships collaborating on international agriculture development in select commodities. Such collaboration is important in promoting agricultural development.

Those wishing to attend the meeting or obtain additional information about BIFAD should contact Mr. Charles Uphaus, the Acting Designated Federal Officer for BIFAD. Write him in care of the Agency for International development, Ronald Reagan Building, Office of Agriculture and Food Security, 1300 Pennsylvania Avenue, N.W., Room 2.11–044, Washington, DC 20523–2110 or telephone him at (202) 712–1172 or fax (202) 216BIFAD3060.

Charles Uphaus,

USAID Acting Designated Federal Officer for BIFAD, Office of Agriculture and Food Security, Economic Growth Center, Bureau for Global Programs.

[FR Doc. 00–3953 Filed 2–17–00; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Office of Procurement and Property Management; Proposed Collection: Comment Request Concerning Collection of Acquisition Information

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Notice and request for comments regarding a proposed extension of approved information collection requirements.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Procurement and Property Management (OPPM) intends to submit to the Office of Management and Budget (OMB) a request to review and approve an extension of five currently approved information collections related to the award of, or performance under, USDA contracts. OPPM invites comment on these information collections. These information requirements are currently approved by OMB for use through May 31, 2000. OPPM proposes that OMB extend its approval for use through June 2, 2003.

DATES: Comments on this notice must be received by April 18, 2000.

ADDRESSES: Send comments to: Joseph J. Daragan, Procurement Analyst, Office of Procurement and Property Management, STOP 9303, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250–9303. Comments may also be submitted via fax at (202) 720–8972, or through the Internet at joe.daragan@USDA.GOV.

FOR FURTHER INFORMATION CONTACT: Joseph J. Daragan, Office of Procurement and Property Management, STOP 9303, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250–9303, (202) 720–5729.

SUPPLEMENTARY INFORMATION: USDA is seeking OMB approval of the following information collections:

1. Title: Procurement: Maximum Workweek—Construction Schedule.

OMB Number: 0505–0011.

Expiration Date: 5/31/2000.

Type of request: Extension of a currently approved collection.

Proposed use of information: Information about the contractor's proposed hours of work is requested prior to the start of construction so that the agency can determine when on-site representatives are needed. A contracting office will insert this clause in a construction contract when, because of the agency's staffing or budgetary constraints, it is necessary to limit the contractor's performance to a maximum number of hours per week.

Respondents: Businesses or other for-profit; small businesses or organizations.

Estimated Number of Respondents: 600.

Estimated Number of Responses per Respondent: One (1).

Estimate of Burden: The information collected is the hours and days of the week the contractor proposes to carry out construction, with starting and stopping times. Public reporting burden for this collection of information is estimated to average fifteen minutes per response.

Estimated Total Annual Burden on Respondents: 150 hours.

2. Title: Procurement: Instruction for the Preparation of Business and Technical Proposals.

OMB Number: 0505–0013.

Expiration Date: 5/31/2000.

Type of request: Extension of a currently approved collection.

Proposed use of information: Technical and business proposals received from offerors, including information about offerors' organization and financial systems, are used when conducting negotiated procurement to evaluate and determine the feasibility of the prospective contractor's technical approach, management, and cost/price to accomplish the task and/or provide the supplies or services required under a resultant contract.

Respondents: State or local governments; businesses or other for-profit; small businesses or organizations.

Estimated Number of Respondents: 2,700.

Estimated Number of Responses per Respondent: One (1).

Estimate of Burden: Public reporting burden to prepare technical and business proposals as part of a response to a solicitation is estimated to average 35 hours per response. This estimate does not include burden associated with providing information required in accordance with information collections prescribed by the Federal Acquisition Regulation. Only businesses submitting offers in response to a solicitation are affected by this collection.

Estimated Total Annual Burden on Respondents: 94,500 hours.

3. Title: Procurement: Brand Name or Equal Clause.

OMB Number: 0505–0014.

Expiration Date: 5/31/2000.

Type of request: Extension of a currently approved collection.

Proposed use of information: The Agriculture Acquisition Regulation permits the use of ''brand name or equal'' purchase descriptions to procure commercial products. Such descriptions require the offeror on a supply procurement to identify the ''equal'' item being offered and to indicate how that item meets salient characteristics stated in the purchase description. The contracting officer can determine from the descriptive information furnished whether the offered ''equal'' item meets the salient characteristics of the Government's requirements. The use of brand name or equal descriptions eliminates the need for bidders or offerors to read and interpret detailed specifications or purchase descriptions.

Respondents: Businesses or other for-profit; small businesses or organizations.

Estimated Number of Respondents: 51,468.

Estimated Number of Responses per Respondent: One (1).

Estimate of Burden: This information collection is limited to solicitations for products for which other methods of product specification are impracticable. Only businesses wishing to submit bids or offers in response to a solicitation are affected. Public reporting burden for this collection of information is estimate to average one tenth of an hour per response.

Estimated Total Annual Burden on Respondents: 5,147 hours.

4. Title: Procurement: Key Personnel Clause.

OMB Number: 0505–0015.

Expiration Date: 5/31/2000.

Type of request: Extension of a currently approved collection.

Proposed use of information: The information enables the agency to determine whether the departure of a key person from the contractor's staff may have a deleterious effect upon contract performance, and to determine what accommodations or remedies may be taken. If the agency could not obtain information about departing key personnel, it could not ensure that qualified personnel continue to perform contract work.

Respondents: State or local governments; businesses or other for-profit; small businesses or organizations.

Estimated Number of Respondents: 200.

Estimated Number of Responses per Respondent: One (1).

Estimate of Burden: The information collection is required only when a contractor proposes to make changes to key personnel assigned to performance of a contract. Consequently, information collection is occasional. Public reporting burden for this collection of information is estimated to average one hour per respondent.

Estimated Total Annual Burden on Respondents: 200 hours.

5. Title: Procurement: Progress Reporting Clause.

OMB Number: 0505–0016.

Expiration Date: 5/31/2000.

Type of request: Extension of a currently approved collection.

Proposed use of information: The information is requested monthly or quarterly from contractors performing research and development (R&D) or advisory and assistance services, including ADP system or software development. The information enables the contracting office to monitor actual progress and expenditures compared to anticipated performance and proposal representations upon which the contract award was made. The information alerts the contracting office to technical problems, to a need for additional staff resources or funding, and to the probability of timely completion within the contract cost or price. If the contracting office could not obtain a report of progress, it would have to physically monitor the contractor's operations on a day-to-day basis throughout the performance period.

Respondents: State or local government; businesses or other for-profit; small businesses or organizations.

Estimated Number of Respondents: 200.

Estimated Number of Responses per Respondent: The frequency of progress reports varies from monthly to quarterly depending on the complexity of the contract and the risk of successful completion. Based on monthly reporting, each respondent would submit 12 responses per year.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average one and one half hours per respondent.

Estimated Total Annual Burden on Respondents: 3,600 hours.

Comments received will be considered in order to: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of USDA contracting offices, including whether the information will have a practical utility; (b) evaluate the accuracy of OPPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who respond, including through the use of automated collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

Dated: February 11, 2000.

W.R. Ashworth,

Director, Office of Procurement and Property Management.

[FR Doc. 00–3877 Filed 2–17–00; 8:45 am]

BILLING CODE 3410–TX–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Seek Office of Management and Budget Approval To Collect Information

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13 44 U.S.C. 3501 *et seq.*) and Office of Management and Budget (OMB) regulations 5 CFR part 1320 (60 FR 44978, Aug.29, 1995 as corrected at 60 FR 96148, Sept 5, 1995), this notice announces the Agricultural Research Service's (ARS) intention to request OMB approval for a new information collection from peer reviewers of ARS's research projects. The data will be used to manage the travel and stipend payments to panel reviewers and provide well organized feedback to ARS's researchers about their projects.

DATES: Written comments on this notice must be received by April 24, 2000 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Marcia Moore, Peer Review Program Coordinator; Office of Scientific Quality Review; Agricultural Research Service, USDA; 5601 Sunnyside Avenue, Mailstop 5142; Beltsville, Maryland; 20705. Telephone: (301) 504–4786, E-mail: www.osqr@ars.usda.gov .

SUPPLEMENTARY INFORMATION:

Title: Scientific Peer Review of ARS Research Projects.

Type of Request: OMB approval to collect information from peer reviewers of ARS's research projects.

Abstract: The Office of Scientific Quality Review was established in September of 1999 in response to the requirements of the Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105–185, 7 U.S.C. 7601 *et seq.*). The law included mandates to perform scientific peer reviews of all research activities conducted by the USDA(Sec. 103, Pub. L. 105–185, 7 U.S.C. 7613). The Office manages the ARS peer review system by centrally planning peer panel reviews for ARS research projects on a five-year cycle. Each set of reviews is assigned a chairperson to govern the review process.

The majority of the peer reviewers will be non-ARS scientists. Peer review Panels are convened to provide in-depth discussion and review of the research project plans. Each reviewer receives information on all of ARS research projects within the program the reviewer is assigned to. The number of projects to review varies by program.

Information to be obtained from the public includes: Confidentiality Agreement, Panelist Information, Peer Review of an ARS Research Project, Critique of ARS Research Project, Panelist Expense Report, and Panelist Invoice.

Estimate of Burden: Public reporting burden for this data collection is estimated to average 1 hour per response.

Respondents: Scientific experts, currently working in the same discipline as the research projects under review, will be selected to review research projects.

These experts are notable peers within and external to the ARS.

Estimated Number of Respondents: 120 peer reviewers.

Estimated Total Annual Burden on Respondents: 2,168 hours.

Copies of Information: Copies of the information to be collected can be obtained from Marcia Moore, Peer Review Program Coordinator; Office of Scientific Quality Review; Agricultural Research Service, USDA; 5601 Sunnyside Avenue, Mailstop 5142; Beltsville, Maryland; 20705.

Comments: Comments are invited on (a) whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Marcia Moore, Peer Review Program Coordinator; Office of Scientific Quality Review; Agricultural Research Service, USDA; 5601 Sunnyside Avenue, Mailstop 5142; Beltsville, Maryland; 20705. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed February 14, 2000.

Edward Knipling,

Associate Administrator, Agricultural Research Service, USDA.

[FR Doc. 00–3919 Filed 2–17–00; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Center for Nutrition Policy and Promotion Office of Public Health and Science Dietary Guidelines Advisory Committee: Notice of Availability of the Final Report, Public Meeting, and Public Comment Period

AGENCIES: Department of Agriculture (USDA) and Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Agriculture (USDA) and the Department of Health and Human Services (HHS) (a) announce the availability of the final Report of the Dietary Guidelines Advisory Committee (the Committee) (b) solicit written comments on the final Report, and (c) provide notice of a public meeting to solicit oral comments on the Report. The meeting will be held at the Jefferson Auditorium of the South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC, near the Smithsonian Metro Station. No registration is required to attend the public meeting, but pre-registration is required to provide oral comments at the meeting.

DATES: (a) Written comments on the Committee Report can be submitted and must be received by the Agencies on or before March 15, 2000. (b) The public meeting to solicit oral comments on the Report will be held on March 10, 2000, from 9 a.m. to 1 p.m. E.S.T.

ADDRESSES: The final Report is available electronically and in hard copy; for availability and contact and meeting addresses, refer to Unit I. of the ''SUPPLEMENTARY INFORMATION'' section.

FOR FURTHER INFORMATION CONTACT: Shanthy Bowman, Ph.D., USDA, Agricultural Research Service, 10300 Baltimore Boulevard, Building 005, BARC-West, Beltsville, MD 20705–2350, (301) 504–0619; Carole Davis, M.S., R.D., USDA Center for Nutrition Policy and Promotion, 1120 20th St., NW, Suite 200 North Lobby, Washington, DC 20036, (202) 418–2312; or Kathryn McMurry, M.S., Office of Disease Prevention and Health Promotion, Office of Public Health and Science, Room 738-G, 200 Independence Ave., SW, Washington, DC 20201, (202) 205–4872.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get a Copy of the Report?

Electronically, the Report can be downloaded from the Internet in .PDF file format at http://www.ars.usda.gov/dgac. Hard copies of the Report are available for review at the Reference Section of the National Agricultural Library located at 10301 Baltimore Boulevard, Beltsville, MD, 20705. The telephone number is (301) 504-5755.

B. How and to Whom Do I Submit Written Comments?

You may submit written comments to Shanthy Bowman, Ph.D., USDA, Agricultural Research Service, BHNRC/CNRG, 10300 Baltimore Boulevard, Building 005, Room 125, BARC-West, Beltsville, MD, 20705–2350, (301)–504–0619, and Kathryn McMurry, M.S., DHHS, Office of Disease Prevention and Health Promotion, Office of Public Health and Science, Room 738–G, 200 Independence Ave., SW, Washington, DC 20201, (202) 205–4872.

C. How Do I Register To Present Oral Comments?

Registration is required to provide oral input at the public meeting on

March 10, 2000. Requests to provide oral input at the meeting should be submitted by 5:00 p.m. E.S.T., March 7, 2000, to Kathryn McMurry, M.S., DHHS, Office of Disease Prevention and Health Promotion, (202) 205–4872 (phone), (202) 205–0463 (fax). Name of the presenter, organization affiliation (if applicable), source of funding, and contact phone number are required for registration. Registration is free. One person per organization will be selected on first come basis. Presentations should be limited to three (3) minutes or less. Registration will also be accepted at the meeting, if time slots are available.

II. Background

Nutrition and Your Health: Dietary Guidelines for Americans, published jointly by USDA and HHS, provides recommendations based on current scientific knowledge about how dietary intake may reduce risk for major chronic diseases and how a healthful diet may improve nutrition. The guidelines form the basis of Federal food, nutrition education, and information programs. First published in 1980, *Dietary Guidelines* were revised in 1985,1990, and 1995. Public Law 101–445, Section 3 requires review and revision as necessary of the *Dietary Guidelines every five years.* This legislation also requires review by the Secretaries of USDA and HHS of all Federal dietary guidance-related publications for the general public. The fifth edition of the *Dietary Guidelines for Americans* is scheduled for release in 2000.

The 11 member Dietary Guidelines Advisory Committee was jointly appointed by the Secretaries of USDA and HHS in 1998, to review the fourth edition of the *Dietary Guidelines for Americans* to determine if changes are needed, and if so, to recommend suggestions for revision. The Committee, in the first meeting held in September 1998, determined that a revision was warranted. The Committee has submitted its report to the Secretaries of Departments of Agriculture and Health and Human Services. This report will serve as the basis for the fifth edition of *Nutrition and Your Health: Dietary Guidelines for Americans.*

Dated: February 14, 2000.

Eileen T. Kennedy,

Deputy Under Secretary, Research, Education, and Economics, Department of Agriculture.

Julie Paradis,

Deputy Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture.

Nicole Lurie,

Principal Deputy Assistant Secretary for Health, Department of Health and Human Services.

[FR Doc. 00–3876 Filed 2–17–00; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revised Land and Resource Management Plan for the National Forests in Mississippi

AGENCY: Forest Service, USDA.

ACTION: Notice of extension of public scoping period.

SUMMARY: On December 14, 1999, the Forest Service published in the **Federal Register** a Notice of Intent to prepare an environmental impact statement for the revision of the Forest Land and Resource Management Plan (Forest Plan) for the National Forests in Mississippi (64 FR 69686–69691, December 14, 1999). The December 14th notice initiated a 60 day public scoping period inviting written comments from interested and affected citizens to assist in identifying and developing recommendations on the management of the National Forests in Mississippi. The agency now gives notice of an extension of the initial scoping period for Forest Plan revision. Originally, the scoping period was scheduled to close on Monday, February 14, 2000, the agency has extended the initial public scoping period to March 31, 2000.

DATE: Public comment began on December 14, 1999, and will end on March 31, 2000.

ADDRESSES: Submit written comments to Forest Supervisor, National Forests in Mississippi, 100 West Capitol St., Suite 1141, Jackson, MS 39269.

FOR FURTHER INFORMATION CONTACT: Jeff Long, Land Management Planning Revision Team Leader, (601) 965–4391.

Responsible Official:

The Regional Forester for the Southern Region located at 1720 Peachtree Road, NW, Atlanta, Georgia 30367.

SUPPLEMENTARY INFORMATION: The public scoping period originally began on December 14, 1999. The agency hosted twenty-three public meetings around the state of Mississippi during January 2000 and attended numerous other meetings hosted by various interest groups and organizations to solicit public comments. Based upon requests received from the public and the agency's desire to foster and promote a collaborative planning effort the initial public scoping period has been extended to March 31, 2000.

Public participation and involvement will be encouraged throughout the Forest Plan revision process. The intent of the March 31st deadline for initial public scoping comments is to enable the agency to formally shift its efforts from gathering issues and comments and begin the process of addressing the specific issues that have been raised. Immediately upon close of the initial public scoping period the agency will focus efforts on understanding and clarifying the issues received during scoping. The agency will invite and encourage public participation in this next phase of the revision process.

The responsible official is Elizabeth Estill, Regional Forester, Southern Region, 1720 Peachtree Road, NW, Atlanta, Georgia 30367.

Dated: February 11, 2000.

David G. Holland,

Deputy Regional Forester, Natural Resources.

[FR Doc. 00–3884 Filed 2–17–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Change to Title of Position Authorized to Sign Conveyance Documents for the Eastern Region

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The former title of Director of Lands, Watershed, and Minerals Management, Eastern Region, has been changed to Land and Minerals Program Leader, Eastern Region (Region 9). This change conforms the position title with the new organizational structure approved by the Chief of the Forest Service on March 20, 1997. This notice serves to advise the public that under the new title of Land and Minerals Program Leader, the incumbent has authorization to sign legal documents on behalf of the United States. This signing authority applies to all conveyance documents; that is, deeds and other legal instruments as specified in the Forest Service Manual (FSM) 5400.

FOR FURTHER INFORMATION CONTACT: Questions about this notice should be addressed to Carolyn Williams, Regional Realty Specialist, Forest Service, USDA, 310 West Wisconsin Avenue, Milwaukee, WI 53203; phone 414–297–3696.

Dated: February 4, 2000.

Paul M. Stockinger,

Lands and Minerals Program Leader, Eastern Region.

[FR Doc. 00–3944 Filed 2–17–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Oregon

AGENCY: Natural Resources Conservation Service (NRCS), USDA.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Oregon for review and comment.

SUMMARY: It is the intention of NRCS in Oregon to issue revisions to Conservation Practice Standards 582, Open Channel, and 584, Stream Channel Stabilization, in Section IV of the State Technical Guide in Oregon. These practices may be used in conservation systems that treat highly erodible land.

DATES: Comments will be received for a 30-day period commencing with this date of publication. Once the review and comment period is over and the standards are finalized, they will be placed in the individual Field Office Technical Guides in each field office.

ADDRESSES: Address all requests and comments to Bob Graham, State Conservationist, Natural Resources Conservation Service (NRCS), 101 SW Main Street, Suite 1300, Portland, Oregon 97204. Copies of these standards will be made available upon written request. You may submit electronic requests and comments to *dave.dishman@or.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Bob Graham, 503–414–3200.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Oregon will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Oregon regarding disposition of those comments and a final determination of changes will be made. In Oregon, ''technical guides'' refers to the Field Office Technical Guide maintained at each NRCS Field Office in Oregon.

Dated: February 11, 2000.

Bob Graham,

State Conservationist, Portland, Oregon.

[FR Doc. 00–3878 Filed 2–17–00; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Change

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of change.

SUMMARY: Pursuant to Section 343 of Subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (FAIRA) that requires the Secretary of Agriculture to provide public notice and comment under Section 553 of Title 5, United States Code, with regard to any future technical guides that are used to carry out Subtitles A, B, and C of Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 *et seq.*), the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice of revisions to applicable conservation practices in Section IV of the Field Office Technical Guides (FOTG) located in Washington State.

The proposed revisions to conservation practices in Section IV of State Technical Guides are subject to these provisions, since one or more could be used as part of a conservation management system to comply with the Highly Erodible Land Conservation or Wetland Conservation requirements.

At this time, fourteen subject conservation practices are being added and/or revised to Section IV of the Washington State FOTG:

Conservation Crop Rotation (Acre)
NRCS Code Number 328
Contour Farming (Acre)
NRCS Code Number 330
Cross Wind Ridges (Acre)
NRCS Code Number 589–A
Cross Wind Stripcropping (Acre)
NRCS Code Number 589–B
Cross Wind Trap Strips (Acre)
NRCS Code Number 589–C
Mulching (Acre)
NRCS Code Number 484
Pasture and Hayland Planting (Acre)
NRCS Code Number 512
Residue Management—No Till and and Strip Till (Acre)
NRCS Code Number 329–A
Residue Management—Mulch Till (Acre)
NRCS Code Number 329–B
Residue Management—Ridge Till (Acre)
NRCS Code Number 329–C
Residue Management, Seasonal (Acre)
NRCS Code Number 344
Stripcropping—Contour (Acre)
NRCS Code Number 585
Stripcropping—Field (Acre)
NRCS Code Number 586
Surface Roughening (Acre)
NRCS Code Number 609

You may request a copy of the practice standards and provide your comments to: Marty Seamons, Program Support Specialist, USDA Natural Resources Conservation Service, West 316 Boone Avenue, Suite 450, Spokane, WA 99201–2348, (509) 323–2967.

You may also obtain a copy and provide comments by accessing our Internet website. Our Internet address is: http://www.wa.nrcs.usda.gov/nrcs/.

Click on ''Field Office Technical Guide'' on the left side of the page, then click on ''Section IV,'' then ''Index of Draft Standards and Specifications for Review and Comment,'' and finally click on the blue star of the appropriate standard.

Dated: February 2, 2000.

Leonard Jordan,

State Conservationist.

[FR Doc. 00–3869 Filed 2–17–00; 8:45 am]

BILLING CODE 3410–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

PROCUREMENT LIST; ADDITIONS

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 20, 2000.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310,

1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Leon A. Wilson, Jr. (703) 603–7740

SUPPLEMENTARY INFORMATION: On September 24, and December 3, and 17, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 51736, 67842 and 70694) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and service and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and service.

3. The action will result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service proposed for addition to the Procurement List.

Accordingly, the following commodities and service are hereby added to the Procurement List:

Commodities

Collector, Moisture
2010–01–033–7292
Kit, Computer Maintenance
7035–01–452–9086
7045–01–315–0850
7045–01–450–8599
Cheesecloth
8305–00–205–3495
8305–00–205–3496
8305–00–262–3321
8305–01–125–0725

Service

Janitorial/Custodial, Kingsville Naval Air Station, Kingsville, Texas

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 00–3923 Filed 2–17–00; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities and a service previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 20, 2000.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Leon A. Wilson, Jr. (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Document Image Conversion

U.S. Department of Housing & Urban Development Enforcement Center, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, Georgia,
NPA: Nobis Enterprises, Inc. Marietta, Georgia

Grounds Maintenance

Basewide, Marine Corps Air Station, Cherry Point, North Carolina
NPA: CETC Employment Opportunities, Inc., New Bern, North Carolina

Janitorial/Custodial

Portland Air Traffic Control Tower (ATCT) and Base Building, 7108 NE Airport Way, Portland, Oregon
NPA: Portland Habilitation Center, Inc. Portland, Oregon

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service proposed for deletion from the Procurement List.

The following commodities and service have been proposed for deletion from the Procurement List:

Commodities

Light, Marker, Distress
6230–00–067–5209
6230–00–938–1778

Service

Administrative Services, Defense Reutilization and Marketing Office,

Building 4291, Fort Hood, Texas

Louis R. Bartalot,

Deputy Director (Operations).

[FR Doc. 00–3924 Filed 2–17–00; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1077]

Grant of Authority for Subzone Status; Gowan Company (Agricultural Chemical Products), Yuma, AZ

Pursuant to its authority under the Foreign-Trade Zones Act, of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for " * * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Yuma County Airport Authority, Inc., grantee of Foreign-Trade Zone 219, has made application to the Board for authority to establish special-purpose subzone at the pesticide manufacturing and warehousing facilities of the Gowan Company, located in Yuma, Arizona (FTZ Docket 28–99, filed 5/27/99);

Whereas, notice inviting public comment was given in the **Federal Register** (64 FR 31824, 6/14/99); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the pesticide manufacturing and warehousing facilities of the Gowan Company, located in Yuma, Arizona (Subzone 219B), at the location described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 10th day of February 2000.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–3988 Filed 2–17–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1079]

Grant of Authority for Subzone Status; Tetra Pak Parts Americas, Inc. (Parts for Liquid Food Processing and Packaging Equipment) Indianapolis, IN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Indianapolis Airport Authority, grantee of Foreign-Trade Zone 72, has made application to the Board for authority to establish special-purpose subzone status at the liquid food processing and packaging equipment parts warehousing/distribution (non-manufacturing) facility of Tetra Pak Parts Americas, Inc., located in Indianapolis, Indiana (FTZ Docket 1–99, filed 1/6/99);

Whereas, notice inviting public comment has been given in the **Federal Register** (64 FR 2170, 1/13/99); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the liquid food processing and packaging equipment parts warehousing/distribution facility of Tetra Pak Parts Americas, Inc., located in Indianapolis, Indiana (Subzone 72O), at the location described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28. The scope of authority does not include activity conducted under FTZ procedures that would result in a change in tariff classification.

Signed at Washington, DC, this 10th day of February 2000.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–3990 Filed 2–17–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1078]

Expansion of Foreign-Trade Zone 106, Oklahoma City, OK, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Port Authority of the Greater Oklahoma City Area, grantee of Foreign-Trade Zone 106, submitted an application to the Board for authority to expand FTZ 106 to include nine additional sites (793 acres) in the Oklahoma City area, within the Oklahoma City Customs port of entry (FTZ Docket 7–99; filed 2/12/99);

Whereas, notice inviting public comment was given in the **Federal Register** (64 FR 9127, 2/24/99) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to expand FTZ 106 is approved, subject to the Act and the Board's regulations, including Section 400.28, and further subject to the grantee's implementation of the site management plan presented for the record in this case.

Signed at Washington, DC, this 10th day of February 2000.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–3989 Filed 2–17–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1076]

Approval for Expanded Manufacturing Authority (Automobile Engines), Within Foreign-Trade Subzone 229A, Toyota Motor Manufacturing West Virginia, Inc., Buffalo, West Virginia

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, Toyota Motor Manufacturing West Virginia, Inc., operator of FTZ Subzone 229A, located in Buffalo, West Virginia, has requested authority to expand the scope of FTZ authority to include additional internal-combustion engine manufacturing capacity under FTZ procedures (FTZ Doc. 3–99, filed 2–1–99);

Whereas, notice inviting public comment was given in the **Federal Register** (64 FR 6877, 2–11–99);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now Therefore, the Board hereby approves the request subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 10th day of February 2000.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 00–3987 Filed 2–17–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–809]

Certain Cut-to-Length Carbon Steel Plate From Mexico: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On September 7, 1999, the Department of Commerce (the Department) published the preliminary results of the 1997–98 administrative review of the antidumping duty order on certain cut-to-length (CTL) carbon steel plate from Mexico (64 FR 48584). This review covers one manufacturer/exporter of the subject merchandise, Altos de Hornos de Mexico (AHMSA). The period of review (POR) is August 1, 1997 through July 31, 1998. Based on analysis of the comments received and the results of the cost verification, we have changed the results from those presented in our preliminary results of review.

EFFECTIVE DATE: February 18, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or Robert James, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3019 or 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

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 references to the Department's regulations are to 19 CFR Part 351 (1999).

Background

On September 7, 1999, the Department published the preliminary results of the 1997–98 administrative review of the antidumping duty order on certain CTL carbon steel plate from Mexico. *See Certain Cut-to-Length Carbon Steel Plate from Mexico: Preliminary Results of Antidumping Administrative Review,* (64 FR 48584) (Preliminary Results). We gave interested parties an opportunity to comment on the preliminary results. We received both comments and rebuttals from AHMSA and the petitioners, Bethlehem Steel Corporation, Geneva Steel, Gulf Lakes Steel, Inc., of Alabama, Inland Steel Industries, Inc., Lukens Steel Company, Sharon Steel Corporation, and U.S. Steel Group (a unit of USX Corporation). The Department has now completed this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

The products covered in this review include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coil and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in this review are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been ''worked after rolling''); for example, products which have been beveled or rounded at the edges. Excluded from this review is grade X–70 plate. These HTS item numbers are provided for convenience and U.S. Customs purposes. The written descriptions remain dispositive.

Analysis of Comments Received

Comment 1: Facts Available

Petitioners argue that AHMSA's cost of production (COP) and constructed

value (CV) data are fatally flawed because AHMSA used a cost model which was rejected in a previous review to derive that data. Petitioners assert that AHMSA's COP and CV response contains serious cost calculation errors, lacks information necessary to complete the review, and fails to present data in a form and manner requested by the Department. Petitioners assert that the Department should resort to total adverse facts available, as it did in *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation,* 64 FR 38626, 38633 (July 19, 1999) (''*Russian Hot-Rolled*''), because the cost data provided by respondent are unusable and the response *in toto* is flawed and unreliable. Petitioners assert that these errors include (1) Incorrect calculation of the per-unit average plate cost, (2) An erroneous calculation of fixed overhead, (3) Incorrect application of the major input rule, (4) A failure by AHMSA to differentiate costs based on the number of passes a slab makes in the rolling mill, and (5) An inappropriate exclusion of certain other income and expense items. Petitioners conclude that for the final results, the Department should reject AHMSA's submitted costs in their entirety and resort to total adverse facts available to calculate AHMSA's dumping margin.

AHMSA argues in rebuttal that the calculation errors cited by petitioners were minor and were presented to the Department at the start of the cost verification. AHMSA states that notwithstanding a few minor errors, which it corrected before verification, AHMSA's data were verified by the Department. AHMSA argues that it demonstrated at verification that it had reported all costs associated with the production of subject merchandise.

AHMSA claims that it submitted all information necessary to calculate product-specific costs and that the revised quarterly cost model fully accounts for costs incurred in producing the subject merchandise. AHMSA argues that the quarterly cost model accounts for cost differences in producing plate of different thicknesses because the productivity factor calculated by AHMSA reflects the fact that the number of passes necessary to produce a given thickness is a function of the reheating time the slab undergoes as it enters the plate mill. AHMSA argues that the Department should accept the allocation of costs for different gauge plate computed by its quarterly cost model, citing *Final Results of Antidumping Duty Administrative Review: Circular Welded Non-Alloy Steel Pipe and Tube from Mexico,* 62 FR 37014, 37025, (July 10, 1997) (''*Standard Pipe from Mexico*''). In that determination, AHMSA notes, the Department accepted respondent's allocation as reasonable, even though the respondent's records did not allow for a cost allocation specifically based on processing time. AHMSA further notes that here, as in *Standard Pipe from Mexico,* the rolling costs in question represent a small portion of total overall costs.

Department's Position: We disagree with petitioners' contention that the methodologies used by AHMSA to prepare its COP and CV responses warrant wholesale rejection of those responses and the use of adverse facts available. We address petitioners' comments on particular deficiencies in AHMSA's data below.

We conducted numerous tests, described in our cost verification report, which supported the overall accuracy of AHMSA's reported data. *See* Memorandum from P. Scholl to N. Halper, October 8, 1999 (Cost Verification Report). Where we noted discrepancies in AHMSA's COP and CV information, we revised AHMSA's reported data based upon information obtained at verification. As discussed below in response to this and other comments, we have remedied the deficiencies noted by petitioners and have applied partial facts available, based on AHMSA's verified data. Because AHMSA provided a substantially complete and accurate response, and because AHMSA fully cooperated in this review, the deficiencies in AHMSA's COP and CV data do not warrant use of adverse facts available.

The errors in the average plate costs and fixed overhead percentages were minor and do not warrant complete rejection of AHMSA's response as provided for in section 776(a) and (b) of the Act. AHMSA provided the necessary information for the Department to make the adjustment necessary to apply the major input rule. (*See* Comment 3 below for a further discussion of the major input rule.) Therefore, AHMSA did not fail to provide information or significantly impede the proceeding as defined in section 776(a) of the Act.

Similarly, in regards to petitioners' concerns regarding rolling costs and the exclusion of certain other income and expenses, AHMSA, in its responses and at verification, complied with the Department's requests and provided the information we needed to accurately calculate these expenses.

We disagree with petitioners' argument that the serious deficiencies found with AHMSA's quarterly cost model in the prior review necessitate rejection of that cost model in this review. For this review, AHMSA corrected the deficiencies that were identified in the quarterly cost model in the prior review. With the exception of the allocation of rolling costs, we found that the quarterly cost model used by AHMSA reasonably reflects product-specific costs. Because we were able to use most of the data provided by AHMSA, this case is distinct from *Russian Hot Rolled.*

We also do not believe that the facts in this case are analogous with those of *Standard Pipe from Mexico,* in which the Department accepted the respondent's allocation of rolling costs because that allocation method accurately captured product-specific costs. As explained in more detail in Comment 4 below, in this case we did not find that AHMSA's method for allocating rolling costs to plate accurately reflected the costs resulting from different processing (i.e., the number of passes) on a product-specific basis.

In sum, AHMSA supplied the data requested and notified the Department of its calculation errors prior to verification, and we were able to correct or complete the significant missing data using AHMSA's own data from its responses and verification. Use of total facts available is therefore not warranted.

Comment 2: Fixed Overhead

Petitioners allege that AHMSA incorrectly applied its fixed overhead ratio to the total variable cost of each specific product to obtain product-specific depreciation and other fixed costs. Petitioners maintain that AHMSA should have applied its fixed overhead ratio to variable costs plus direct labor costs. AHMSA, in rebuttal, states that it treats all labor costs as fixed costs in the normal cost accounting system. AHMSA states that it used the same variable cost definition as it uses in the normal course of business to calculate the fixed overhead rate, and these variable costs do not include labor costs. Since the variable costs used in the fixed overhead ratio do not contain labor costs, AHMSA concludes that would be inappropriate to apply the fixed overhead percentage to variable costs plus direct labor costs.

Department's Position: We agree with AHMSA. The fixed overhead ratio was computed by dividing fixed overhead without labor costs by the variable cost of plate without labor costs. We then applied this ratio to the variable cost of manufacture without labor. This

calculation reasonably and accurately reflects AHMSA's fixed overhead rate.

Comment 3: Major Input

Petitioners argue that the Act mandates that major inputs acquired from affiliates are to be valued at the highest of their transfer price, market value or COP. Petitioners state that the ''fair value'' provision of the Act recognizes that affiliated party transactions are inherently suspect. Petitioners assert that it is therefore necessary to compare transfer prices with market prices to obtain a fair value. Petitioners further argue that the rationale supporting the law would be undermined if the Department were to use the COP of AHMSA's affiliated material suppliers, as opposed to the highest of market value, transfer price or COP, as the Act mandates.

AHMSA argues that it is a vertically integrated steel producer, that AHMSA's affiliated suppliers of raw materials are one-hundred percent owned by AHMSA and are dependent upon AHMSA for their business, and that AHMSA and its affiliates should be treated as a single entity for determining COP. AHMSA states that since it owns all of the production assets involved in producing the subject merchandise, the Department should value the raw materials used in production at cost, not at the highest of cost, transfer price or market price. Although these assets are owned by a separate corporate entity, AHMSA claims it nevertheless has complete control of those assets, including raw materials, from mining through liquid steel production. AHMSA further argues that if the Department decides to apply the major input rule to certain raw material inputs obtained from affiliated suppliers, then the Department should correct the proposed adjustment outlined in the verification report, to reflect the percentage of limestone purchased from AHMSA's affiliated supplier during the cost calculation period.

Department's Position: We agree with petitioners that it is appropriate to use the highest of the market price, transfer price or cost to value the major inputs supplied to AHMSA by its affiliated producers in accordance with 19 CFR 351.407(b). The Department's practice is to request information on both the transfer price and the market value of the input and chooses the higher of the two valuations. The Department may value major inputs at the affiliate's cost of producing the input if it is higher than both the transfer price and the market price. All parties agree that the inputs in question are major inputs.

AHMSA's affiliated suppliers, who are producers of these major inputs, are separate corporate entities and not mere divisions of AHMSA. Therefore, materials purchased from them are subject to the major input rule. *See Final Results of Antidumping Duty Administrative Reviews and Determination to Revoke in Part: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada,* 64 FR 2173, 2190 (January 13, 1999). We have therefore applied the major input rule and have corrected the limestone percentages accordingly for the final results.

Comment 4: Rolling Costs

Petitioners state that AHMSA's cost methodology as verified by the Department fails to account for product-specific rolling costs in the plate mill. Petitioners argue that the costs of rolling slab to a specified plate thickness can vary significantly. Petitioners urge the Department to reject respondent's costs altogether and apply total facts available.

AHMSA argues that its quarterly cost model contains a productivity factor which properly allocates plate rolling costs by internal grade group and thickness range. AHMSA disputes the Department's conclusion that AHMSA's quarterly cost model does not properly account for rolling costs. AHMSA argues that the productivity factor in the cost model is based on the size of the input slab and the reheating time necessary to produce a particular plate (i.e., by thickness and grade) from a particular slab. AHMSA argues that this productivity factor does account for the number of passes needed to produce plate of a particular thickness, because the number of passes is a function of the size of the input slab and of reheating time.

Department's Position: We agree with petitioners that the respondent's costing method does not adequately capture variations in rolling costs by model, but we do not agree that the appropriate remedy in this case is the application of total facts available.

As we noted at verification, the quarterly cost model used to derive the reported costs does not account for cost variations resulting from the number of passes that a slab may go through in the plate rolling process. *See* Cost Verification Report, page 12. Contrary to AHMSA's claim, the productivity factor does not specifically account for the rolling costs for plate of different thicknesses (*i.e.,* the number of passes required to achieve the desired thickness). Since there are differences in the number of passes required to achieve a desired thickness in the rolling mill, we consider it appropriate to take this into account in determining product-specific costs. Therefore, we have reallocated the plate mill costs based on the number of passes a plate required to achieve the desired thickness as provided by AHMSA at verification. *See* Memorandum from P. Scholl to N. Halper, ''Cost of Production and Constructed Value Adjustments for Final Results'', January 5, 1999 at 2 and Attachment 3.

Comment 5: General and Administrative Expenses

Petitioners contend that restructuring charges and foreign exchange losses relate to AHMSA's overall operations, and therefore should be included as general and administrative (G&A) expenses. Respondent did not comment on this issue.

Department's Position: We agree with petitioners. We added restructuring charges to G&A because these costs relate to the general operations of the company as a whole. *See Cost Verification Report,* page 25. *See also Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews and Partial Termination,* 61 FR 66472, 66496 (December 17, 1996). We added foreign exchange losses from purchases to AHMSA's calculated G&A expense rate, as opposed to manufacturing costs, because we are unable to determine whether these costs relate to the general operations of the company as a whole or solely to purchases of materials used in the production of subject merchandise. *See Notice of Final Determination of Sales at Less Than Fair Value: Saccharin from Korea,* 59 FR 58826, 58828 (November 15, 1994).

Comment 6: Interest

AHMSA argues that the Department should reverse its preliminary decision to disallow the gain on monetary position from AHMSA's calculation of the net interest expense ratio. This item, AHMSA argues, is a required component of financial expenses under Mexican GAAP. AHMSA argues that the Department's practice in Mexican cases has been to include such gains or losses in the calculation of the interest expense ratio, and that to exclude the gain distorts the financial expenses incurred in real terms by AHMSA's parent company, Grupo Acero del Norte, S.A. de C.V.

Petitioners assert that the Department properly excluded the monetary

correction from the calculation of net interest expense, because the monetary correction does not represent actual income to AHMSA. Petitioners point out that the inclusion of the monetary correction as an income offset in the calculation of the net interest expense would not comport with U.S. generally accepted accounting principles (''GAAP''), because accounts are not adjusted for the effect of inflation under U.S. GAAP. Petitioners contend that when an economy is not hyper-inflationary, but does experience significant inflation, the Department will use actual current period costs and prices, unadjusted for inflation. *See Final Results of Antidumping Administrative Review: Certain Fresh Cut Flowers from Colombia,* 63 FR 31724, 31728 (June 10, 1998). Since the Mexican economy was not hyper-inflationary during the POR, petitioners argue, the Department's exclusion of the monetary correction from the calculation correctly rendered the net expense rate consistent with the historical, unadjusted cost of manufacturing (COM) to which the expense rate was applied. Petitioners state the Department has previously determined that monetary correction adjustments of non-monetary assets and liabilities should not be included in the calculation of the COP and CV, because monetary correction adjustments of non-monetary assets and liabilities do not constitute, in any meaningful sense, true income or expense to the company. Rather, such corrections represent the restatement of non-monetary assets and liabilities into current price levels, not gains or losses. Petitioners cite in this regard the Department's determination in *Notice of Final Determination of Sales At Less Than Fair Value: Certain Preserved Mushrooms from Chile,* 63 FR 56613, 56621 (October 22, 1998).

Department's Position: We agree with petitioners. AHMSA incorrectly applied an inflation-adjusted net interest expense rate to a historical COM. We excluded the monetary correction for inflation adjustment from the calculation of net interest expense because it would distort the COP. The COM, as reported by respondents, was based on historical costs exclusive of any inflationary adjustments. Eliminating the monetary correction from the calculated net interest expense rate provided a historical cost net interest expense rate which is consistent with the historical costs to which the rate was applied. AHMSA's methodology would allow it to report lower historical costs of manufacturing while obtaining the benefits of monetary correction gains which result from inflation indexation. This methodology clearly distorts the COP and CV. The historical net interest expense is consistent with the historical COM data provided by AHMSA. Accordingly, for these final results, we have continued to exclude respondent's monetary correction from the calculation of the net interest expense rate.

Comment 7: Home Market Inland Freight

Petitioners argue that the Department should deny freight expense adjustments for any home market sales where the sales terms, as reported in one data field, suggest that AHMSA should not have incurred freight expenses. AHMSA argues in rebuttal that it explained in its responses that on some sales with terms that would normally indicate no delivery charges, AHMSA nevertheless incurred some freight expenses, and the amounts reported are justified claims.

Department's Position: We agree with AHMSA that the freight expenses in question have been repeatedly and plainly explained on the record. Accordingly, we have continued to make a deduction for home market inland freight in these final results.

Comment 8: Foreign Inland Freight

Based on a sample U.S. price quote provided in AHMSA's responses, the petitioners argue that AHMSA's reported U.S. prices must be inclusive of freight, and that the Department should use the sample in question to derive a uniform per-ton freight expense to deduct from AHMSA's U.S. prices. AHMSA counters that it reported exact per-transaction freight costs on each U.S. sale and that the Department, in its preliminary results, properly accounted for U.S. freight expense.

Department's Position: We agree with AHMSA that it properly reported the actual freight expenses that it incurred on its U.S. sales and made its calculation method quite plain on the record (*see,* for example, Exhibit C–24 of AHMSA's November 16, 1998 response). Accordingly, for these final results, we have continued to use the actual freight expenses which AHMSA reported.

Final Results of Review

As a result of this review, we have determined that the following weighted-average dumping margin exists for the period August 1, 1997 through July 31, 1998:

Manufacturer/exporter	Period	Margin (percent)
AHMSA	8/1/97–7/31/98	2.64

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service. Because there is only one importer of the subject merchandise, we have calculated an importer specific duty assessment rate for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of sales.

Furthermore, the following deposit requirements shall be effective upon publication of this notice of final results of review for all shipments of certain CTL carbon steel plate from Mexico, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate stated above; (2) For previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) If the exporter is not a firm covered in these reviews or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) If neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate for this case will continue to be 49.25 percent, the ''All Others'' rate in the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could

result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3)(1999). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: February 9, 2000.

Robert S. La Russa,

Assistant Secretary for Import Administration.

[FR Doc. 00–3986 Filed 2–17–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.021100F]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling public meetings of its Scallop Committee and Scallop Advisory Panel in March, 2000 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will held between Tuesday, March 7, 2000 and Tuesday, March 21, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Warwick, RI and Peabody, MA. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Tuesday, March 7, 2000, 10 a.m.—Scallop Committee Meeting

Location: Radisson Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000.

The committee will evaluate scoping comments and recommend to the Council the range of issues to be considered for inclusion in Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan (FMP).

Monday, March 20, 2000, 10 a.m.—Scallop Advisory Panel Meeting

Location: Holiday Inn, One Newbury Street, Route 1, Peabody, MA 01960; telephone: (978) 535–4600.

The panel will develop and recommend to the Scallop Committee management alternatives and options to be considered for inclusion in Amendment 10 to the Atlantic Sea Scallop FMP.

Tuesday, March 21, 2000, 10 a.m.—Scallop Committee Meeting

Location: Holiday Inn, One Newbury Street, Route 1, Peabody, MA 01960; telephone: (978) 535–4600.

The committee will evaluate comments and recommendations for management alternatives and options for Amendment 10 to the Atlantic Sea Scallop FMP. These alternatives and options may be subsequently analyzed or revised at future meetings and recommended to the Council for approval at its May 3–4, 2000 meeting.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: February 15, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–3928 Filed 2–17–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021100E]

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Golden Crab, Red Drum, Advisory Panel Selection (closed), Scientific and Statistical Selection (closed), Marine Reserves, Dolphin/Wahoo, Snapper Grouper, and Habitat and Environmental Protection Committees. An informal public meeting regarding marine reserves will be held. There will also be a Council Session.

DATES: The meeting will be held from March 6–10, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Ocean Plaza Beach Resort, Oceanfront at 15th Street, Tybee Island, GA 31328; telephone: (1–800) 215–6370 or (912) 786–7777.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571–4366; fax: (843) 769–4520; email: kim.iverson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Meeting Dates

March 6, 2000, 1:30–3:30 p.m.—Golden Crab Committee Meeting;

The Golden Crab Committee will review public hearing comments and consider emergency action to waive the 5,000 pound permit renewal requirement.

March 6, 2000, 3:30–5:30 p.m.—Red Drum Committee Meeting;

The Red Drum Committee will meet to hear a presentation on the southern portion of the Atlantic stock assessment, a summary of the red drum stock assessment group meeting and develop committee recommendations.

March 6, 2000, 6:00 p.m.—Informal Public Meeting;

The Georgia Coastal Resources Division asked the Council to hold an informal meeting on marine reserves. Individuals interested in discussing the use of marine reserves as a fisheries management tool will be given the opportunity to ask questions and express their views.

March 7, 2000, 8:30 a.m.–11:00 a.m.—Advisory Panel Selection Committee (Closed Meeting);

The Advisory Panel Selection Committee will review membership applications and develop recommendations.

March 7, 2000, 11:00 a.m.–12:00 noon—Scientific and Statistical Selection Committee Meeting;

The Scientific and Statistical Selection Committee will review membership resignations and develop recommendations for appointment of new members.

March 7, 2000, 1:30 p.m.–3:30 p.m.—Marine Reserves Committee Meeting;

The committee will review a status report on informal meetings and receive the informal meeting presentation, make recommendations on the public information document, discuss future informal meetings and make recommendation on the Gray Reef Memorandum of Understanding.

March 7, 2000, 3:30 p.m.–5:30 p.m.—Dolphin/Wahoo Committee Meeting;

The committee will hear a report on the joint South Atlantic, Caribbean and Gulf Committee meeting, the status of NMFS development of maximum sustainable yield (MSY) for dolphin and wahoo and take action on the fishery management plan (FMP) public hearing draft.

March 8, 2000, 8:30 a.m.–12:00 noon—Joint Shrimp Committee and Bycatch Reduction Device (BRD) Advisory Panel Meeting;

The committee and advisory panel will hear recommendations for BRD protocol from NMFS, review and recommend modification to BRD protocol if needed, discuss development of a rock shrimp limited access amendment and discuss other shrimp issues.

March 8, 2000, 1:30 p.m.–5:00 p.m.—Snapper Grouper Committee Meeting;

The committee will review SEIS comments and recommend action on Amendment 12 if needed, review the Snapper Grouper Assessment Group Report, develop recommended actions via framework where appropriate and develop recommendation for Wreckfish total allowable catch (TAC) and other framework actions as needed.

March 9, 2000, 8:30 a.m.–10:30 a.m.—Habitat and Environmental Protection Committee Meeting;

The committee will hear clarification of NMFS position on Sargassum FMP disapproval, review the NMFS' MSY recommendation and Endangered Species Section 7 Conservation recommendations, review options for the Sargassum FMP and hear an update on the Coral Reef Taskforce's activities.

March 9, 2000, 11:00 a.m.–5:00 p.m.—Council session;

From 11:00 a.m.–11:15 a.m., the Council will call the meeting to order, adopt the agenda and approve minutes from the Nov/Dec meeting.

From 11:15 a.m.–11:30 a.m., the Council will hear the Marine Reserves Committee report.

From 11:30 a.m.–11:45 a.m., the Council will hear the Dolphin/Wahoo Committee report.

From 11:45 a.m.–12:00 noon, the Council will hear the Red Drum Committee report.

Beginning at 1:30 p.m., public comment will be taken on (1) the Golden Crab emergency rule to waive the 5,000 pound permit renewal requirement; (2) action on the BRD protocol for the shrimp fishery; (3) any necessary modifications to Snapper Grouper Amendment 12 (Red Porgy), any framework actions necessary to meet the requirements of the Sustainable Fisheries Act and setting the wreckfish TAC or other wreckfish actions; (4) in addition, comment will be taken on the resubmission of the Sargassum FMP.

At 2:30 p.m. or immediately after public comment ends, Council will hear the Snapper Grouper Committee Report including any recommended revisions of Snapper Grouper Amendment 12 (if necessary), the establishment of the Wreckfish TAC and decisions on other appropriate framework actions.

From 3:30 p.m.–4:30 p.m., the Council will hear the Habitat Committee report and make a decision on the Sargassum FMP.

From 4:30 p.m.–5:00 p.m., the Council will hear the Shrimp Committee report and make a decision on the BRD protocol.

From 5:00 p.m.–5:30 p.m., the Council will hear the Golden Crab Committee report and decide on the emergency rule request to waive the 5,000 pound permit renewal requirement.

March 10, 2000, 8:30 a.m.–12 noon; Council Session;

The Council will hear the Advisory Panel Selection Committee report and appoint advisory panel members (Closed Session); hear the Scientific and Statistical Selection Committee report and appoint new members (Closed Session); hear a briefing on Economic Impact Assessment Guidelines; a briefing on Social Impact Assessment Guidelines; an update on the Atlantic Coastal Cooperative Statistics Program and a report on the status of national policy on vessel monitoring systems. The Council will also receive status reports from NMFS on the 1999/2000 Mackerel Framework, Mackerel Amendment 9 final rule, Comprehensive Habitat Amendment final rule, response to South Atlantic Fishery Management Council operations plan requested work, and landings for Atlantic king mackerel, Gulf king mackerel (eastern zone), Atlantic Spanish mackerel, snowy grouper and golden tilefish, wreckfish, greater amberjack and South Atlantic octocorals. The Council will hear agency and liaison reports and discuss other business and upcoming meetings.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by February 25, 2000.

Dated: February 15, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–3927 Filed 2–17–00; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Restraint Limit for Certain Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Thailand

February 14, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing a limit.

EFFECTIVE DATE: February 22, 2000.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 603 is being reduced for carryforward applied to the 1999 limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 68336, published on December 7, 1999.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 14, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 1, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000; the Category 603 limit began January 1, 2000 and extends through September 30, 2000.

Effective on February 22, 2000, you are directed to reduce the current limit for Category 603 to 1,711,921 kilograms ,[1] as provided for under the Uruguay Round Agreement on Textiles and Clothing:

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–3915 Filed 2–17–00; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1999.

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force A–76 Initiatives Cost Comparisons and Direct Conversions (As of 31 December 1999)

The Air Force is in the process of conducting the following A–76 initiatives. Cost comparisons are public-private competitions. Direct conversions are functions that may result in a conversion to contract without public competition. These initiatives were announced and in-progress as of 31 December 1999, include the installation and state where the cost comparison or direct conversion is being performed, the total authorizations under study, public announcement date and actual or anticipated solicitation date. The following initiatives are in various stages of completion.

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
		COST COMPARISONS			
ANDERSEN	GUAM	SUPPLY AND TRANSPORTATION	317	25–Jun–98	28–May–99
ANDREWS	MD	AIRCRAFT MAINTENANCE AND SUPPLY.	815	25–Jul–97	26–May–99
ANDREWS	MD	GROUNDS MAINTENANCE	9	17–Dec–98	22–Feb–00
ANDREWS	MD	HEATING SYSTEMS	22	17–Dec–98	15–Jan–00
ANDREWS	MD	COMMUNICATION FUNCTIONS	181	04–Oct–99	11–May–01
BARKSDALE	LA	PROTECTIVE COATING	13	14–Dec–98	21–Jan–00
BEALE	CA	BASE OPERATING SUPPORT	383	08–Sep–99	07–Mar–01
BOLLING	DC	SUPPLY AND TRANSPORTATION	164	01–Dec–98	15–Jan–00
CARSWELL	TX	BASE OPERATING SUPPORT	69	13–Jun–96	30–Dec–99
CHEYENNE MTN	CO	CIVIL ENGINEERING	139	08–May–98	24–Sep–99
DOVER	DE	HEATING SYSTEMS	11	07–Jan–99	03–Jan–00
EDWARDS	CA	BASE OPERATING SUPPORT	553	09–Dec–98	08–Nov–00
EDWARDS	CA	TRANSIENT AIRCRAFT MAINTENANCE/ AEROSPACE GROUND EQUIPMENT.	146	06–Nov–98	06–Jan–00
EGLIN	FL	ADMINISTRATIVE SUPPORT	52	22–Sep–99	01–Dec–00
EGLIN	FL	CIVIL ENGINEERING	200	03–Dec–96	21–Jul–98
EIELSON	AK	COMMUNICATIONS OPERATIONS AND MAINTENANCE.	63	29–Oct–99	25–Apr–00
ELMENDORF	AK	BASE SUPPLY	213	26–Mar–99	17–Jan–00
FAIRCHILD	WA	HEATING SYSTEMS	15	16–Mar–99	31–Oct–99
GREATER PITTSBURG	PA	BASE OPERATING SUPPORT	77	13–Jun–96	10–Nov–99
GRISSOM	IN	BASE OPERATING SUPPORT	133	13–Jun–96	01–Oct–99
HANSCOM AFB	MA	EDUCATION/TRAINING AND PERSONNEL.	14	25–Nov–98	15–Feb–00
HANSCOM AFB	MA	CIVIL ENGINEERING	201	09–Dec–98	15–Feb–00
HANSCOM AFB	MA	BASE SUPPLY	70	10–Nov–98	15–Feb–00
HILL AFB	UT	BASE OPERATING SUPPORT	576	30–Sep–98	20–Sep–00
HOLLOMAN AFB	NM	MILITARY FAMILY HOUSING MAINTENANCE.	66	12–May–97	14–Jan–00
HOLLOMAN AFB	NM	TEST TRACK	125	18–Nov–99	01–Apr–00
HOMESTEAD	FL	BASE OPERATING SUPPORT	106	13–Jun–96	15–Jan–00
HURLBURT COM FL	FL	COMMUNICATION FUNCTIONS	50	31–Jul–98	19–Jun–00
HURLBURT COM FL	FL	ADMINISTRATIVE SUPPORT	41	28–Apr–99	09–Mar–01
HURLBURT COM FL	FL	BASE SUPPLY	43	15–Jul–98	21–Jan–00
KEESLER	MS	MULTIPLE SUPPORT FUNCTIONS	726	21–Sep–99	TBD
KIRTLAND	NM	BASE COMMUNICATIONS	228	06–Nov–97	04–Jun–99
KIRTLAND	NM	ENVIRONMENTAL	32	24–Nov–98	17–Mar–00
LACKLAND	TX	MULTIPLE SUPPORT FUNCTIONS	1587	26–Jan–99	09–Aug–99
LANGLEY	VA	GENERAL LIBRARY	11	22–Dec–98	02–Feb–00
MALMSTROM	MT	BASE COMMUNICATIONS	85	06–Oct–97	15–Feb–00
MARCH	CA	BASE OPERATING SUPPORT	195	13–Jun–96	15–Nov–99
MAXWELL	AL	MULTIPLE SUPPORT FUNCTIONS	814	28–Apr–98	22–Mar–99
MCCHORD	WA	GROUNDS MAINTENANCE	11	14–Jun–99	05–Jun–00
MULTIPLE INSTLNS		ADMINISTRATIVE SWITCHBOARD	44	19–Jun–97	15–Feb–00
CROUGHTON	UK				
FAIRFORD	UK				
LAKENHEATH	UK				
MILDENHALL	UK				
MOLESWORTH	UK				
MULTIPLE INSTLNS		TRANSIENT AIRCRAFT MAINTENANCE	15	07–Jul–99	01–Apr–00
LAKENHEATH	UK				
MILDENHALL	UK				
MULTIPLE INSTLNS		EDUCATION SERVICES	153	07–Jan–99	21–Jan–00
HOWARD	PANMA				
MOODY	GA	.			
MINOT	ND	.			
MT HOME	ID				
NELLIS	NV				
SHAW	SC				
WHITEMAN	MO				
LAJES	AJORE				
ELLSWORTH	SD				
SEYMOUR JOHNSON	NC				
HOLLOMAN AFB	NM				
DYESS	TX				
DAVIS MONTHAN	AZ				
CANNON	NM				
BARKSDALE	LA				
KEFLAVIK	ICELD				

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
LANGLEY	VA				
BEALE	CA				
MULTIPLE INSTLNS		PRECISION MEASUREMENT EQUIPMENT LABORATORY (PMEL).	1516	24–Sep–98	29–Oct–99
MULTIPLE INSTLNS		COMMUNICATION FUNCTIONS	208	03–Aug–99	01–May–00
LANGLEY	VA				
HILL AFB	UT				
MULTIPLE INSTLNS		TRANSIENT AIRCRAFT MAINTENANCE	24	07–Jul–99	01–Apr–00
RAMSTEIN	GERMY				
SPANGDAHLEM	GERMY				
MULTIPLE INSTLNS		COMMUNICATION FUNCTIONS	141	11–Mar–99	29–Feb–00
GENERAL MITCHELL	WI				
WESTOVER	MA				
MINN-ST PAUL	MN				
YOUNGSTOWN	OH				
WILLOW GROVE	PA				
GRISSOM	IN				
PITTSBURG	PA				
MARCH	CA				
HOMESTEAD	FL				
CARSWELL	TX				
NEW ORLEANS	LA				
MULTIPLE INSTLNS		MULTIPLE SUPPORT FUNCTIONS	124	14–Jul–99	30–Dec–00
CROUGHTON	UK				
FAIRFORD	UK				
MOLESWORTH	UK				
MULTIPLE INSTLNS		ADMINISTRATIVE SWITCHBOARD	50	19–Jun–97	15–Feb–00
RAMSTEIN	GERMY				
SEMBACH	GERMY				
SPANGDAHLEM	GERMY				
NEW BOSTON	NH	BASE OPERATING SUPPORT	48	03–Dec–97	01–Mar–00
NEW ORLEANS NAS	LA	BASE OPERATING SUPPORT	45	13–Jun–96	01–Dec–99
OFFUTT	NE	BASE OPERATING SUPPORT	1608	30–Sep–98	01–Mar–00
PATRICK	FL	SUPPLY AND TRANSPORTATION	43	14–May–98	12–Jun–00
ROBINS	GA	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	17	17–Mar–99	21–Mar–00
ROBINS	GA	BASE SUPPLY	133	01–Apr–99	21–Apr–00
ROBINS	GA	EDUCATION SERVICES	57	07–Jan–99	15–Feb–00
SCOTT	IL	ADMINISTRATIVE SWITCHBOARD	86	05–Aug–99	TBD
SCOTT	IL	MEDICAL FACILITY MAINTENANCE	8	09–Jan–98	05–Aug–98
SCOTT	IL	COMMUNICATIONS OPERATIONS AND MAINTENANCE FUNCTIONS.	178	19–Mar–98	16–Aug–99
SCOTT	IL	PERSONNEL SERVICES	236	25–Jun–99	19–Feb–01
SEMBACH	GERMY	COMMUNICATION FUNCTIONS	48	18–Dec–98	21–Feb–00
SHEPPARD	TX	MULTIPLE SUPPORT FUNCTIONS	540	21–Sep–99	29–Jun–00
TINKER	OK	ENVIRONMENTAL	53	24–Nov–98	12–Nov–99
TINKER	OK	CIVIL ENGINEERING	567	15–Apr–97	26–Mar–98
TINKER	OK	EDUCATION SERVICES	54	16–Nov–98	17–Nov–99
TINKER	OK	BASE SUPPLY	152	30–Nov–98	08–Oct–99
TRAVIS	CA	VEHICLE OPERATIONS AND MAINTENANCE.	131	15–Jul–98	25–Jan–00
USAF ACADEMY	CO	BASE OPERATING SUPPORT	108	08–May–98	15–Jan–00
USAF ACADEMY	CO	CIVIL ENGINEERING	497	01–Dec–98	01–Mar–00
USAF ACADEMY	CO	COMMUNICATION FUNCTIONS	120	20–May–99	19–May–00
USAF ACADEMY	CO	FOOD SERVICES	297	08–May–98	21–Apr–99
USAF ACADEMY	CO	SERVICES ACTIVITIES	75	08–May–98	17–Sep–99
WHITEMAN	MO	UTILITIES PLANT	11	18–Aug–99	14–Sep–00
WILLOW GROVE	PA	BASE OPERATING SUPPORT	52	13–Jun–96	28–Sep–98
WRIGHT PATTERSON	OH	LABORATORY SUPPORT SERVICES	127	21–Aug–98	29–Oct–99
WRIGHT PATTERSON	OH	CIVIL ENGINEERING	698	15–Aug–97	27–Aug–99
WRIGHT PATTERSON	OH	COMMUNICATION FUNCTIONS	319	21–Aug–98	29–Oct–99
WRIGHT PATTERSON	OH	CIVIL ENGINEERING	104	21–Aug–98	03–Mar–00
YOUNGSTOWN MUNI	OH	BASE OPERATING SUPPORT	92	13–Jun–96	14–Sep–98
DIRECT CONVERSIONS					
ANDERSEN	GUAM	AIR TRAFFIC CONTROL	12	14–Sep–99	27–May–00
ANDREWS	MD	MEDICAL FACILITY MAINTENANCE	11	09–Oct–97	22–Sep–99
ASHEVILLE	NC	COMPUTER SYSTEMS MAINTENANCE	10	17–Feb–99	30–Apr–00
BARKSDALE	LA	ADMINISTRATIVE SWITCHBOARD	10	04–Aug–98	22–Nov–99
BEALE	CA	ADMINISTRATIVE SWITCHBOARD	10	07–Jul–99	30–Nov–99
CANNON	NM	TRANSIENT AIRCRAFT MAINTENANCE/ AEROSPACE GROUND EQUIPMENT.	13	27–Aug–98	15–Dec–99

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
CANNON	NM	PROTECTIVE COATING	2	07–Jan–99	03–Jan–00
CHEYENNE MTN	CO	COMMUNICATION FUNCTIONS	385	08–May–98	01–Dec–99
DAVIS MONTHAN	AZ	PROTECTIVE COATING	9	24–Jun–98	01–Feb–00
DAVIS MONTHAN	AZ	RAILROAD TRANSPORTATION SERVICES.	2	11–Aug–98	14–Feb–00
DYESS	TX	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	9	12–Nov–98	15–Dec–99
ELLSWORTH	SD	GENERAL LIBRARY	7	16–Jul–98	19–Nov–99
ELLSWORTH	SD	ENVIRONMENTAL	7	05–Nov–98	23–Dec–98
F E WARREN	WY	BASE COMMUNICATIONS	105	30–Oct–97	10–Apr–00
GRAND FORKS	ND	MUNITIONS MAINTENANCE	5	17–May–99	13–Oct–00
HICKAM	HI	AIR MOBILITY OPERATIONS CONTROL CENTER (AMOCC).	54	29–Oct–99	01–May–00
KIRTLAND	NM	FOOD SERVICES	15	29–Oct–99	03–Apr–00
KIRTLAND	NM	RECREATIONAL SUPPORT	9	12–Jan–99	17–Mar–00
KIRTLAND	NM	GENERAL LIBRARY	4	12–Jan–99	15–Mar–00
KIRTLAND	NM	CIVIL ENGINEERING	360	09–Dec–98	17–Jan–00
KIRTLAND	NM	EDUCATION SERVICES	12	26–Oct–98	31–Jan–00
KIRTLAND	NM	AIRCRAFT MAINTENANCE	165	05–Nov–99	TBD
LACKLAND	TX	FOOD SERVICES	20	20–Dec–99	TBD
LANGLEY	VA	GROUNDS MAINTENANCE	9	04–May–99	20–Aug–99
LANGLEY	VA	COMMUNICATION FUNCTIONS	8	23–Mar–99	01–Aug–00
LANGLEY	VA	DATA PROCESSING EQUIPMENT OPERATIONS.	15	04–Nov–99	15–Sep–00
LANGLEY	VA	TRANSIENT AIRCRAFT MAINTENANCE	21	27–Aug–98	27–Aug–99
LANGLEY	VA	AIRCRAFT FLEET SERVICES	11	29–Jun–99	15–Jun–00
MAXWELL	AL	EDUCATION SERVICES	35	31–Jul–98	15–Jan–00
MCGUIRE	NJ	HEATING SYSTEMS	6	04–May–99	31–Aug–00
MCGUIRE	NJ	FURNISHINGS MANAGEMENT	2	14–May–99	05–Feb–00
MINOT	ND	ADMINISTRATIVE SWITCHBOARD	6	07–Jan–99	20–Oct–99
MINOT	ND	GROUNDS MAINTENANCE	9	18–May–99	23–Oct–00
MT HOME	ID	TRANSIENT AIRCRAFT MAINTENANCE	7	27–Aug–98	29–Jul–99
MT HOME	ID	GROUNDS MAINTENANCE	6	20–Jul–99	09–Jul–00
MULTIPLE INSTLNS		LINEN	11	17–Jun–99	01–Mar–00
RAMSTEIN	GERMY				
SPANGDAHLEM	GERMY				
LAKENHEATH	UK				
MILDENHALL	UK				
NELLIS	NV	TRANSIENT AIRCRAFT MAINTENANCE/ AEROSPACE GROUND EQUIPMENT.	18	27–Aug–98	09–Aug–99
NELLIS	NV	COMMUNICATION FUNCTIONS	9	22–Dec–98	18–Nov–99
OFFUTT	NE	COMPUTER OPERATIONS	76	17–Feb–99	30–Apr–00
PATRICK	FL	BASE WEATHER OBSERVING	5	17–Mar–98	01–Jun–99
PATRICK	FL	RANGE MAINTENANCE	31	19–May–98	28–May–99
PATRICK	FL	RANGE MAINTENANCE	32	19–May–98	28–May–99
POPE	NC	FURNISHINGS MANAGEMENT	1	07–Oct–98	17–Jan–00
PORTLAND	OR	ADMINISTRATIVE SWITCHBOARD	2	22–Dec–98	18–Oct–99
RANDOLPH	TX	COURSEWARE DEVELOPMENT	38	30–Sep–99	TBD
ROBINS	GA	GENERAL LIBRARY	6	23–Nov–99	TBD
SCHRIEVER	CO	FOOD SERVICES	18	02–Sep–99	01–Nov–00
SCOTT	IL	MISCELANEOUS ACTIVITIES	2	18–Mar–99	13–Jan–00
SCOTT	IL	FURNISHINGS MANAGEMENT	3	07–Aug–98	01–Jul–00
SHAW	SC	TRANSIENT AIRCRAFT MAINTENANCE	11	28–Aug–98	16–Jul–99
SHAW	SC	COMMUNICATION FUNCTIONS	3	18–May–99	09–May–00
SHAW	SC	LIBRARY	7	27–Aug–98	25–Aug–99
TRAVIS	CA	FACILITIES SERVICES MAINTENANCE	2	20–Apr–98	30–Jan–00
TRAVIS	CA	HEATING SYSTEMS	5	20–Apr–98	30–Jan–00
VANDENBERG AFB	CA	MISSILE STORAGE & MAINTENANCE	66	14–Apr–99	18–Dec–99
WHITEMAN	MO	ADMINISTRATIVE SWITCHBOARD	9	22–Dec–98	03–Sep–99
WHITEMAN	MO	PROTECTIVE COATING	8	06–Apr–99	21–Dec–99
WHITEMAN	MO	GROUNDS MAINTENANCE	5	08–Dec–98	29–Sep–99
WHITEMAN	MO	HOSPITAL SERVICES	2	17–Apr–98	17–Nov–98

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 00–3945 Filed 2–17–00; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy.

U.S. Patent Application Serial No. 09/477,941 entitled ''Chemical and Biological Warfare Decontaminating solution Using Bleach Activators'', filing date: January 5, 2000, Navy Case No. 82065.

ADDRESSES: Request for copies of the patent application cited should be directed to the Naval Surface Warfare Center, Dahlgren Laboratory, Code CD222, 17320 Dahlgren Road, Building 183, Room 015, Dahlgren, VA 22448–5100, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: James B. Bechtel, Patent Counsel, Naval Surface Warfare Center, Dahlgren Laboratory, Code CD222, 17320 Dahlgren, Road, Building 183, Room 015, Dahlgren, VA 22448–5100, telephone (540) 633–8016.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: February 7, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–3946 Filed 2–17–00; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of Navy and are available for licensing by the Department of the Navy.

U.S. Patent Application Serial No. 09/451,718 entitled ''A Zeus++ Code Tool, A Method for Implementing Same and Storage Medium Storing Computer Readable Instructions for Instantiating the Zeus++ Tool'', filing date: December 1, 1999, Navy Case No. 79694.

ADDRESSES: Requests for copies of the patent applications cited should be directed to the Naval Surface Warfare Center, Dahlgren Laboratory, Code CD222, 17320 Dahlgren Road, Building 183, Room 015, Dahlgren, VA 22448–5100, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: James B. Bechtel, Patent Counsel, Naval Surface Warfare Center, Dahlgren Laboratory, Code CD222, 17320 Dahlgren Road, Building 183, Room 015, Dahlgren, VA 22448–5100, telephone (540) 653–8016.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: February 7, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–3947 Filed 2–17–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Information Collection Request

AGENCY: National Assessment Governing Board; Department of Education.

ACTION: Notice of revised information collection request; Request for comment.

SUMMARY: The National Assessment Governing Board (NAGB) is revising the Notice of Proposed Information Collection Request (ICR) published on January 17, 2000 in two ways. First, this notice extends the time for public comment to the National Assessment Governing Board to March 17, 2000. Per instructions in the January 17, 2000 notice, submit written comments identified by ''ICR: VNT Research and Validation Support Studies (Option Year 2)'' by mail or in person addressed to: Ray Fields, Assistant Director, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, DC 20002. Comments may also be submitted electronically by sending electronic mail (e-mail) to Ray Fields@ED.Gov. Electronic comments must be identified by the title of the ICR.

Second, this notice is to inform the public that an emergency review of this Information Collection Request has been requested in accordance with the Paperwork Reduction Act of 1995 (the Act) (44 U.S.C. Chapter 3507(j)). Approval by the Office of Management and Budget (OMB) has been requested by March 17, 2000. Emergency review is requested because of an unanticipated event outside the control of the National Assessment Governing Board. Interested persons are invited to submit comments to the address below on or before March 17, 2000 to inform the emergency review by OMB.

ADDRESSES: Written comments regarding the emergency review 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, NW, Room 10235; New Executive Office Building; Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Submit written comments identified by ''ICR: VNT Research and Validation Support Studies (Option Year 2).'' The National Assessment Governing Board will forward to OMB any comments received from the public in response to the January 17, 2000 notice inviting requests for public comment on this ICR and in response to this notice, extending the public comment period to March 17, 2000.

SUPPLEMENTARY INFORMATION: Section 3506 of the Act (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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. In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice revises a proposed information collection request (ICR) of the National Assessment Governing Board (the Governing Board, or NAGB) published on January 17, 2000. The information collection is to conduct two research and validation support studies related to test development for the proposed Voluntary National Test (VNT) during Spring 2000.

Copies of this ICR may be obtained from Ray Fields, Assistant Director, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, DC 20002. Telephone: (202) 357–0395; e-mail: Ray Fields @ED.Gov.

I. Information Collection Request

The National Assessment Governing Board is seeking comments on the following Information Collection Request (ICR).

Title: Voluntary National Tests (VNT): Research and Validation Support Studies (Option Year 2).

Affected Entities: Parties affected by this information collection are individuals and State, local, or Tribal SEAs or LEAs.

Abstract: In order to comply with the mandates of Public Law 105–78, the National Assessment Governing Board (NAGB) proposes to conduct two research and validation support studies. Congress vested exclusive authority in the Governing Board for test development for the proposed VNT. At the same time, Congress prohibited pilot testing and field testing of questions developed for the proposed VNT. No test question developed for the proposed VNT will be used in these research studies. Instead, test questions used for the National Assessment of Educational Progress (NAEP) will be employed. This is to ensure that the prohibition on pilot and field testing is not violated, while still providing for research needed to answer questions related to test development.

The data collected will serve two purposes: (a) Provide information on the feasibility of a calibration linkage between the proposed Voluntary National Tests (VNT) and the National Assessment of Educational Progress (NAEP) (more specifically—between a test designed to give individual results and a survey designed to report group results); and (b) provide information needed to inform policy and practice related to test accommodations for students with limited English proficiency, specifically, to help guide the development of an 8th grade mathematics test booklet in two languages (*i.e.,* a ''dual language'' booklet in this case in English and Spanish).

The two research studies will also assist NAGB in making three of the four determinations required by Congress: (1) The extent to which test items selected for use on the tests are free from racial, cultural or gender bias; (2) whether the test development process and test items adequately assess student reading and mathematics comprehension in the form most likely to yield accurate information regarding student achievement in reading and mathematics; and (3) whether the test development process and test items take into account the needs of disadvantaged, limited English proficient and disabled students.

The first study is directed toward establishing the feasibility of a calibration linkage between a test form resembling an individual test and a survey of group results—the National Assessment. Research questions to be answered include the following: What are the effects on the measurement of student performance of an individually administered test that shares a framework with NAEP but which differs somewhat from NAEP in content coverage, administration, and unit of analysis? Is it possible to establish a strong link between the group-focused results of NAEP and such an individually administered test? What inferences can be supported by such a link?

4800 students from Grade 4 and 4800 students from Grade 8 are expected to participate in this study. The 9600 students will be divided equally across three conditions.

Students in the first condition will take an ''NAEP Special Form'' booklet, consisting of NAEP items constructed to be as parallel as possible to the proposed VNT forms. This parallelism would include content coverage, timing, and shape of the test information function (TIF), which has been proposed to be flatter than the TIF for NAEP. Because empirical information on each item is needed to construct a form with a specified TIF, the items would come from the previous NAEP administration in the respective subjects.

Students in the second condition would take ''Extended NAEP'' booklets, which are based on blocks of items from the 2000 NAEP administration and would be constructed to be representative of the content and statistical specifications (TIF) of NAEP. The forms for Grade 8 mathematics would consist of six intact 15-minute blocks administered in two 45-minute sessions. The forms for Grade 4 reading would consist of four NAEP reading blocks, also administered in two 45-minute sessions. (Because the reading blocks are timed at 25 minutes each, some items will have to be deleted to fit into the reduced testing time.) The administration of these forms would be under conditions proposed for the VNT. To avoid the circularity of linking the same items to themselves, the items used in the Extended-NAEP forms should be distinct from those used in the NAEP Special Forms.

In the first two conditions of this proposed study, the two types of forms would be spiraled together and administered to equivalent samples of students. Because the NAEP Special Forms and the Extended-NAEP forms would be administered under the same conditions, issues of administration, timing, and motivation become moot. If the content match between the NAEP Special Forms and the *simulated* VNT forms could be made sufficiently close, a linking study between the two types of forms would approximate a linkage study between actual VNT forms and Extended-NAEP. If a calibration were successful, the resulting linkage interpretations would be in terms of student performance on NAEP when NAEP is given under VNT conditions.

Students in the third condition differ from the other two in that they would be taking the ''NAEP Special Form'' under motivated circumstances. It is quite plausible that the same student would perform at a higher level under a motivated situation such as the VNT, where individual scores are obtained than under a low motivation situation such as the NAEP. This differential effect of motivation could impact achievement level cut-points (among other things) in ways that cannot be assessed in the two conditions described above. Consequently, the third condition of this study involves paying students $1 for every item they answer correctly. This procedure is directly modeled after research conducted on motivational interventions for the NAEP. A comparison of item parameters and test characteristic curves for the NAEP Special Forms under motivated and unmotivated conditions would provide information on the differential impact of motivation and how to adjust results from any subsequent linking study between the VNT and NAEP.

The second study involves a series of subtasks directed toward informing NAGB's inclusion and accommodation policies regarding LEP students. These tasks are:

Subtask A

Writing an issues paper covering theory and research related to the development of a dual language test. This paper would inform procedures to be used in the translation of items into the second language (*i.e.,* Spanish) (Subtask B).

Subtask B

Using released and secure NAEP 8th grade mathematics items to construct

simulated VNT–M test booklets (dual language and English-only versions). The English language version of this booklet will be the same as the one for the ''NAEP Special Form'' described earlier.

Subtask C

Evaluating the psychometric equivalence of the dual language and English-only booklets via traditional quantitative analyses. Six hundred bilingual and LEP students will be recruited and randomly assigned to complete either the dual language or English-only version of the test booklet. Quantitative analyses will be conducted to examine the psychometric equivalence of the two test versions (mean differences; differential item functioning; correlations).

Subtask D

Conducting focus groups of students immediately after they take the VNT–M to document students' overall experience with the two types of booklets. Sixty students will be recruited to do these focus groups, in order to obtain their insights and general reactions to the booklets.

Subtask E

Conducting cognitive laboratory studies to obtain in-depth information on the validity of the translation and about how students use the dual language test. An additional nine LEP and nine English-speaking students will be asked to participate in this study, in order to explore the performance of both Anglo and Hispanic LEP students to identify solution pathways that students choose to use.

Subtasks C through E will allow for a thorough investigation into the cognitive processes that bilingual and limited English proficient (LEP) students employ when using the dual language version of the VNT–M. In addition, they will provide information about factors other than mathematical knowledge and problem-solving ability that may have an effect on their performance on the test.

The five subtasks listed above will offer answers to the following research questions to examine the quality of the dual language test, taking into account several features of the items:

Cognitive: Do students understand the native language version of the test questions as a vehicle for assessing mathematics? (Subtasks C, D, E)

Content: Is the content of the native language version of the test questions the same as the English version? (Subtasks B, C, D, E)

Format: What considerations should be given to how the test questions appear on the pages of the test booklet? (Subtasks A, B)

Cultural: Is the native language version clear and acceptable to the various communities in the United States for whom this is the native language? (Subtasks A, B, C, D, E)

Academic: Are the grammar and language structure used in the native language version correct? (Subtasks B, D, E)

Scoring: What considerations need to be made for scoring dual language test booklets? (Subtask A)

Psychometric Equivalence: Is there a psychometric equivalence between the dual language version and the English only versions of the test? (Subtask C)

A total of 10,800 students is expected to participate in the two studies (4800 4th graders and 4800 8th graders in the calibration linkage feasibility study; 1,200 LEP and bilingual students taking the dual language or English-only math test (from which there will be 60 focus group participants); and 18 cognitive laboratory participants). These students will be recruited from 300 schools. Students in the motivated condition of the calibration linkage study, focus group participants and cognitive laboratory participants will receive a token monetary incentive. Also under consideration is a modest monetary incentive for each participating school.

Burden Statement: Assuming a 2 hour burden for each of the 10,800 students expected to participate in the two studies, a total of 21,600 hours is estimated. An additional 300 hours of school burden (one hour per participating school) is expected, reflecting the time it would take to collect student background data for our research purposes. Participation in this study is voluntary. State, local, and non-public education agencies will not be mandated or required to participate.

II. Request for Comments

The National Assessment Governing Board is especially interested in public comments that will assist it:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Governing Board, including whether the information will have practical utility;

(b) Evaluate the accuracy of the Governing Board's estimates of the burden of the proposed collection of information;

(c) Enhance the quality, utility and clarity of the information to be collected;

(d) Minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, mechanical or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: February 15, 2000.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 00–4016 Filed 2–17–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Notice of Availability of a Financial Assistance Solicitation.

AGENCY: National Energy Technology Lab (NETL), Department of Energy (DOE).

ACTION: Notice of Availability of a Financial Assistance Solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE–PS26–00FT40775 entitled ''Biomass Cofiring Opportunities.'' The Department of Energy announces that it intends to conduct a competitive Program Solicitation and award financial assistance (cooperative agreements) to successful applicants. Financial assistance awards made to Universities and Colleges selected under Topic E will be grants. Awards will be made to a limited number of applicants based on evaluation of the responses. Availability of DOE funding will also be a factor in limiting the number of awards.

DATES: The solicitation will be available in Portable Document Format (PDF) on the DOE/NETL's Internet address at http://www.netl.doe.gov/business/solicit on or about February 23, 2000. The anticipated closing date is April 4, 2000.

FOR FURTHER INFORMATION CONTACT: Dona Sheehan, U.S. Department of Energy, National Energy Technology Lab, Acquisition and Assistance Division, P.O. Box 10940, MS 921–107, Pittsburgh, PA 15236–0940, Telephone: (412) 386–5918, FAX: (412) 386–6137, E-mail: *sheehan@netl.doe.gov.*

SUPPLEMENTARY INFORMATION: The Office of Biopower and Hydropower Technologies of the Department of Energy (DOE) Office of Energy Efficiency and Renewable Energy (EERE) has authorized DOE's National Energy Technology Lab (NETL) to act on its behalf and solicit cost-shared applications for research and

development that seek to develop technologies for cofiring biomass feedstocks with fossil fuels.

Biomass co-firing is the practice of substituting 5%—20% biomass (by weight) for fossil fuels (i.e., coal or natural gas) in utility or industrial boilers. Cofiring biomass is one of the few viable, low-cost options for dramatically increasing the generation of biomass power in the United States. The DOE is pursuing the development of fossil fuel/biomass co-firing energy systems for several reasons:

- Biomass cofiring is an attractive way to utilize existing (coal and natural gas) power plants to increase the efficiency of biomass use and reduce overall costs.
- The use of current fossil-fueled systems provides readily available access to the current electricity market.
- Biomass is an available domestic resource and can contribute to energy security.
- Biomass is considered CO_2 neutral, cofiring serves to reduce greenhouse gas emissions.
- Biomass is renewable and its use promotes sustainability and local economic growth.
- Biomass cofiring offers the potential to reduce fossil SO_2 and NO_X emissions.
- Landfill burdens are reduced when waste biomass is utilized as the cofiring fuel.

The DOE Biomass Cofiring Program, to date, has focused mainly on demonstrating cofiring plant-derived biomass in pulverized coal and cyclone boilers. Several successful test campaigns have generated data for some systems that could be useful in determining cofiring is feasible.

Based on prior successful results, the DOE Biomass Cofiring Program seeks to expand the investigation of biomass cofiring with the aim of demonstrating the cost-effective and sustained usage of biomass.

It is anticipated that multiple financial assistance awards, Cooperative Agreements, will result from this solicitation. Subject to availability of funds, DOE expects to provide funds totaling $18–22 million. Project period duration and cost-sharing requirements are given below.

The program seeks to sponsor both Budget Period I: Feasibility Studies and Small-Scale Research, with an anticipated duration of 12 months, and Budget Period II: Limited Term Cofiring Demonstrations Phase, with an anticipated duration of 24–30 months, on the following topics:

A. Biomass Cofiring as an Emission Reduction Technique
B. Gasification-Based Cofiring Strategies
C. Closed-Loop Biomass Cofiring
D. Low Rank Coal Cofiring—Subbituminous & Lignite

The program will only sponsor Budget Period I: Feasibility Studies and Small-Scale Research activities on the following topic:

E. University and Colleges Cofiring Applications

Applicants may propose to conduct both Budget Period I and Budget Period II programs in sequence or may offer to forgo Budget Period I and proceed directly to Budget Period II based on completed assessments.

All applicants will be required to submit cost sharing according to the level of the project. The cost-sharing for Budget Period I (Feasibility and Small-Scale Research) is 20%.

These costs must be explicitly identified. Topic E is only a Budget Period I project and will require 20% cost-sharing.

Cost-Sharing:
Budget Period I: Feasibility Studies and Small-Scale Research 20%
Budget Period II: Limited Term Cofiring Demonstration Phase 50%

For the purposes of this solicitation, proposals for Topics A–D should be of the municipal, large industrial or electric utility scale. A future solicitation may address smaller scale-cofiring systems. No preference is made for any type of boiler system as long as it satisfies the objectives of the solicitation.

Common Definitions for all Areas

Biomass refers to plant materials and/or animal waste used as a source of fuel.

Animal Waste refers to the manure produced and any associated bedding material mixed within the manure and excludes animal processing waste.

Co-firing refers to the combustion of biomass and coal (or lignite) for power production.

Multiple-firing refers to the combustion of biomass, coal, and one or more additional components that seek to compliment the combustion of the coal and biomass.

Gasification-Based Cofiring Strategies refers to the ability to gasify the biomass and utilize the produced gas as a co-fired fuel in either a coal-fired or natural gas-fired boiler or other part of the system for fuel usage.

Open-loop refers to operations that utilize biomass from operations that are not specifically set-up for biomass production for the energy application (i.e. sawdust from a saw-mill operation, manure from animal production, etc.).

Closed-loop refers to operations that specifically plant, grow, harvest, use, and regrow, at the same production site, any biomass fuel or feedstock in a sustainable, permanent manner that is in whole or in part used for energy application.

Low-Rank Coal refers to viability of cofiring biomass with lignite or subbituminous coal for application within the fossil-fuel industry.

Note: Unsegregated Municipal Solid Waste (MSW), hazardous waste, and medical waste will not be considered as a cofiring fuel. Segregated MSW is an acceptable cofiring fuel for this solicitation and would include non-recyclable paper and non-treated wood waste. There is no interest in receiving applications for aerobic or anaerobic digesters, landfill gas, or animal gas production.

Topic Areas of Interest

A. Biomass Cofiring as Emission Reduction Technique

This focus area attempts to capitalize on the benefits of biomass as an emission (i.e. SO_X, NO_X, and/or CO_2) reduction fuel. Previous research projects have dealt with cofiring in pulverized coal and cyclone boilers in a range of around 5–20% by mass. Cofiring has the potential to help reduce emissions and increase the usage of biomass in numerous situations. Some of these may include for example utilizing biomass as a reburn fuel to control NO_X (replace natural gas) thereby taking advantage of the volatility of the fuel, and other potentially novel cofiring arrangements such as the use designer fuels. This topic deals with emission reduction demonstrations. These demonstrations generally will utilize ''open-loop'' feedstock supplies and should be more than just demonstrating a cofiring of wood/wood-waste with coal.

Designer fuel blends or opportunity fuel blends can be developed from mixtures of biomass with coal and additional components that complement each other as far as costs and emission reduction potentials. Designer fuels have the ability to make biomass cofiring cost effective while reducing emissions and/or address an environmental concern. Demonstrations of various designer fuels would increase the potential use of biomass. The designer fuel must contain at least coal and biomass as significant fractions in the mix. Demonstrations are sought that utilize designer fuel or opportunity fuel blends to increase the usage of biomass in the energy mix. Cofiring has been shown in many instances to reduce NO_X emissions in cofiring in a pulverized coal, tangentially-fired, or cyclone boiler. Separated Overfire Air (SOFA) has also been shown to work as a NO_X

management strategy. However, by themselves, neither strategy may provide the complete technique required to meet projected EPA regulations. Possible combinations of SOFA and cofiring of biomass at greater than 10% by mass has the potential to achieve the desired 0.15 LB NO_X/MMBtu emissions in T-fired boilers. Testing this hypothesis in a demonstration may prove the indications valid. If so, the demonstration would open up a very large market for biofuels in the cofiring arena. Further, it would provide a mechanism for coal-fired boilers to achieve the required NO_X emissions without expensive capital investments in post-combustion controls. As such, it would maintain the economic viability of many PC boilers throughout the U.S. Demonstrations are sought to show significant reductions in NO_X from a coal-fired boiler utilizing biomass. The reduction in NO_X must be more than that found in simple fuel substitution of biomass for coal. The demonstration needs to optimize the injection method and location for the biomass and then demonstrate NO_X management with cofiring on a long-term basis.

The Department of Energy is interested in receiving research applications that develop and demonstrate systems that utilize biomass as an emission reduction technology. This can be accomplished with any one or combination of the previously described methods or with any other demonstration method that meets the goal of emission reduction and biomass utilization. Note: Any project and demonstration proposed must address the issue of why this project is unique and different from other past cofiring projects (i.e. demonstrating biomass/coal cofiring directly).

B. Gasification-Based Cofiring Strategies

This method is an indirect way of utilizing the biomass for cofiring versus the direct utilization of feeding the biomass into the furnace. Likewise, the direct application of cofiring is not amenable to gas-fired systems. Gasification-based strategies can overcome this obstacle as well as being more biomass fuel flexible than a direct cofiring system. Gasification of the biomass and then utilization of the gas produced and possibly any residues from the gasification process in a cofiring application permits a greater range of usage of biomass. This method will also keep the resultant coal and biomass ash from being commingled and thus permit ongoing coal ash sales if currently being conducted.

Applications are sought which address this issue from distinct phases of engineering feasibility to demonstration of the technology. Impacts on the complete system cycle and efficiency must be taken into account.

C. Closed-Looped Biomass Co-Firing

Applications are sought that develop and validate co-firing technology using a ''closed-loop'' feedstock supply. Respondents are encouraged to form appropriate consortia or other business arrangements with the agricultural community, industry, power producers, or other applicable organizations for the conduct of this venture. This arrangement will demonstrate and foster the efforts required for a sustained, economically beneficial, biomass cofiring power generation. The applicant should demonstrate an approach to the integration and successful application of a ''closed-loop'' feedstock supply system and a technically viable co-firing boiler system for power production.

D. Low Rank Coal Cofiring—Subbituminous & Lignite

The DOE has, in the past, cooperated with power producers in testing and analyzing biomass cofiring in coal-fired boilers that use bituminous and some subbituminous coals. However, the program has not tested co-firing biomass in a lignite-fired boiler or extensively demonstrated subbituminous coals. Through this subtopic, the Biomass Cofiring Program intends to add lignite and subbituminous coals to the fossil fuels being demonstrated in other projects. The U.S. has a significant resource base of these fuels. Cofiring of lignite with biomass can be significantly different than cofiring subbituminous or bituminous coals due to the ash chemistry and moisture and other factors. A potentially attractive feature of cofiring biomass with lignite is that the boilers are designed for a fuel with low heat and high moisture content that is consistent with the properties of biomass. As such, DOE is seeking, through this solicitation, to demonstrate the viability of cofiring biomass with lignite or subbituminous coal for application within the fossil-fuel industry.

E. University and Colleges Cofiring Applications

Cofiring in utility boilers can consume large amounts of biomass and produce power from this fuel source; however, this is also a detriment due to the large-scale nature of the utility. Biomass can become more expensive than the coal that is fired in the boiler if it has to be transported long distances. Due to these economics, it makes cofiring at some electric utilities unfeasible. Comparing fuel costs and quantities of biomass required to cofire, another major market can be identified, that is, the market that has smaller-scale boilers that pay more for their fuel than a large scale utility. These markets would include stokers (paying upwards of twice the cost of coal than that paid at a large utility) and fluidized bed combustors at the heating plants of our nation's colleges and universities. The size of the unit may permit the usage of biomass due to its location within a reasonable transportation distance along with the cost of the current boiler fuel, thus allowing more to be spent on obtaining and transporting the biomass. Fuels may include, but are not limited to, agricultural residues, dedicated crops, animal manures, and segregated MSW from university systems. Many universities and colleges have complimentary departments, such as engineering and agricultural departments, that could collaborate on this issue. Applications are sought from Universities and Colleges that will perform feasibility and small-scale R&D studies in utilizing biomass cofiring in their heating plant. Based on the results of the feasibility studies, subject to congressional appropriations, it is DOE's intent to issue a future open solicitation for cost-shared demonstrations in this area if funding is available. Prospective applicants who would like to be notified as soon as the solicitation is available should register at *http://www.netl.doe.gov/business.* Provide your E-mail address and click on the heading ''Energy Efficiency and Renewable Energy.'' Once you subscribe, you will receive an announcement by E-mail that the solicitation has been released to the public. Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA on February 3, 2000.

Dale A. Siciliano,

Deputy Director, Acquisition and Assistance Division.

[FR Doc. 00–3934 Filed 2–17–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91–161–026]

Columbia Gas Transmission Corporation; Notice of Filing of Flow-Back Report

February 14, 2000.

Take notice that on February 9, 2000, Columbia Gas Transmission Corporation (Columbia Gas) tendered for filing a 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 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 February 22, 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).

David P. Boergers,

Secretary.

[FR Doc. 00–3899 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91–160–026]

Columbia Gulf Transmission Company; Notice of Filing of Flow-Back Report

February 14, 2000.

Take notice that on February 7, 2000, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing a report on the flow-back to customers of funds received from insurance carriers for environmental costs pursuant to Article 1(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 February 10, 2000 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 February 22, 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).

David P. Boergers,

Secretary.

[FR Doc. 00–3898 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1455–000]

Conoco Power Marketing Inc.; Notice of Filing

February 14, 2000.

Take notice that on January 31, 2000, Conoco Power Marketing Inc. filed a Notice of Succession in Ownership of Conoco Power Marketing Inc. in the above-referenced proceeding.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before February 24, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–3907 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–179–000]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

February 14, 2000.

Take notice that on February 4, 2000, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed below to become effective February 8, 2000. The modifications to the listed tariff sheets are proposed to provide revisions reflecting new contracts that have been negotiated.

Second Revised Sheet No. 9
Original Sheet No. 9A

DIGP states that a copy of this filing is available for public inspection during regular business hours at DIGP's office at 370 17th Street, Suite 900, Denver, Colorado 80202.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–3900 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–14–004 and GT00–16–000]

Midwestern Gas Transmission Company; Notice of Negotiated Rate Filing

February 14, 2000.

Take notice that on February 9, 2000, Midwestern Gas Transmission Company (Midwestern), tendered for filing a Negotiated Rate Arrangement. Midwestern requests that the Commission approve the Negotiated Rate Arrangement effective April 1, 2000.

Midwestern states that the filed Negotiated Rate Arrangement reflects a negotiated rate between Midwestern and West Fork Land Development Company, L.L.C. (West Fork) for transportation under Rate Schedule IT beginning the first day of the month following the completion of the facilities necessary for Midwestern to deliver gas on behalf of West Fork to the proposed Wheatland Power Station for an eight (8) year period. Midwestern states that the facilities should be completed during March 2000, so it is seeking approval of the Negotiated Rate Arrangement effective April 1, 2000.

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 Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 22, 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).

David P. Boergers,

Secretary.

[FR Doc. 00–3901 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–234–002]

Northern Natural Gas Company; Notice of Compliance Filing

February 14, 2000.

Take notice that on February 9, 2000, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Original Volume No. 2, the following tariff sheet proposed to be effective on February 21, 2000:

Fifth Revised Sheet No. 313

Northern states that the above-referenced sheet is being re-filed solely to correct the pagination to Fifth Revised Sheet No. 313. On January 21, 2000, Northern filed tariff sheets to cancel Rate Schedule X–22 from Northern's Original Volume No. 2 tariff in compliance with the Commission's Order issued December 22, 1999 in Docket No. CP98–234–000. However, Sheet No. 313 was incorrectly paginated as Fourth Revised Sheet No. 313.

Northern states that copies of the filing were served upon the company's customers and interested state Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–3902 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT00–15–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Refund Report

February 14, 2000.

Take notice that on February 9, 2000, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing a Refund Report.

PG&E GT–NW states that this filing reports PG&E GT–NW's refund of revenues collected under its Competitive Equalization Surcharge mechanism, in compliance with Section 35 of PG&E GT–NW's FERC Gas Tariff.

PG&E GT–NW further states that a copy of this filing has been served on all affected customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 22, 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).

David P. Boergers,

Secretary.

[FR Doc. 00–3903 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT00–18–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Refund Report

February 14, 2000.

Take notice that on February 9, 2000, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) filed a Refund Report for interruptible transportation revenue credits on its Coyote Springs Extension.

PG&E GT–NW states that it refunded $1,363.56 to Portland General Electric Company, the sole eligible firm shipper on the Coyote Springs Extension, by credit billing adjustment on January 10, 2000.

PG&E GT–NW further states that a copy of this filing has been served on all affected customers and interested state regulatory agencies.

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 Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 22, 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).

David P. Boergers,

Secretary.

[FR Doc. 00–3904 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–149–001]

Sea Robin Pipeline Company; Notice of Filing Workpapers

February 14, 2000.

Take notice that on January 21, 2000, Sea Robin Pipeline Company (Sea Robin) filed with the Federal Energy Regulatory Commission workpapers in response to the Commission's request for certain information with respect to Sea Robin's Annual Flowthrough Crediting Mechanism Filing in Docket No. RP00–149–000. Sea Robin's workpapers include a spreadsheet supporting the derivation of the $72,008.48 balance in the annual flowthrough account.

Any person desiring to file comments on the additional information should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such comments should be filed on of before February 22, 2000. 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 (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–3909 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT00–17–000]

Venice Gathering System, L.L.C.; Notice of Tariff Filing

February 14, 2000.

Take notice that on February 9, 2000, Venice Gathering System, L.L.C. (VGS), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of March 10, 2000:

Second Revised Sheet No. 77
Third Revised Sheet No. 78

VGS states that it is submitting these tariff sheets to make certain ''housekeeping'' changes to clarify provisions and correct a typographical error. VGS states that none of the changes have a substantive effect on its General Terms and Conditions of Service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–3905 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–45–000]

Wisconsin Public Power, Inc.; Complainant v. Wisconsin Power and Light Co. and Alliant Energy, Inc.; Respondents; Notice of Filing

February 14, 2000.

Take notice that on February 11, 2000, Wisconsin Public Power, Inc., (WPPI) tendered for filing a Complaint Requesting Fast Track Processing against Wisconsin Power and Light Co. (WPL) and Alliant Energy, Inc. (Alliant). WPL is a legal subsidiary of Alliant.

In its Complaint, WPPI alleges that WPL is violating WPPI's rights under WPL's Partial Requirements Service Tariff—as implemented by a 1998 Power Supply Agreement between the Parties—to schedule and use base load energy up to WPPI's nominated and paid for capacity.

Any person desiring to be heard or to protest this 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 must be filed on or before February 22, 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before February 22, 2000.

David P. Boergers,

Secretary.

[FR Doc. 00–3908 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–76–000, et al.]

Black River Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

February 11, 2000.

Take notice that the following filings have been made with the Commission:

1. Black River Limited Partnership

[Docket No. EG00–76–000]

Take notice that on February 3, 2000, Black River Limited Partnership (Applicant) filed with the Federal Energy Regulatory Commission an amendment to the Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's Regulations and Section 32 of the Public Utility Holding Company Act of 1935, as amended (PUHCA), filed on January 7, 2000 (January 7th Application).

Applicant amends its January 7th Application to explain how Applicant satisfies the ''and selling'' requirement, as set forth in Section 32(a)(1) of PUHCA. Applicant further amends the January 7th Application to incorporate by reference Applicant's application under Section 203 of the Federal Power Act (FPA), filed with the Commission on January 31, 2000 (January 31st Application) for Commission approval of certain sale and lease transactions pursuant to which Applicant will lease the Fort Drum Project to Black River Power, LLC. Applicant submits that upon the consummation of the transactions described in the January 31st Application, Applicant will fall squarely within Commission precedent finding that a lease of a facility is a sale of electric energy at wholesale for purposes of Section 32(a)(1) of PUHCA.

Copies of the Amendment have been served upon the New York Public Service Commission, the North Carolina Utilities Commission, the South Carolina Public Service Commission and the Securities and Exchange Commission.

Comment date: March 3, 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. EG00–91–000]

Take notice that on February 1, 2000, San Joaquin Cogen Limited (Applicant), a Texas limited partnership, filed with the Federal Energy Regulatory Commission an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's Regulations and Section 32 of the Public Utility Holding Company Act of 1935, as amended. Applicant owns the San Joaquin Cogeneration Project, a 49.9 MW natural gas fired cogeneration facility in Lathrop, California (the Facility) and will make sales of electric energy and capacity at wholesale from that Facility.

Copies of the application have been served upon the California Public Utilities Commission and the Securities and Exchange Commission.

Comment date: March 3, 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. Compania Electrica Central Bulo Bulo SA

[Docket No. EG00–92–000]

Take notice that on February 3, 2000, Compania Electrica Central Bulo Bulo SA (the Applicant) whose address is Compania Electrica Central Bulo Bulo S.A., C/o Compania Boliviana de Energia Electrica S.A.—Bolivian Power Company Limited, Avenida Hernando Siles No. 5635, La Paz, Bolivia, 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.

The Applicant states that it will be engaged directly and exclusively in the business of owning and/or operating an electric generating facility located in the Republic of Bolivia and selling electric energy at wholesale. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: March 3, 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. Sithe Power International Ltd.

[Docket No. EG00–93–000]

Take notice that on February 3, 2000, Sithe Power International Ltd. (Sithe Power International), c/o Trident Trust Company (Cayman) Limited, One Capital Place, P.O. Box 847, Grand Cayman, Cayman Islands, 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.

Sithe Power International is organized under the laws of the Cayman Islands, and will be engaged, directly or indirectly, and exclusively in owning or both owning and operating a gas-fired electric generating facility, and selling the facility's energy at wholesale. The facility consists of two 115 MW gas turbines, and one approximately 240 MW steam turbine and auxiliary facilities. The Facility is located in Rades, Tunis, Tunisia.

Comment date: March 3, 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.

5. Intercoast Power Marketing Company

[Docket No. ER94–6–015]

Take notice that on February 4, 2000, InterCoast Power Marketing Company filed their quarterly report for the third and fourth quarters of 1999, for information only.

6. Williams Energy Marketing & Trading Company; Western Power Services, Inc.; New Millennium Energy Corporation; GreenMountain.com; Griffin Energy Marketing, L.L.C.; Sithe Power Marketing, Inc.; ENMAR Corporation; and Hafslun Energy Trading

[Docket Nos. ER95–305–022, ER95–748–019, ER97–2681–008, ER99–2489–002, ER97–4168–010, ER98–107–010, ER99–254–005, and ER98–2535–003]

Take notice that on February 2, 2000, the above-mentioned power marketers

filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

7. Statoil Energy Trading, Inc.; ProGas Power, Inc.; Northern/AES Energy, LLC; Power Providers Inc.; Enron Energy Services, Inc.; OGE Energy Resources, Inc.; Bonneville Fuels Management Corporation; Strategic Energy Management Corp.; ACN Power, Inc.; Strategic Energy L.L.C.; Reliant Energy Services, Inc.; Enron Power Marketing, Inc.; North American Energy Conservation, Inc.; TXU Energy Services; Statoil Energy Service, Inc.; Clinton Energy Management Services, Inc.; CinCap V, LLC; British Columbia Power Exchange Corporation; CinCap IV, LLC, and Cinergy Capital & Trading, Inc.

[Docket Nos. ER94–964–025, ER95–968–011, ER98–445–008, ER96–2303–014, ER98–13–014, ER97–4345–012, ER96–659–016, ER00–167–001, ER98–4685–004, ER96–3107–013, ER94–1247–023, ER94–24–034, ER94–152–024, ER99–3333–002, ER97–4381–005, ER98–3934–007, ER98–4055–007, ER97–4024–011, ER98–421–010, and ER93–730–017]

Take notice that on February 1, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

8. Avista Energy, Inc.; Vitol Gas & Electric LLC; Alternate Power Source, Inc.; Occidental Power Marketing, L.P., and Pacific Energy & Development Corporation

[Docket Nos. ER96–2408–017, ER94–155–028, ER96–1145–014, ER99–3665–002, and ER98–1824–008]

Take notice that on February 7, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

9. MIECO, Inc. and MIECO, Inc.

[Docket Nos. ER98–51–008 and ER98–51–009]

Take notice that on February 8, 2000, the above-mentioned power marketer filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

10. Southwood 2000, Inc.; Hinson Power Company and DTE Energy Marketing, Inc.

[Docket Nos. ER98–2603–003, ER95–1314–019 and ER99–3368–002]

Take notice that on February 4, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

11. Lakeside Energy Services, LLC; TransAlta Energy Marketing (U.S.) Inc.; Duke Energy Marketing Corp. and Dynegy Power Marketing, Inc.

[Docket Nos. ER99–505–004, ER98–3184–007, ER96–109–021 and ER94–968–030]

Take notice that on February 3, 2000, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

12. Williams Generation Company-Hazelton; Sithe Mystic LLC; Sithe Edgar LLC; Sithe New Boston LLC; Sithe Framingham LLC; Sithe West Medway LLC; Sithe Wyman LLC; FirstEnergy Corp.; Long Beach Generation LLC and El Segundo Power, LLC

[Docket No. ER00–1484–000, and ER00–1485–000 ER00–1486–000, ER00–1488–000 and ER00–1489–000]

Take notice that on February 2, 2000, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending December 31, 1999.

Comment date: March 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Northern Indiana Public Service Company

[Docket No. ER00–1497–000]

Take notice that on February 3, 2000, Northern Indiana Public Service Company filed their quarterly report for the quarter ending December 31, 1999.

Comment date: March 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Genesee Power Station L.P.; Great Bay Power Corporation; The Cleveland Electric Illuminating Company; Rocky Road Power, LLC and Sunbury Generation, LLC

[Docket Nos. ER00–1525–000, ER00–1539–000, ER00–1541–000, ER00–1542–000 and ER00–1543–000]

Take notice that on February 4, 2000, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending December 31, 1999.

Comment date: March 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Energy & Steam Co., Inc.

[Docket No. ER00–1530–000]

Take notice that on February 1, 2000, Niagara Energy & Steam Co., Inc. filed a letter regarding a corporate name change that was effective February 1, 2000. The new name is ''Energy & Steam Co., Inc.''

Comment date: February 22, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. PJM Interconnection, L.L.C.

[Docket No. ER00–1531–000]

Take notice that on February 4, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing one signature page of Agway Energy Services–PA Inc. to the Reliability Assurance Agreement among Load Serving Entities in the PJM Control Area (RAA), and an amended Schedule 17 listing the parties to the RAA.

PJM states that it served a copy of its filing on all parties to the RAA, including Agway Energy Services, Inc.–PA and each of the electric regulatory commissions within the PJM Control Area.

Comment date: February 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. PJM Interconnection, L.L.C

[Docket No. ER00–1532–000]

Take notice that on February 4, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing one Interconnection Service Agreement with Energy Unlimited, Inc.

Copies of this filing were served upon Energy Unlimited, Inc.

Comment date: February 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. New York Independent System Operator, Inc.

[Docket No. ER00–1533–000]

Take notice that on February 4, 2000, the New York Independent System Operator, Inc. (NYISO), tendered for filing a revised set of Temporary Extraordinary Procedures for Correcting Market Design Flaws and Addressing Transitional Abnormalities. The NYISO requests an effective date of February 17, 2000 and waiver of the Commission's notice requirements.

A copy of this filing was served upon all persons on the Commission's official service list in Docket No. ER99–3508–000, on those parties who have executed service agreements under the NYISO Open Access Transmission Tariff or under the New York Independent System Operator Market Administration and Control Area Services Tariff and on the electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Comment date: February 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Ocean State Power II

[Docket No. ER00–1534–000]

Take notice that on February 4, 2000, Ocean State Power II (Ocean State II), tendered for filing the following supplements (the Supplements) to its rate schedules with the Federal Energy Regulatory Commission (Commission):

Supplements No. 23 to Rate Schedule FERC No. 5
Supplements No. 25 to Rate Schedule FERC No. 6
Supplements No. 23 to Rate Schedule FERC No. 7
Supplements No. 24 to Rate Schedule FERC No. 8

The Supplements to the rate schedules request approval of Ocean State II's proposed rate of return on equity for the period beginning on February 1, 2000, the requested effective date of the Supplements.

Copies of the Supplements have been served upon, among others, Ocean State II's power purchasers, the Massachusetts Department of Public Utilities, and the Rhode Island Public Utilities Commission.

Comment date: February 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Ocean State Power

[Docket No. ER00–1535–000]

Take notice that on February 4, 2000, Ocean State Power (Ocean State), tendered for filing the following supplements (the Supplements) to its rate schedules with the Federal Energy Regulatory Commission (Commission):

Supplements No. 24 to Rate Schedule FERC No. 1
Supplements No. 23 to Rate Schedule FERC No. 2
Supplements No. 21 to Rate Schedule FERC No. 3
Supplements No. 23 to Rate Schedule FERC No. 4

The Supplements to the rate schedules request approval of Ocean State's proposed rate of return on equity for the period beginning on February 1, 2000, the requested effective date of the Supplements.

Copies of the Supplements have been served upon, among others, Ocean State's power purchasers, the Massachusetts Department of Public Utilities, and the Rhode Island Public Utilities Commission.

Comment date: February 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. PP&L, Inc.

[Docket No. ER00–1536–000]

Take notice that on February 4, 2000, PP&L, Inc.(PP&L) filed a Service Agreement dated January 31, 2000 with Koch Energy Trading, Inc. (Koch) under Tariff, Revised Volume No. 5. The Service Agreement adds Koch as an eligible customer under the Tariff.

PP&L requests an effective date of February 4, 2000 for the Service Agreement.

PP&L states that copies of this filing have been supplied to Koch and to the Pennsylvania Public Utility Commission.

Comment date: February 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. PP&L, Inc.

Docket No. ER00–1537–000]

Take notice that on February 4, 2000, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated January 10, 2000 with Sempra Energy Trading Corp. (Sempra) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds Sempra as an eligible customer under the Tariff.

PP&L requests an effective date of February 4, 2000 for the Service Agreement.

PP&L states that copies of this filing have been supplied to Sempra and to the Pennsylvania Public Utility Commission.

Comment date: February 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. Allegheny Energy Service Corporation, on behalf of Monongahela Power Company; The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–1538–000]

Take notice that on February 4, 2000, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 70 to add American Municipal Power-Ohio, Inc. to Allegheny Power Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000.

The proposed effective date under the Service Agreement is February 1, 2000 or a date ordered by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: February 25, 2000, in accordance with Standard Paragraph E at the end of this notice.

24. Pittsfield Generating Company, L.P.; Pacific Northwest Generating Cooperative and Front Range Energy Associates, LLC

[Docket Nos. ER00–1544–000, ER00–1545–000, and ER00–1546–000]

Take notice that on February 7, 2000, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending December 31, 1999.

Comment date: March 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

25. Arizona Public Service Company

[Docket No. ER00–1547–000]

Take notice that on February 7, 2000, Arizona Public Service Company (APS), tendered for filing a revised Service Agreement to provide Network Integration Transmission Service under APS' Open Access Transmission Tariff to the Navajo Tribal Utility Authority (NTUA) with an effective date of June 1, 1999 pursuant to a Settlement Agreement between the Parties.

A copy of this filing has been served on the parties of the official service lists.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

26. Public Service Company of New Mexico

[Docket No. ER00–1548–000]

Take notice that on February 7, 2000, Public Service Company of New Mexico (PNM) submitted for filing executed service agreements, for point-to-point transmission service under the terms of PNM's Open Access Transmission Service Tariff, with Sierra Pacific Energy Company (2 agreements, for Non-Firm and Short-Term Firm Service, dated January 18, 2000); with PP&L Montana, LLC (2 agreements, for Non-Firm and Short-Term Firm Service, dated February 2, 2000); and with Tri-State Generation and Transmission Association, Inc. (2 agreements, for Non-Firm and Short-Term Firm Service, dated February 2, 2000). PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

27. Western Resources, Inc.

[Docket No. ER00–1549–000]

Take notice that on February 7, 2000, Western Resources, Inc. tendered for filing a change to its FERC Electric

Tariff, First Revised Volume No. 5. Western Resources states that the change is to deny network integration transmission service under Western Resources' transmission tariff when such service is available through the Southwest Power Pool, Inc., regional transmission service tariff.

Notice of the filing has been served upon the Kansas Corporation Commission.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

28. Virginia Electric and Power Company

[Docket No. ER00–1550–000]

Take notice that on February 7, 2000, Virginia Electric and Power Company (Virginia Power) tendered for filing the following:

1. Service Agreement for Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to ACN Power, Inc.
2. Service Agreement for Non-Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to ACN Power, Inc.

The foregoing Service Agreements are tendered for filing under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreements, Virginia Power will provide point-to-point service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of February 7, 2000, the date of filing of the Service Agreements.

Copies of the filing were served upon ACN Power, Inc., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

29. Ameren Services Company

[Docket No. ER00–1551–000]

Take notice that on February 7, 2000, Ameren Services Company (ASC), the transmission provider, tendered for filing Service Agreements for Long-Term Firm Point-to-Point Transmission Services between ASC and Cargill-Alliant Energy Trading Group and Tenaska Power Services (the Parties). ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to the parties pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER 96–677–004.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

30. Pacific Gas and Electric Company

[Docket No. ER00–1552–000]

Take notice that on February 7, 2000, Pacific Gas and Electric Company (PG&E), tendered for filing a Generator Special Facilities Agreement (GSFA) between PG&E and La Paloma Generating Company, LLC (La Paloma) providing for Special Facilities and the parallel operation of La Paloma's generating facility and the PG&E-owned electric system.

This GSFA permits PG&E to recover the ongoing costs associated with owning, operating and maintaining the Special Facilities including the cost of any alterations and additions. As detailed in the GSFA, PG&E proposes to charge La Paloma a monthly Cost of Ownership Charge equal to the rate for transmission-level, customer-financed facilities in PG&E's currently effective Electric Rule 2, as filed with the California Public Utilities Commission (CPUC). PG&E's currently effective rate of 0.31% for transmission-level, customer-financed Special Facilities is contained in the CPUC's Advice Letter 1960–G/1587–E, effective August 5, 1996, a copy of which is included in this filing. PG&E has requested permission to use automatic rate adjustments whenever the CPUC authorizes a new Electric Rule 2 Cost of Ownership Rate for transmission-level, customer-financed Special Facilities but cap the rate at 0.58% per month.

Copies of this filing have been served upon La Paloma and the CPUC.

Comment date: February 28, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–3868 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

February 14, 2000.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 2548–041.

c. *Date Filed:* January 20, 2000.

d. *Applicants:* Lyons Falls Hydroelectric, Inc. and Northbrook Lyons Falls, LLC.

e. *Name and Location of Project:* The Lyons Falls Hydroelectric Project is on the Moose and Black Rivers in Lewis County, New York. The project does not occupy Federal or Tribal land.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* For Lyons Falls: Mr. John P. Garey, Lyons Falls Hydroelectric, Inc., Box 435, Hanover, NH 03755, (603) 640–6100. For Northbrook: Mr. M. Curtis Whittaker, Rath, Young and Pignatelli, One Capital Plaza, P.O. Box 150, Concord, NH 03302–1500, (603) 226–2600 and Mr. Stephen J. Sinclair, Northbrook Lyons Falls, LLC, 225 West Wacker, Suite 2330, Chicago, IL 60606, (312) 553–2136.

h. *FERC Contact:* Any questions on this notice should be addressed to James Hunter at (202) 219–2839, or e-mail address: james.hunter@ferc.fed.us.

i. *Deadline for filing comments and or motions:* March 17, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426.

Please include the project number (P–2548–041) on any comments or motions filed.

j. *Description of Proposal:* The applicants propose a transfer of the license for Project No. 2548 from Lyons Falls Hydroelectric, Inc. to Northbrook Lyons Falls, LLC. Transfer is being sought in connection with the proposed

acquisition of the project by Northbrook Lyons Falls, LLC.

k. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–3906 Filed 2–17–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6251–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7176 OR www.epa.gov/oeca/ofa. Weekly receipt of Environmental Impact Statements Filed February 07, 2000 through February 11, 2000 Pursuant to 40 CFR 1506.9.

EIS No. 200034, Draft EIS, FRA, Use of Locomotive Horns at Highway-Rail Grade Crossing, Proposal Rule, Nationwide, Due: May 26, 2000, Contact: Mark H. Tessler (202) 493–6038.

EIS No. 200035, Draft EIS, AFS, MT, Knox-Brooks Timber Sales and Road Rehabilitation, Implementation, Lola National Forest, Super Ranger District, Mineral County, MT, Due: April 03, 2000, Contact: Bruce Erickson (406) 822–3927.

EIS No. 200036, Final EIS, AFS, MT, Wayup Mine/Fourth of July Road Access, Right-of-Way Grant, Kootenai National Forest, Libby Ranger District, Lincoln County, MT, Due: March 20, 2000, Contact: Tim Charnon (406) 293–7773.

EIS No. 200037, Draft EIS, FHW, TX, Tyler Loop 49 West, Construction from the TX–155 Highway to I–20 Highway, Funding, NPDES and COE Section 404 Permits, Smith County, TX, Due: April 03, 2000, Contact: Walter C. Waidelich, Jr. (512) 916–5988.

EIS No. 200038, Final EIS, FHW, CA, Marin US–101 High Occupancy Vehicle (HOV) Gap Closure Project, Construction from US 101 I–580 on US–101 from Lucky Drive to North San Pedro Road and I–580 from Irene Street to US–101, Funding, COE Section 404 and Bridge Permits, Marin County, CA, Due: March 20, 2000, Contact: Robert F. Tally (916) 498–5020.

EIS No. 200039, Final EIS, FHW, CA, I–215 Improvements, Orange Show Road to CA–30, Funding, City of San Bernardino, San Bernardino County, CA, Due: March 20, 2000, Contact: C. Glenn Clinton (916) 498–5037.

EIS No. 200040, DRAFT EIS, AFS, OR, Mt. Ashland Ski Area Expansion, Implementation, Ashland Ranger District, Rogue River National Forest and Scott River Ranger District, Klamath National Forest, Jackson County, OR, Due: April 03, 2000, Contact: Linda Duffy (541) 482–3333.

EIS No. 200041, Final Supplement, NAS, Programmatic EIS—Sounding Rocket Program (SRP), Updated Information concerning Programmatic Changes since the 1973 FEIS, Site-Specific to Wallops Flight Facility (WFF), Wallops Island, VA; Poker Flat Research Range (PFRR), Fairbanks, AK and White Sands Missile Range (WSMR), White Sands, NM and on a Global Scale, Due: March 20, 2000, Contact: William B. Johnson (757) 824–1099.

EIS No. 200042, Draft EIS, USN, CA, El Toro Marine Corps Air Station Disposal and Reuse, Implementation, Local Redevelopment Authority (LRA), Orange County, CA, Due: March 20, 2000, Contact: Jeffery S. Lewis (916) 498–5035.

EIS No. 200043, Final EIS, FHW, CA, CA–125 South Route Location, Adoption and Construction, between CA–905 on Otay Mesa to CA–54 in Spring Valley, Funding and COE Section 404 Permit, San Diego County, CA, Due: March 20, 2000, Contact: Jeffery S. Lewis (916) 498–5035.

EIS No. 200044, Draft EIS, FHW, WI, US–14/61 Westby—Virogua Bypass Corridor Study, Transportation Improvements, Funding and COE Section 404 Permit, Cities of Virogua and Westby, Vernon County, WI, Due: April 10, 2000, Contact: Eugene Hoelker (608) 829–7512.

Amended Notices

EIS No. 200004, Draft Supplement, FHW, AR, TX, US 71 Highway Improvement Project, Updated Information, between Texarkana, (US71) Arkansas and DeQueen, Texarkana Northern Loop Funding, Right-of-Way Approval and COE Section 404 Permit, Little River, Miller and Sevier Counties, AR and Bowie County, TX, Due: March 06, 2000, Contact: Elizabeth Romero (501) 324–5309. Published FR–01–21–00 Correction to Comment date from 02–28–2000 to 03–06–2000.

EIS No. 200009, Final EIS, BIA, CA, Programmatic EIS—Cabazon Resource Recovery Park Section 6 General Plan, Implementation, Approval of Master Lease and NPDES Permit, Mecca, CA, Due: February 21, 2000, Contact: William Allan (916) 978–6043. Published FR–1–21–00—Correction to Comment Period from February 14, 2000 to February 21, 2000.

EIS No. 990282, Draft EIS, DOE, NV, Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level

Radioactive Waste, Construction, Operation, Monitoring and Eventually Closing a geologic repository at Yucca Mountain, Nye County, NV , Due: February 28, 2000, Contact: Wendy R. Dixon (702) 794–5564. Published FR on August 13, 99 CEQ Comment Date has been extended from February 9, 2000 to February 28, 2000.

EIS No. 990454, Draft EIS, USN, FL, MS, VA, USS Winston S. Churchill (DDG 81), Conducting a Shock Trial, Offshore of Naval Stations, Mayport, FL; Norfolk, VA and/or Pascagoula, MS, Due: January 24, 2000, Contact: Ms. Lyn Carroll (703) 413–4099. Revision of FR notice published on December 10, 1999: CEQ Comment Date has been extended from January 24, 2000 to March 31, 2000.

EIS No. 990488, Draft EIS, AFS, NC, Croatan National Forest Revised Land and Resource Management Plan (1986), Implementation, Carteret Craven and Jones Counties, NC, Due: April 10, 2000, Contact: John Ramey (828) 257–4268. Published FR–12–30–99) Correction to Comment Period from February 14, 2000 to April 10, 2000

B. Katherine Biggs,

Associate Director, Office of Federal Activities.

[FR Doc. 00–3935 Filed 2–17–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6251–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 31, 2000 through February 4, 2000 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7176.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 9, 1999 (63 FR 17856).

Draft EISs

ERP No. D–BLM–J01010–WY Rating EC2, Horse Creek Coal Lease Application (Federal Coal Lease Application WYW–141435), Implementation, Campbell and Converse Counties, WY.

Summary: EPA expressed environmental concerns regarding the lack of mitigation to reduce harmful levels of nitrogen oxides that could result from blasting coal and overburden, a concern for potential visibility impairment in Class I areas from increased air emissions from coal-bed methane production, coal mining, and coal trains. EPA requested a comprehensive impact assessment/planning document be developed to disclose incremental developments and their potential impacts to the Powder River Basin based on 10% coal production annual growth use.

ERP No. D–COE–C39013–NY Rating LO, Fire Island Inlet to Montauk Point, Implementation, Reach 1—Fire Island Inlet to Moriches Inlet Interim Storm Damage Protection Project, Long Island, NY.

Summary: EPA concluded that this project will not result in significant adverse environmental impacts and does not object to its implementation.

ERP No. D–COE–K36130–AZ Rating EC2, Tres Rios Feasibility Study Project, Ecosystem Restoration, Located at the Salt, Gila and Agua Fria Rivers, City of Phoenix, Maricopa County, AZ.

Summary: EPA expressed concern regarding potential water quality impacts. EPA requested that additional information be included on this issue in the final document.

ERP No. D–DOE–A06181–00 Rating EC2, Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste, Construction, Operation, Monitoring and Eventually Closing a geologic repository at Yucca Mountain, Nye County, NV.

Summary: EPA expressed environmental concerns with this project and requested clarifications about and additional data on: the movement of radionuclides in the saturated zone beneath the repository; changes in project design resulting from on-going studies at the repository site; and, the national transportation of spent fuel and high level radioactive waste.

ERP No. D–FAA–F51045–OH Rating EC2, Cleveland Hopkins International Airport, To Provide Capacity, Facilities, Highway Improvements and Enhancement to Safety, Funding, Cugahoga County, OH.

Summary: EPA expressed concerns regarding potential noise impacts, water quality impacts, purpose/need documentation, alternatives, and Section 401 Water Quality Certification status. EPA requested that additional information/mitigation be provided on these issues.

ERP No. D–NPS–K65221–AZ Rating LO, Chiricahua National Monument, General Management Plan, To Protect Certain National Formations, Known as ''the Pinnacles,'' AZ.

Summary: EPA expressed a lack of objections to the proposed management plan.

ERP No. D–NPS–K65222–AZ Rating LO, Fort Bowie National Historic Site General Management Plan, Implementation, Cochise County, AZ.

Summary: EPA expressed a lack of objections to the proposal. However, EPA requested that the NPS disclose details on the proposal's potential impacts to groundwater resources, at Apache Spring, expand the cumulative impacts section in the final EIS and continue consultation with affected tribes on a government to government basis.

ERP No. D–SFW–L03009–AK Rating EC2, Wolf Lake Area Natural Gas Pipeline Project, Construction, Approval Right-of-Way Grant and COE Section 404 Permit, Kenai National Wildlife Refuge, AK.

Summary: EPA identified concerns with the level of analysis presented in the EIS, the lack of analysis of the no action alternative, and the lack of clearly defined mitigation measures that would be implemented. EPA recommended that these issues be addressed in the final EIS.

ERP No. D–TVA–E09805–TN Rating EC2, Addition of Electric Generation Peaking and Baseload Capacity at Greenfield Sites, Construction and Operation of Combustion Turbines (CTs), Haywood County, TN.

Summary: EPA expressed concerns regarding potential air quality, environmental justice and global warming issues. EPA requested that additional information on these issues be included in the final EIS.

ERP No. D–USA–A10073–00 Rating EC2, Programmatic EIS—Transportable Treatment Systems for Non-Stockpile Chemical Warfare Material (CWM), To Destroy Non-Stockpile (CWM) in order to Protect Human, Health, Safety and the Environment, To Comply with the International Treaty, Nationwide.

Summary: EPA recommended that the EIS be changed from a programmatic documents to a non-programmatic EIS to reflect the limited scope of the EIS in relation to the whole non-stockpile CWM destruction program. EPA requested additional information be provided in the final EIS concerning treatment effectiveness, hazardous waste determination, waste control limits, monitoring, and risk assessments.

ERP No. DB–NOA–E86002–00 Rating LO, Snapper Grouper Fishery, Amendment 12 to the Fishery

Management Plan, Regulatory Impact Review, South Atlantic Region.

Summary: While EPA has no objection to the proposed action, it recommended that an adaptive management approach be instituted to measure the success of the Fishery Management Plan and stock recovery and to implement adopted adjustments as needed.

ERP No. DS–AFS–L61218–ID Rating EC2, Frank Church-River of No Return Wilderness (FC–RONRW), Implementation for the Future Management of Land and Water Resources, Updated and Additional Information, Bitterroot, Boise, Nez Perce, Payette and Salmon-Challis National Forests, ID.

Summary: EPA expressed concerns regarding water quality. EPA recommended that the EIS include information on degraded streams, their polluting parameters, potential impacts from project implementation, and strategies for addressing degraded streams as required by the Forest Service Protocol for Addressing CWA 303(d) Listed Waters.

ERP No. DS–NOA–A91065–00 Rating EC2, Atlantic Tunas, Swordfish and Sharks, Highly Migratory Species Fishery Management Plan, Updated Information, Reduction of Bycatch and Incidental Catch in the Atlantic Pelagic Longline Fishery.

Summary: EPA expressed concern that the preferred alternative is counterproductive for some species, particularly protected sea turtles, and requested that another alternative that might reduce turtle interaction with Longline sets be selected.

Final EISs

ERP No. F–AFS–J61100–CO, Arapahoe Basin Ski Area Master Development Plan, Construction and Operation, COE Section 404 Permit, White River National Forest, Dillon Ranger District, Summit County, CO.

Summary: EPA expressed environmental objections due to potential impacts to water quality, and inadequate mitigation for potential impacts in Phase I of the project. EPA recommended that a mitigation plan be developed to accompany the stipulations attached to Phase II of the project.

ERP No. F–AFS–J65308–UT, Wasatch Powderbird Guides Permit Renewal, Proposal to Conduct Guided Helicopter Skiing Activities on National Forest System Land, Issuance of a Special-Use-Permit, Wasatch-Cache National Forest, Uinta National Forest, Salt Lake County, UT.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65297–AK, Indian River Timber Sales(s) Project, Implementation, Tongass National Forest, Chatham Area, Sitka and Hoonah Ranger Districts, COE Section 10 and 404 Permit, NPDES and Coast Guard Bridge Permit, Chichagof Island, AK.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–COE–C30010–NJ, Barnegat Inlet to Little Egg Inlet Hurricane and Storm Damage Protection, Implementation, Long Beach Island, Ocean County, NJ.

Summary: EPA has no objection to the proposed project because it does not appear that it would result in significant adverse impacts to environmental resources of concern.

ERP No. F–FHW–L40209–WA, WA–16/Union Avenue Vicinity to WA–302 Vicinity of Tacoma Improvements, Construction, Funding, Coast Guard Permit, COE Section 10 and 404 Permits, Pierce County, WA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–USA–C11015–NJ, Military Ocean Terminal (MOTBY), Disposal and Reuse, Implementation, in the City of Bayonne, Bergen, Essex and Hudson Counties, NJ.

Summary: EPA has no objection to the project as proposed, provided that all mitigation is implemented.

ERP No. F–USA–K11090–AZ, Fort Huachuca Real Property Master Planning, Approval of Land Use and Real Estate Investment Strategies, Cochise County, AZ.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–USN–K11097–GU, Agana Naval Air Station Disposal and Reuse, Implementation, Guam.

Summary: No formal comment letter was sent to the preparing agency.

Dated: February 15, 2000.

B. Katherine Biggs,

Associate Director, Office of Federal Activities.

[FR Doc. 00–3936 Filed 2–17–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6538–8]

Proposed CERCLA Administrative Cashout Settlement; Montgomery KONE, Inc., Strother Field Industrial Park Superfund Site, Cowley County, KS, Docket No. CERCLA–7–2000–0007

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(h), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Strother Field Industrial Park Superfund Site, Cowley County, Kansas, with the following settling party: Montgomery KONE, Inc. The settlement requires the settling party to pay $40,000.00 to the Hazardous Substance Superfund. The settlement agreement includes a covenant not to sue the settling party pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). Montgomery KONE, Inc., formerly known as Montgomery Elevator, Inc., owned a facility in the southern portion of the Site until 1985. Montgomery KONE, Inc. currently owns property at the northern portion of the Site where it currently operates its business at Strother Field. It is estimated that the total costs expended in connection with the Site by both EPA and the responsible parties will exceed $7 million. The estimated costs incurred by the responsible parties include the responsible parties' estimates of the respective amounts that have been or will be expended on site cleanup activities. The cleanup of the Site will continue with EPA's continuing enforcement activities against the PRPs that have not been cashed out. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at Strother Field Airport/ Industrial Park, 4th & Tupper, Winfield, KS 67156 and Office of Regional

Hearing Clerk, EPA, 901 North 5th Street, Kansas City, KS 66101.

DATES: Comments must be submitted on or before March 20, 2000.

ADDRESSES: The proposed settlement providing additional background information relating to the settlement is available for public inspection at Office of Regional Hearing Clerk, Environmental Protection Agency, 901 N. 5th Street, Kansas City, KS 66101. A copy of the proposed settlement may be obtained from Kathy Robinson, Regional Hearing Clerk, EPA, 901 N. 5th Street, Kansas City, KS 66101, telephone 913–551–7567. Comments should reference the Strother Field Industrial Park Superfund Site, Cowley County, Kansas, Docket No. CERCLA 7–2000–0007, and should be addressed to Regional Hearing Clerk, EPA, 901 N. 5th Street, Kansas City, KS 66101.

FOR FURTHER INFORMATION CONTACT: James D. Stevens, Assistant Regional Counsel, EPA, 901 N. 5th Street, Kansas City, KS 66101, telephone: 913–551–7322.

Dated: February 9, 2000.

Dennis Grams, P.E.,

Regional Administrator, Region 7.

[FR Doc. 00–3850 Filed 2–17–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 00–145 and DA 00–191]

Wireless Telecommunications Bureau Seeks Comment on SBC Communications Inc.'s (SBC) and Nextel Communications, Inc.'s (Nextel) Petitions Regarding PCS C and F Block Spectrum

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Wireless Telecommunication Bureau (Bureau) seeks comment on SBC's request for waiver of the eligibility requirements regarding PCS C and F block spectrum. The Bureau also seeks comment on Nextel's petition for expedited rule making or waiver of the Commission's rules regarding PCS C and F block eligibility for licenses and license configuration.

DATES: Comments are due February 14, 2000, and reply comments are due February 22, 2000.

ADDRESSES: Comments should be filed with the Office of the Secretary, Federal Communications Commission, TW B204, 445 12th St. SW., Washington, DC 20554. Comments also should be provided to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Room # 4–A624, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th St. SW Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leora Hochstein of the Auctions and Industry Analysis Division at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of two Public Notices, DA 00–145 released January 31, 2000, and DA 00–191 released February 3, 2000. The complete text of the public notices, including all attachments, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY A257), 445 12th Street, SW., Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800. It is also available on the Commission's website at *http://www.fcc.gov.*

1. SBC Communications Inc. (''SBC'') has filed a request for waiver of the eligibility requirements in § 24.709 of the Commission's rules. Section 24.709 of the Commission's rules restricts the eligibility for C and F block licenses to entities with total assets and gross revenues below specified levels. SBC requests a waiver under § 1.925 of the Commission's rules to allow companies other than such entities to participate in the upcoming C and F block auction.

2. SBC argues that granting its waiver request and allowing it to participate in the auction would serve the public interest by speeding the delivery of wireless services to the public and enhancing competition in numerous market areas.

3. Nextel Communications, Inc. (''Nextel'') has filed a petition requesting expedited rulemaking under § 1.401, or in the alternative, waiver of the Commission's rules under §§ 1.3 and 1.925. Nextel seeks modification or waiver of the Commission's eligibility and bidding rules with respect to PCS C and F block spectrum. Nextel requests that the Commission allow companies other than entities with total assets and gross revenues below specified levels to participate in the upcoming C and F block auction. In addition, Nextel urges the Commission to auction one block of spectrum at the end of May 2000 on a ''bulk bidding'' basis. Under this proposal the Commission would reconfigure the 30 MHz C block licenses into separate 20 MHz and 10 MHz authorizations and offer the new 20 MHz and the available 15 MHz PCS licenses on a bulk bid basis, subject to expedited build-out requirements. Further, the new 10 MHz C block and F block licenses would be auctioned on a market-by-market basis.

4. Nextel argues that adopting its proposed rule modifications, or granting its waiver request, would serve the public interest by speeding the delivery of wireless services to the public, particularly to rural and underserved areas, and enhancing competition in wireless services.

5. The *Public Notice*, DA 00–145, seeking comment on SBC's request for waiver of the eligibility requirements for PCS C and F block spectrum stated that comments were due on February 10, 2000 and reply comments were due on February 15, 2000. In light of Nextel's filing, we broaden our request to include comments addressing any issues raised by SBC and/or Nextel. Further, we extend the deadline for filing comments to SBC's waiver request and/or Nextel's petition to February 14, 2000 for comments and February 22, 2000 for reply comments.

6. Commenters should address the sufficiency of the showings made by SBC and/or Nextel in light of the requirements of 47 CFR 1.925 and any other public interest considerations. All comments should reference DA 00–191.

7. This proceeding has been designated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200(a), 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

8. Both SBC's waiver request and Nextel's petition are available for public inspection and copying in the Reference Center, Room CY A257, 445 12th St., SW., Washington, DC 20554. Copies of the Public Notices and its petition are also available from ITS at 1231 20th St. NW., Washington, DC 20036, or by calling (202) 857–3800.

Federal Communications Commission.

Louis J. Sigalos,

Deputy Chief, Auctions & Industry Analysis Division.

[FR Doc. 00–3921 Filed 2–17–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 14, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. NBT Bancorp Inc., Norwich, New York; to acquire 100 percent of the voting shares of, and thereby merge with Pioneer American Holding Company Corp., Carbondale, Pennsylvania, and thereby indirectly acquire Pioneer American Bank, National Association, Carbondale, Pennsylvania.

Board of Governors of the Federal Reserve System, February 14, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–3867 Filed 2–17–00; 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. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

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 March 14, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Heartland Bancshares, Inc., Lenox, Iowa; to retain Union Bank USA, Lenox, Iowa, and thereby engage in operating a federal savings bank, pursuant to § 225.28(b)(4)(ii) of Regulation Y. Applicant currently operates Union Bank, USA as First Community National Bank.

Board of Governors of the Federal Reserve System, February 14, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–3866 Filed 2–17–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Wednesday, February 23, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: February 16, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–4063 Filed 2–16–00; 11:44 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–00–2]

Fiscal Year 2000 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for applications for the Alzheimer's Disease Demonstration Grants to States Program, to (1) develop models of assistance for persons with Alzheimer's disease and their families, and (2) improve the responsiveness of existing home and community based care systems for persons with Alzheimer's disease and related disorders and their families.

APPLICANT ELIGIBILITY AND REQUIREMENTS: Eligibility for grant awards is limited to state agencies. Only one application per state will be accepted. Applicants must provide a letter from their state's Governor designating the applicant agency as the sole applicant for the state. Grantees are required to provide a 25% non-federal match during the first year, 35% during the second year, and 45% during the third year of the grant.

SUMMARY: The Administration on Aging announces that under this program announcement it will hold a competition for grant awards for fourteen (14) to twenty (20) projects that develop services and assistance, and improve the home and community based care system to better respond to the needs of persons with Alzheimer's disease, their families, and caregivers.

The deadline date for the submission of applications is April 21, 2000.

Application kits are available by writing to the Department of Health and Human Services, Administration on Aging, Immediate Office of the Assistant Secretary for Aging, 200 Independence Ave., SW, HHH Building, Room 309–F, Washington, DC 20201, or by calling 202/401–4547 or 202/401–4634.

Dated: February 14, 2000.

Jeanette C. Takamura,

Assistant Secretary for Aging.

[FR Doc. 00–3931 Filed 2–17–00; 8:45 am]

BILLING CODE 4154–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–0001]

Leveraging—Collaborating With Stakeholders; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of Meetings.

SUMMARY: The Food and Drug Administration (FDA) is announcing two public meetings entitled ''Leveraging—Collaborating with Stakeholders.'' The purpose of these meetings is to discuss ways in which FDA can better leverage its expertise and resources by working with outside organizations. Participants may include, but are not limited to, academia, consumer groups, scientific experts, industry, public health providers, States, and other Government agencies.

DATES: The first meeting will be held on March 23, 2000. The second meeting will be held on April 12, 2000. For additional information regarding registration and the location and time of the meetings see table 1 in section III of this document.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, e-mail: FDADockets@oc.fda.gov or to the Internet at http://www.fda.gov.

REGISTRATION AND REQUESTS FOR ORAL PRESENTATIONS: Send registration information (including name, title, firm name, address, telephone, fax number, and e-mail address) and requests to make oral presentations, to the appropriate contact person listed in table 1 of section III of this document by March 17, 2000, for the California meeting and by April 5, 2000, for the North Carolina meeting. Because space is limited, it is necessary to register in advance of the meetings and by the appropriate deadlines. Participants who wish to make a formal oral presentation should register with the appropriate contact for ''speaker registration'' identified by meeting in table 1 of section III of this document by the same deadlines listed above. Presentations will be limited to the questions and subject matter identified under section I of this document. All registration will be accepted on a first-come, first-served basis. Speakers will be chosen in order of registration. All other comments should be sent to the Dockets Management Branch (address above).

If you need special accommodations due to a disability, please indicate such at the time of registration.

You may register by e-mail, at http://www.fda.gov/oc/leveraging/stakeholders2000.

FOR GENERAL INFORMATION CONTACT: Virginia Cox, Office of the Commissioner (HF–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3409, FAX 301–594–6807, e-mail Vcox@oc.fda.gov. Local contact information is listed in table I of section III of this documnent.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is exploring new opportunities to leverage its own assets by working with other organizations in order to carry out its public health mission effectively in the 21st century. These collaborations are intended to have a larger net public health benefit to the American public than would be possible if FDA worked alone. The agency is currently working closely with a diverse set of partners, including public health organizations, scientific experts, other Federal regulators, States, industry and consumers, to expand these benefits. Leveraging activities are prominent in every major area of FDA responsibility, including:

(1) Safety related research,

(2) Safety review for new products,

(3) Monitoring safety of products on the market,

(4) Assuring industry compliance with safety regulations, and

(5) Patient/consumer education on the safe use of products.

The agency would like to expand these leveraging initiatives in order to address the increasingly complex regulatory challenges of this millennium.

In the section II. A. and B. of this document, FDA has provided illustrations of collaborative projects that are currently ongoing and those that are proposed. As you read through both sections, please respond to the following questions, as appropriate; these initiatives and questions will be discussed at the stakeholders meetings:

1. Does your organization share an interest in any of these initiatives?

2. If so, what role would your organization play in this initiative, and what could you contribute?

3. Do you have suggestions for improving FDA's approach to any of the leveraging initiatives?

4. Do you have suggestions for other organizations that would benefit from working with FDA on these types of efforts?

5. Are there other initiatives not listed below that you would suggest as a possibility for collaborative efforts between FDA and your organization or other organizations?

A. Examples of Ongoing Initiatives

1. Safety-Related Research—National Center for Food Safety and the Technology (Moffett Center)

The Moffett Center is a collaboration with industry, the Illinois Institute of Technology, and the University of Illinois' Food Science Department. The Moffett Center was established in 1987 to address food safety, specifically food processing and packaging technologies. The collaborative programs positioned the Moffett Center as a focal point of FDA's participation in research and technology outreach associated with the President's Food Safety Initiative focus on preventing and reducing foodborne contamination. The scope of food safety information and expertise achieved through this participation far outreaches the work any one member could accomplish to answer critical food safety questions. A recent expansion of

the Moffett Center focuses on small business needs in food safety. The Moffett Center research has helped in developing higher product safety standards and better consumer protection.

2. Safety Review for New Products—Product Quality Research Institute (PQRI)

PQRI fosters scientific research to support regulatory policy in the areas of drug substance, drug product, biopharmaceutics, science management, and novel approaches for regulating pharmaceuticals. PQRI provides opportunities to develop science-based publicly available information to: (1) Facilitate the drug development process, (2) facilitate needed changes in the manufacture of drug substance and drug product, (3) enhance review consistency and efficiency, and (4) increase reliance on tests that are no more burdensome than necessary to assure product quality. Co-sponsors include the Center for Drug Evaluation and Research (FDA), American Association of Pharmaceutical Scientists, Generic Pharmaceutical Industry Association, National Association of Pharmaceutical Manufacturers, Nonprescription Drug Manufacturers Association, National Pharmaceutical Alliance, Parenteral Drug Association, and Pharmaceutical Research and Manufacturers of America.

3. Assuring Industry Compliance With Safety Regulations—Mammography

Mammographies are provided by more than 10,000 facilities throughout the United States, a far greater number than FDA can effectively inspect for compliance with quality standards. The Mammography Quality Standards Act of 1992 (MQSA) requires these facilities to be accredited by FDA approved accrediting bodies that are either nonprofit organizations or State agencies and directs FDA to delegate site inspection tasks to States. FDA established mammography accreditation standards based on American College of Radiology (ACR) technical standards that are endorsed by other industry and government experts. FDA approved accreditation bodies now include ACR and several State agencies.

4. Patient/Consumer Education on the Safe Use of Products—Take Time to Care

The Take Time to Care Outreach program brings together FDA's Office of Women's Health and the National Association of Chain Drug Stores, and other senior citizen groups, professional associations, business/labor women's organizations and other health organizations. This network of organizations delivers the message about safe drug use, including the ''My Medicines'' brochure distributed at over 20,000 pharmacy outlets. Through this program, FDA expects to help 6.5 million women safely use their medications.

B. Examples of Proposed Initiatives

1. Safety Review for New Products—Safety Assurance in Clinical Trials

The volume of clinical trials has grown dramatically over the past decade, due to expanding development of new medical products. In addition, clinical trials are more often performed at multiple study sites, including multi-country studies. Extensive oversight by FDA is not feasible in an era of significantly scaled-back field staffing. FDA sees a growing need to collaborate with outside organizations in managing the research, compliance and educational aspects of clinical investigations, particularly those sponsored by academia, industry, other government agencies and other private institutions/corporations.

2. Assuring Industry Compliance with Safety Regulations—Gene therapy, Human Cellular and Tissue Based Products

Advances in these categories of new medical products create the need for better science to assure product safety and strategies to assure industry compliance with safe manufacturing practices. FDA is interested in exploring collaborative strategies for research studies that will lead to the development of scientifically based standards for: Safety and toxicity of viral vectors carrying a human gene for replacement or reconstitution; safety of cell substrates for use in production of live-attenuated viral vaccines or gene therapy vectors; and quality control and safety of human cellular and tissue-based products.

3. Patient/Consumer Education on the Safe Use of Products—Risk Management

FDA is interested in launching widespread educational initiatives, aimed at consumers, of newly approved medical products, as well as important products that have been on the market. The agency would like to target, in particular, vulnerable populations such as children, the elderly and those with special needs. FDA would also like to capitalize on the capabilities of the Internet to get its message to the right people. It would be very useful to join forces with other organizations in order to amplify and focus messages that would help consumers/patients better manage their own health status.

4. Inspections—Internet

The Internet is being used by a rapidly growing number of consumers to obtain information about drugs and to order these medical products. FDA is in the early stages of an initiative to monitor firms marketing drugs through this medium. The agency is interested in exploring ways to collaborate with other organizations in order to extend its ability to monitor the situation and to keep consumers safe and informed.

5. Safety-Related Research—NCTR Identified Opportunity

Work on gene-chip and gene-array technology to provide high-throughput screening of biomarkers for susceptible populations is already underway. This is being done in collaboration with academia, industry and government. However, we see a growing need to collaborate in the development of DNA microarray technology to better define biomarkers of toxic response that are more relevant and applicable to the human population. The FDA is interested in exploring strategies with its stakeholders to develop the capacity to utilize these DNA-, RNA-, and bioinformatic-based technologies to better understand toxin-induced responses in in vitro and in vivo model systems to improve extrapolation of these systems to the human.

II. Comments

Stakeholders are encouraged to submit their responses in advance of the March 23, 2000, and April 12, 2000, meetings. Written comments should be identified with docket number 00N–0001 and submitted to the Dockets Management Branch (address above).

III. Scheduled Meetings

TABLE I.

Date and Location	Address	Scheduled Time	Attendance and Speaker Registration
March 23, 2000, Stanford, CA.	Stanford Law School, rm. 290, 559 Nathan Abbott Way, Stanford, CA.	6 p.m. to 8 p.m. PST.	Judy Keast, Food and Drug Administration, Oakland Federal Bldg., 1301 Clay St., suite 118ON, Oakland, CA 94612, 510–637–3960, ext. 112, FAX: 510–637–3976, e-mail: Jkeast@ora.fda.gov.
April 12, 2000, Durham, NC.	Duke University Medical Center, Searle Conference Center, Seeley Mudd Bldg., Research Dr., Durham, NC.	1 p.m. to 3 p.m. EST.	Mary Lewis, Food And Drug Administration, 310 New Bern Ave., rm. 370, Raleigh, NC 27601, 919–856–4456, FAX: 919–856–4776, e-mail: Mlewis@ora.fda.gov.

IV. Transcripts

Transcripts of the meetings (from each site listed in section III of this document) may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: February 11, 2000,

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–3840 Filed 2–17–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–310]

Agency Information Collection Activities: Proposed Collection; 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.

Type of Information Collection Request: New Collection.

Title of Information Collection: Health Care Services for Deaf and Hard of Hearing Adults—Case Story Forms.

Form No.: HCFA–R–310 (OMB #0938–NEW).

Use: The Agency seeks to obtain beneficiary information that helps providers: (1) Better understand situations in which problems may be avoided when encountering a hearing-impaired or deaf individual; (2) explore how such encounters may affect the delivery of quality care of adversely impact health care outcomes; and (3) provide an opportunity for hearing-impaired individuals to develop more appropriate health-seeking behavior, where indicated. This form is to be used by deaf and hard of hearing individuals accessing the Delmarva web site who may wish to identify experiences receiving health care in the United States. The experiences may be either good or bad. Respondents are asked to complete a form for each case or experience.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 100.

Total Annual Responses: 100.

Total Annual Hours: 17.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Dated: February 8, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–3948 Filed 2–17–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Announcement of Office of Management and Budget (OMB) Control Numbers for Agency Information Collections Approved Under the Paperwork Reduction Act of 1995

AGENCY: Health Care Financing Administration, HHS.

This notice announces and displays OMB control numbers for Health Care Financing Administration (HCFA) information collections that have been approved by OMB.

Under OMB's regulations implementing the Paperwork Reduction Act (PRA), 44 U.S.C. 3501, each agency that proposes to collect information must submit its proposal for OMB review and approval in accordance with 5 CFR part 1320. Once OMB has approved an agency's proposed collection of information and issues a control number, the agency must display the control number.

OMB regulations provide for alternative methods of displaying OMB control numbers. In the case of collections of information published in regulations, display is to be ''provided in a manner that is reasonably

calculated to inform the public.'' To meet this requirement an agency may display such information in the **Federal Register** by publishing such information in the preamble or the regulatory text, or in a technical amendment to the regulation, or in a separate notice announcing OMB approval of the collection of information.

To comply with this requirement HCFA has chosen to publish this notice announcing OMB approval of the collections of information published in regulations. As stated above, this notice announces and displays the assigned OMB control numbers for HCFA's information collections that have been approved by OMB.

42 CFR	OMB Control Nos.
403.210	0938–0640
405.262	0938–0267
405.371	0938–0600
405.376	0938–0270
405.378	0938–0600
405.427	0938–0155
405.465, 405.481	0938–0301
405.711	0938–0045
405.807	0938–0033
405.821	0938–0034
405.2100–.2171	0938–0386
405.2110, 405.2112	0938–0657 & 0658
405.2133	0938–0046 & 0448
405.2135–.2171	0938–0360
406.7	0938–0251
406.13	0938–0080
406.15	0938–0501
406.28	0938–0025
407.10, 407.11	0938–0245
407.18	0938–0679
407.27	0938–0025
407.40	0938–0035
408.6	0938–0041
409.40–.50	0938–0357
410.1	0938–0679
410.2	0938–0770
410.32	0938–0685
410.33	0938–0721
410.36	0938–0357
410.38	0938–0534
410.40	0938–0042
410.71	0938–0685
410.170	0938–0357
411.4–.15	0938–0357
411.15	0938–0224
411.20–411.206	0938–0565
411.370–411.389	0938–0714
411.404–.406	0938–0465 & 0781
411.408	0938–0566
412.20–.32	0938–0358
412.40–.52	0938–0359
412.44, 412.46	0938–0445
412.92	0938–0477
412.105	0938–0456
412.106	0938–0691
412.116	0938–0269
412.256	0938–0573
413.17	0938–0202 & 0685
413.20	0938–0202, 0236 & 0600
413.20, 413.24	0938–0022, 0037, 0050, 0102, 0107, 0301, 0463, 0511 & 0758
413.64	0938–0269
413.106	0938–0022
413.170	0938–0296
413.198	0938–0236
413.343	0938–0739
414.40	0938–0008
414.330	0938–0372
416.43	0938–0506
416.44	0938–0242
416.47	0938–0266 & 0506
417.124	0938–0472
417.126	0938–0469, 0701 & 0732
417.143	0938–0470
417.162	0938–0469
417.408	0938–0470
417.436	0938–0610

42 CFR	OMB Control Nos.
417.470	0938–0701 & 0732
417.478	0938–0469
417.479, 417.500	0938–0700
417.801	0938–0610
417.800–.840	0938–0768
418.1–418.405	0938–0313
418.22, 418.24, 418.28, 418.56, 418.58, 418.70, 418.83, 418.96, 418.100	0938–0302
418.100	0938–0242
420.200–.206	0938–0086
421.100	0938–0357
421.310, 421.312	0938–0723
422.1–.10, 422.50–.80, 422.100–.132, 422.300–.312, 422.400–.404, 422.560–.622	0938–0763
422.1–422.700	0938–0753
422.64, 422.111, 422.560–422.622	0938–0778
422.300–422.312	0938–0742
422.370–422.378	0938–0722
424.5	0938–0534 & 0279
424.20	0938–0454
424.22	0938–0357 & 0489
424.32	0938–0008 & 0739
424.44	0938–0008
424.57	0938–0717, 0749 & 0685
424.73, 424.80	0938–0685
424.103	0938–0023
424.123	0938–0484
424.124	0938–0042
426.102–426.104	0938–0526
430.10	0938–0673
430.10–20	0938–0193
430.12	0938–0610
430.20	0938–0610
430.30	0938–0101
431.1–431.865	0938–0062
431.17	0938–0467
431.107	0938–0610
431.306	0938–0467
431.630	0938–0445
431.800	0938–0094 & 0300
431.800–431.820	0938–0144
431.800–431.865	0938–0146, 0147 & 0246
431.865	0938–0094
433.68, 433.74	0938–0618
433.110–.131	0938–0487
433.110, 433.112–433.114, 433.116, 433.117, 433.119, 433.121, 433.122, 433.127, 433.130, 433.131.	0938–0247
433.138	0938–0502
434.28	0938–0610
434.44, 434.67, 434.70	0938–0700
435.1–435.1011	0938–0062
435.910, 435.920, 435.940–.960	0938–0467
440.1–.270	0938–0062
440.30	0938–0685
440.167	0938–0193
440.180	0938–0272 & 0449
441.16	0938–0713
441.60	0938–0354
441.152	0938–0754
441.250–441.300	0938–0481
441.300–441.305	0938–0272
441.300–441.310	0938–0449
442.1–.119	0938–0062 & 0379
447.31	0938–0287
447.53	0938–0429
447.272	0938–0618
447.280	0938–0624
447.500–.542	0938–0676
447.550	0938–0676
455.100–.106	0938–0086
456.654	0938–0445
456.700, 456.705, 456.709, 456.711, 456.712	0938–0659
466.71, 466.73, 466.74, 466.78	0938–0445
466.78	0938–0692
473.18, 473.34, 473.36, 473.42	0938–0443
476.104, 476.105, 476.116, 476.134	0938–0426

42 CFR	OMB Control Nos.
482.1–.66	0938–0380
482.2–.57	0938–0382
482.12, 482.22	0938–0328
482.27	0938–0328 & 0698
482.41	0938–0242
482.30, 482.41, 482.43, 482.53, 482.56, 482.57	0938–0328
482.60–.62	0938–0378 & 0328
482.66	0938–0328 & 0624
483.10	0938–0610
483.270	0938–0242
483.400–.480	0938–0062
483.470	0938–0242
484.1–.52	0938–0365
484.10	0938–0610 & 0781
484.10–.52	0938–0355
484.11	0938–0761
484.12	0938–0685
484.18	0938–0357
484.20	0938–0761
484.48	0938–0519
484.55	0938–0760
485.56, 485.58, 485.60, 485.64, 485.66	0938–0267
485.701–.729	0938–0065 & 0273
485.709, 4857.11, 485.717, 485.719, 485.721, 487.723, 485.725, 485.727, 485.729	0938–0336
486.100–.110	0938–0027
486.104, 486.106, 486.110	0938–0338
486.155, 486.161, 486.163	0938–0336
486.301–.325	0938–0512 & 0688
488.4–488.9	0938–0690
488.18	0938–0391 & 0667
488.26	0938–0379 & 0391
488.28	0938–0391
488.60	0938–0360
488.201	0938–0690
489.20	0938–0214, 0667 & 0692
489.21	0938–0357
489.24	0938–0667
489.27	0938–0692
489.40–.41	0938–0383
489.66, 489.67	0938–0713
489.102	0938–0610
491.1–.11	0938–0074
491.9	0938–0334
493.1–.2001	0938–0151, 0544, 0581, 0599, 0612, 0650 & 0653
493.551–.557	0938–0686
493.1269–.1285	0938–0170
493.1840	0938–0655
498.40–.95	0938–0486 & 0567
1003.100, 1003.101, 1003.103	0938–0700
1004.40, 1004.50, 1004.60, 1004.70	0938–0444

45 CFR	OMB control Nos.
5b.1–.13	0938–0734
96.70–.74	0938–0481
146	0938–0702
146.136	0938–0719
148	0938–0703

Dated: February 10, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–3950 Filed 2–17–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0299]

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.

Type of Information Collection Request: New; *Title of Information*

Collection: A Project to Develop an Outcome-Based Continuous Quality Improvement System for PACE; *Form No.:* HCFA–R–0299 (OMB# 0938–NEW); *Use:* The purpose of this project is to develop an out-come based continuous quality improvement (OBCQI) approach for the PACE program by (a) developing and testing potential outcome measures, (b) testing risk adjustment methods so that each site's outcomes can be appropriately evaluated, and (c) designing an OBCQI approach to improve quality in a systematic, evolutionary manner. A nine-month field test of data collection using the draft OBCQI data set and protocols will result in the refinement of data items and protocols as appropriate. Findings from this project are intended to guide the possible implementation of a national approach for OBCQI, in which PACE sites will collect data that will be used to determine and profile participant outcomes for their site; *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions and Individuals or households; *Number of Respondents:* 8,298; *Total Annual Responses:* 26,402; *Total Annual Hours:* 7,203.

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, D.C. 20503.

Dated: February 3, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–3949 Filed 2–17–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Availability of Additional HRSA Competitive Grants

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces the availability of funds for several HRSA programs. This Notice lists several programs that are announcing competitions for fiscal year (FY) 2000 funds but were not published in the Fall 1999 HRSA Preview.

This Notice includes funding for HRSA discretionary authorities and programs as follows: (1) Pediatric Emergency Department Research Network, Maternal and Child Health Bureau (MCHB); (2) Early Postpartum Discharge Data, MCHB; (3) Partnership for State Title V MCH Leadership Community Cooperative Agreement (MCHB); and (4) Special Projects of National Significance (Border Health Initiative), HIV/AIDS Bureau.

These programs were not published in the Fall 1999 HRSA Preview and will only appear in the **Federal Register** and on the HRSA Home Page at: http://www.hrsa.dhhs.gov/. The next edition of the HRSA Preview is planned to be published in mid-2000. The purpose of the HRSA Preview is to provide the general public with a single source of program and application information related to the Agency's competitive grant offerings. The HRSA Preview is designed to replace multiple **Federal Register** notices which traditionally advertised the availability of HRSA's discretionary funds for its various programs.

Dated: February 11, 2000.

Claude Earl Fox,

Administrator.

How To Obtain Further Information

You can download this Notice in Adobe Acrobat format (.pdf) from HRSA's web site at http://www.hrsa.dhhs.gov/.

To Obtain an Application Kit

It is recommended that you read the introductory materials, terminology section, and individual program category descriptions to fully assess your eligibility for grants before requesting kits. As a general rule, no more than one kit per category will be mailed to applicants. Upon review of the program descriptions, please determine which category or categories of application kit(s) you wish to receive and call 1–877–477–2123 to register on the specific mailing list. Application kits are generally available 60 days prior to application deadline. If kits are already available, they will be mailed immediately.

Also, you can register on-line to be sent specific grant application materials by following the instructions on the web page or accessing http://www.hrsa.gov/g—order3.htm directly. Your mailing information will be added to our database and material will be sent to you as it becomes available.

Grant Terminology

Application Deadlines

Applications will be considered ''on time'' if they are either received on or before the established deadline date or postmarked on or before the deadline date given in the program announcement or in the application materials.

Authorizations

The citations of provisions of the laws authorizing the various programs are provided immediately preceding groupings of program categories.

CFDA Number

Applicants must use the CFDA number when requesting application materials. The Catalog of Federal Domestic Assistance (CFDA) is a Governmentwide compendium of Federal programs, projects, services, and activities which provide assistance. Programs listed therein are given a CFDA Number.

Cooperative Agreement

A financial assistance mechanism (grant) used when substantial Federal programmatic involvement with the recipient during performance is anticipated by the Agency.

Eligibility

Authorizing legislation and programmatic regulations specify eligibility for individual grant programs. In general, assistance is provided to nonprofit organizations and institutions, State and local governments and their agencies, and occasionally to individuals. For-profit organizations are eligible to receive awards under financial assistance programs unless specifically excluded by legislation.

Estimated Amount of Competition

The funding level listed is provided for planning purposes and is subject to

the availability of funds or congressional action.

Funding Priorities and/or Preferences

Special priorities or preferences are those which the individual programs have identified for the funding cycle. Some programs give preference to organizations which have specific capabilities such as telemedicine networking or established relationships with managed care organizations. Preference also may be given to achieve an equitable geographic distribution and other reasons to increase the effectiveness of the programs.

Key Offices

The Grants Management Office serves as the focal point for grants policy, budgetary, and business matters. The program office contact is provided for questions specific to the project activities of the programs and program objectives.

Matching Requirements

Several HRSA programs require a matching amount, or percentage of the total project support, to come from sources other than Federal funds. Matching requirements are generally mandated in the authorizing legislation for specific categories. Also, matching requirements may be administratively required by the awarding office. Such requirements are set forth in the application kit.

Project Period/Budget Period

The project period is the total time for which support of a discretionary project has been programmatically approved. The project period consists of one or more budget periods, each generally of one year duration. Continuation of any project from one budget period to the next is subject to satisfactory performance, availability of funds, and program priorities.

Review Criteria

The following are generic review criteria applicable to HRSA programs:

(1) That the estimated cost to the Government of the project is reasonable considering the anticipated results.

(2) That project personnel or prospective fellows are well qualified by training and/or experience for the support sought, and the applicant organization or the organization to provide training to a fellow has adequate facilities and manpower.

(3) That, insofar as practical, the proposed activities (scientific or other), if well executed, are capable of attaining project objectives.

(4) That the project objectives are capable of achieving the specific program objectives defined in the program announcement and the proposed results are measurable.

(5) That the method for evaluating proposed results includes criteria for determining the extent to which the program has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the program.

(6) That, in so far as practical, the proposed activities, when accomplished, are replicable, national in scope and include plans for broad dissemination.

The specific review criteria used to review and rank applications are included in the individual guidance material provided with the application kits. Applicants should pay strict attention to addressing these criteria as they are the basis upon which their applications will be judged.

Technical Assistance

A contact person is listed for each program and his/her e-mail address and telephone number provided. Some programs may have scheduled workshops and conference calls. If you have questions concerning individual programs or the availability of technical assistance, please contact the person listed. Also check your application materials and the HRSA web site at http://www.hrsa.dhhs.gov/ for the latest technical assistance information.

Frequently Asked Questions

1. HRSA lists many telephone numbers and e-mail addresses. Whom do I phone or e-mail and when?

Phone 1–877–477–2123 (1–877–HRSA–123) to register for application kits. You must know the program's CFDA number and title.

If, before you register, you want to know more about the program, an e-mail/phone contact is listed. This contact can provide information concerning the specific program's purpose, scope and goals, and eligibility criteria. You will usually be encouraged to request the application kit so that you will have clear, comprehensive and accurate information available to you. The application kit lists telephone numbers for a program expert and a grants management specialist who will provide technical assistance concerning your specific program, if you are unable to find the information within the materials provided.

2. The dates listed in the **Federal Register** notice and the dates in the application kit do not agree. How do I know which is correct?

First, register at 1–877–477–2123 (1–877–HRSA–123) for each program that you are interested in as shown in the Notice.

Notice dates for application kit availability and application receipt deadline are based upon the best known information at the time of publication. Occasionally, the grant cycle does not begin as projected and dates must be adjusted. The deadline date stated in your application kit is most likely to be correct. If the application kit has been made available and subsequently the date changes, notification of the change will be mailed to known recipients of the application kit. Therefore, if you are registered at 1–877–477–2123 (1–877–HRSA–123), you will receive the most current information.

3. Are programs announced in the **Federal Register** notice ever canceled?

Infrequently, programs announced may be withdrawn from competition. If this occurs, a cancellation notice will be provided at the HRSA Homepage at http:Hwww.hrsa.dhhs.gov/.

If you still have unanswered questions, please contact John Gallicchio or Jeanne Conley of the HRSA Grants Policy Branch at 301–443–6507 (jgallicchio@hrsa.gov or jconley@hrsa.gov).

Maternal and Child Health Bureau (MCHB)

Grants Management Office: 301–443–1440.

The MCHB announces the following three grant programs:

1. Pediatric Emergency Department Research Network (MCHB)

Authorization: Section 501 of the Social Security Act, 42 USC 701.

Purpose

The purpose of this program is to support the development of an infrastructure for a multi-center pediatric emergency department network to facilitate data collection on management of pediatric emergencies.

Eligibility: 42 CFR Part 51a.3.

Funding Priorities and/or Preferences: N/A.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition: $350,000.

Estimated Number of Awards: 1.

Estimated Project Period: 3 to 4 years.

Application Availability: 5/1/00.

To Obtain This Application Kit

CFDA Number: 93.110RS.

Call for Application Kit: 1–877–477–2123 (1–877–HRSA–123).

Application Deadline: 6/26/00.

Projected Award Date: 9/1/00.

The first budget period is expected to be ten months; subsequent budget periods will be 12 months.

Contact Person: Maria Baldi 301 443–6192 e-mail: mbaldi@hrsa.gov.

2. Early Postpartum Discharge Research Agenda (MCHB)

Authorization: Section 501 of the Social Security Act, 42 USC 701.

Purpose

The purpose of this grant is to build consensus on an optimal research agenda to guide practice and policy related to early postpartum discharge, and to work with the Secretary's Advisory Committee on Infant Mortality to produce the reports and conduct the research agenda specified in the Newborns' and Mothers' Health Protection Act of 1996.

Eligibility: 42 CFR Part 51a.3.

Funding Priorities and/or Preferences

A funding preference will be given to institutions of higher learning with extensive experience in early discharge research, linkage with the Secretary's Advisory Committee on Infant Mortality, and published research and recognition in the relevant field.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition: $250,000.

Estimated Number of Awards: 1.

Estimated Project Period: 2 to 3 years.

Application Availability: 2/23/00.

To Obtain This Application Kit

CFDA Number: 93.110RT.

Call for Application Kit: 1–877–477–2123 (1–877–HRSA–123).

Application Deadline: 5/1/00.

Projected Award Date: 8/1/00.

The first budget period is expected to be nine months; subsequent budget periods will be 12 months.

Contact Person: Alicia Scott-Wright 301/443–0700 e-mail: ascott-wright@hrsa.gov.

3. Partnership for State Title V MCH Leadership Community Cooperative Agreement Authorization Social Security Act, Title V, 42 U.S.C. 701

Purpose

The purpose of this program is to fund a cooperative agreement with a professional organization representing the State Title V MCH leadership community. The agreement will provide a forum for State Title V MCH leaders concerned with issues related to maternal and child health and involved in sustaining systems of care and providing support to families affected by MCH issues. Specifically, this program is designed to facilitate the dissemination of new information in a format that will be most useful to State Title V MCH leaders when developing MCH policies and programs in the private and public sectors at local, State and national levels. Additionally, this program will facilitate MCHB understanding of State Title V MCH leaders' concerns.

Eligibility: 42 CFR Part 51a.3.

Funding Priorities and/or Preferences

A preference will be given to national membership organizations representing the State Title V MCH Community. Preference will be given to entities clearly demonstrating capacity to represent State Title V MCH Directors and national expertise in the development and dissemination of information relevant to State Title V MCH agencies.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition: $1,200,000.

Estimated Number of Awards: 1.

Estimated Project Period: 5 years.

Application Availability: 6/1/00.

To Obtain This Application Kit

CFDA Number: 93.110Q.

Call for Application Kit: 1–877–477–2123 (1–877–HRSA–123).

Application Deadline: 8/1/2000.

Projected Award Date: 9/30/00.

The first budget period is expected to be eleven months; subsequent budget periods will be 12 months.

Contact Person: Kerry Nesseler 301/443–2170 e-mail: knesseler@hrsa.gov.

HIV/AIDS Bureau (HAB)

Grants Management Office: 1–301–443–2280.

The HAB announces the following grant program:

Special Projects of National Significance (SPNS).

''New Competition for Demonstration and Evaluation Models that Advance HIV Service Innovation along the U.S.-Mexico Border''.

Authorization: Section 2691 of the Public Health Service Act, 42 U.S.C. 300ff–10.

Purpose: This initiative is part of the larger HRSA U.S.-Mexico Border Health Program established in August 1996 to more effectively address the severe lack of access to primary health care in this region. It is being undertaken by HAB in conjunction with the Bureau of Primary Health Care (BPHC) and the HRSA Field Offices. One service award will be made in each of the four U.S.-Mexico Border States—Arizona, California, New Mexico, and Texas—for a total of four service awards of approximately $400,000 each per year. A single evaluation award will also be made for the whole four-state program for approximately $200,000 per year. In addition, BPHC will make direct supplemental awards averaging $100,000 per year to Community and Migrant Health Centers (C/MHCs) identified as major participants in the four projects selected by HAB for funding.

Eligibility

Public and nonprofit private entities are eligible to apply. Applicant organizations for each of the four service projects must be located within a 62 mile wide area adjacent to the U.S.-Mexico border in the States of Arizona, California, New Mexico, and Texas. Applicants for the single evaluation project must have experience evaluating the delivery of health services to populations who have difficulty accessing primary health care.

Funding Priorities and/or Preferences

For the single evaluation center, applicants with experience in evaluating access to health care in border areas is preferred.

Review Criteria: Final criteria are included in the application kit.

Estimated Amount of This Competition: Approximately $1,800,000 from HAB.

Estimated Number of Awards: Four service awards; one evaluation award. In addition, BPHC anticipates making one supplemental award to each C/MHC affiliated with the program.

Estimated Project Period: 5 years.

To Obtain This Application Kit

CFDA Number: 93.928.

Call for Application Kit: 1–877–477–2123 (1–877–HRSA–I23).

Application Deadline: 02/15/00.

Projected Award Date: 05/01/00.

Note: Although the application receipt deadline is as soon as February 15, the HAB has publicized the grant offering extensively so that virtually all eligible applicants in the limited geographic area of eligibility have been notified. Application guidance has been sent to all current Ryan White grantees and all BPHC C/MHCs. In addition, HRSA field offices have held community-level meetings in each state concerning this offering, and an announcement has been posted on the HRSA Web site at www.hrsa.dhhs.gov/hab/grant.htm.

Contact person: Steve Young 301/443–7136 e-mail: syoung@hrsa.gov.

[FR Doc. 00–3918 Filed 2–17–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of a Cooperative Agreement With the National Governors' Association Center for Best Practices

The Health Resources and Services Administration (HRSA) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement with the National Governors' Association (NGA) Center for Best Practices to develop and convene national and regional policy forums and provide educational and resource materials emanating from these forums for State policymakers on areas addressing the health care needs of the underserved and vulnerable populations, needs of health care providers who serve vulnerable populations, and related public health issues.

The purpose of this project is to assist the NGA in developing a series of national and regional forums to facilitate a better understanding and coordination of public and private health programs designed to assist vulnerable populations and safety net providers. There is no ongoing forum that can convene the high-ranking decisionmakers representing the many Federal, State, provider, and private sector interests around an issue of importance to HRSA. Such a forum will facilitate communication on current and emerging strategies addressing common priorities, and will enable HRSA to better leverage limited resources by improving planning and program design to complement other public and private sector initiatives serving the needs of the same populations. Through this project, NGA will provide assistance to HRSA and HRSA grantees, such as States and local governments, health centers, MCH programs, rural health offices, etc., to evaluate the effectiveness of their programs and initiatives to address the needs of the underserved and targeted populations.

Authorizing Legislation

This program is authorized under sections 330(k) and 761(b) of the Public Health Service Act, as amended, and sections 509 and 711 of the Social Security Act, as amended.

Eligible Applicants

Assistance will be provided only to the NGA Center for Best Practices. No other applications are solicited.

The NGA is the only bipartisan organization that represents governors and their staff of the 50 States, the commonwealths of the Northern Mariana Islands and Puerto Rico, and the U.S. flag territories of American Samoa, Guam, and the Virgin Islands. It is the only national conduit for governors to communicate with each other to share ideas. In addition, the NGA provides a unique network for sharing experiences and information with governors and staffs throughout the nation, including serving as a unique source for policy research, publications, consulting services, and meetings which are tailored to the needs of the governors.

The NGA is the source for information on hundreds of policy issues. It connects governors with policy innovators and national experts. It also uses a variety of technologies and resources to assist governors and their staff that include:

1. Research and analysis for States on emerging and priority issues and innovative State enterprises.
2. Information Clearinghouse to track, evaluate, and disseminate information on State programs and State best practices.
3. Publications with formats designed specifically for the State governors. NGA produces regular reports, policy positions, issue briefs, management briefs, and articles on issues critical to States.
4. NGA conducts national meetings and intensive workshops planned specifically for the governors and their staff to support State-to-State communication on technical issues and assistance in solving State focused problems. As the Nation's only organization that represents and links governors and their staff from all 50 States and the territories, NGA is in a unique position to disseminate information on public health issues to State agencies and convene information-sharing meetings among State government employees, executive branch officials, and staff.

Availability of Funds

Approximately $125,000 is available in FY 2000 to fund this award. It is expected the award will begin on or about April 1, 2000, and will be for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change.

Continuation awards within the approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Program Requirements

This project will provide an agency-level cooperative agreement with NGA to address cross-cutting publicly funded health program integration and health access issues identified by the governors and their representatives. Through this project, NGA will provide assistance to HRSA and HRSA grantees, such as States and local governments, health centers, MCH programs, rural health offices, etc., to evaluate the effectiveness of their programs and initiatives to address the needs of the underserved and targeted populations. It will be built around activities that are mutually agreed to by HRSA and NGA, including addressing HRSA priority issues and consultations on the experts who should be invited to participate in the forums with the NGA. Specifically, HRSA will have input into the planning of the forums, including developing the agendas and identifying participants who should be invited to address issues of importance from the Federal perspective at these forums.

The recipient will be responsible for carrying out activities to support the following:

(a) Develop and maintain an information clearinghouse for use by governors and their staff on issues that relate to health care access for underserved and vulnerable populations, to include the prevention, early detection, and control of disease, and strengthening the public health infrastructure and health professions workforce in the States.

(b) Develop, print, and distribute articles, reports, or other documents relating to health care access, unmet population needs, provider capacity, the uses of existing data systems within States to address health care needs of the population, and the complexity of private sector initiatives for use by governors and their staffs and by HRSA grantees.

(c) Convene regional or national meetings of State executive branch employees and others, as appropriate, for discussion of public and private sector strategies and best practices in HRSA priority issues to include appropriate topics and audiences to exchange information. Some of these priority issues include: creating cross-cutting or linked information systems for publicly funded health programs serving similar populations (State Children's Health Insurance Program

(SCHIP), Medicaid, Title V of the Social Security Act, Titles I, II, III, and IV of the Ryan White CARE Act) to evaluate the effectiveness of these programs; building upon integrated public health infrastructures which use data to address public health issues of the States; reducing the rate of uninsurance; addressing the unmet needs of the uninsured; addressing ways to facilitate comprehension and participation of low income families in the health care system; improving the quality of care delivered by health care providers; improving the health status of vulnerable populations; and serving as a mechanism to address agency and departmental initiatives, such as oral health and mental health.

(d) Convene small group meetings comprised of selected State program officials and other key stakeholders to address key SCHIP/Medicaid/Title V issues, effective integration of States' activities under SCHIP with HRSA program activities, SCHIP outreach assessment, and emerging issues, such as options for States to provide family coverage and employer-subsidized coverage.

(e) Participate in HRSA-sponsored meetings and events, as appropriate.

(f) Coordinate activities with State and local health department contacts, including public health experts, to ensure that NGA members are aware of public health programs and activities in their State or region.

Where To Obtain Additional Information

Lynnette Araki, Program Analyst, Office of Planning, Evaluation and Legislation, Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Room 14–36, Rockville, Maryland 20857, Telephone (301) 443–6204, E-mail: Laraki@hrsa.gov.

Dated: February 11, 2000.

Claude Earl Fox,

Administrator.

[FR Doc. 00–3917 Filed 2–17–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (60 FR 56605 as amended November 6, 1995, as last amended at 64 FR 69274 dated December 10, 1999). This notice reflects the organizational and functional changes in the West Central Field Cluster (RF4).

Section RF–10—Organization

The West Central Field Cluster is headed up by the Field Director who reports directly to the Associate Administrator, Office of Field Operations. The West Central Field Cluster is organized as follows:

A. Immediate Office of the Field Director.

B. Office of Planning, Analysis and Evaluation.

C. Division of Operations I.

D. Division of Operations II.

E. Division of Operations III.

Section RF–20—Function

Immediate Office of the Field Director (RF 43)

Serves as HRSA's senior public health official in the West Central cluster, providing liaison with State and local health officials as well as professional organizations; (2) provides input from local, regional and state perspectives to assist the Administrator and the Associate Administrators in the formulation, development, analysis and evaluation of HRSA programs and initiatives; (3) at the direction of the Administrator and/or in conjunction with the HRSA Associate Administrators and the Associate Administrator, Office of Field Operations, coordinates the field implementation of special initiatives which involve multiple HRSA programs and/or field offices (e.g., Border Health); (4) assists with the implementation of HRSA programs in the field by supporting the coordination of activities, alerting program officials of potential issues and assessing policies and service delivery systems; (5) represents the Administrator in working with other Federal agencies, state and local health departments, schools of public health, primary care associations and organizations, community health centers, and others in coordinating health programs and activities; and (6) exercises line management authority as delegated from the Administrator for general administrative and management functions within the field structure.

Office of Planning, Analysis and Evaluation (RF44)

Provides technical assistance, consultation, training to Field Cluster staff, grantees related to data systems, planning, and evaluation; (2) serves as focal point for States and Agency grantees on data and data systems issues related to HRSA program requirements; (3) develops statistical profiles of HRSA grantees in the region, and analysis of Geographic Information Systems profiles and other profiles developed by federal, state and local agencies in the region; (4) develops State profiles; (5) conducts and disseminates, as appropriate, trend analysis of financial data, health indicators, and service data to identify emerging trends among HRSA grantees and health service catchment areas in the Southeast; (6) provides consultation and support to private nonprofit organizations involved in health care delivery around special studies, research, and evaluation related to health disparities; (7) analyzes program related reports; and (8) maintains Field Cluster program related database.

Division of Operations I (RF45)

Directs and coordinates field development and implementation of HRSA programs and activities in two states within the West Central Field Cluster designed to increase access, capacity, and capabilities of local and state health systems and programs serving the underserved populations in the states served by the cluster, including primary care programs, maternal and child health, HIV/AIDS, health facilities construction under the Hill-Burton Program, rural health, and other health related programs in the cluster; (2) provides continuous program monitoring of HRSA health service grants and contracts for compliance with applicable laws, regulations, policies, and performance standards; (3) assists in the implementation and monitors policies related to National Health Service Corps scholarship and loan repayment programs; (4) provides for development, implementation, and monitoring of the annual field work plan related to assigned program areas, including setting objectives responsive to national and field priorities based on guidance provided by appropriate HRSA bureau components and assigns division resources required to attain these objectives; (5) coordinates with other field office staff and headquarters staff to develop and consolidate objectives crossing program and division lines; (6) serves as source of expertise on health resources and services development, primary health care, maternal and child health, rural health, HIV/AIDS, and health professions programs; (7) establishes effective communication and working relationships with health-

related organizations of States and other jurisdictions; and (8) serves as a focal point for information on health resource programs and related efforts, including voluntary, professional, academic and other private sector activities.

Division of Operations II (RF46)

Directs and coordinates field development and implementation of programs and activities in three states within the West Central Field Cluster designed to increase access, capacity, and capabilities of local and state health systems and programs serving the underserved populations in the states served by the cluster, including primary care programs, maternal and child health, HIV/AIDS, health facilities construction under the Hill-Burton Program, rural health, and other health related programs in the cluster; (2) provides continuous program monitoring of HRSA health service grants and contracts for compliance with applicable laws, regulations, policies, and performance standards; (3) assists in the implementation and monitors policies related to National Health Service Corps scholarship and loan repayment programs; (4) provides for development, implementation, and monitoring of the annual field work plan related to assigned program areas, including setting objectives responsive to national and field priorities based on guidance provided by appropriate HRSA bureau components and assigns division resources required to attain these objectives; (5) coordinates with other field office staff and headquarters staff to develop and consolidate objectives crossing program and division lines; (6) serves as source of expertise on health resources and services development, primary health care, maternal and child health, rural health, HIV/AIDS, and health professions programs; (7) establishes effective communication and working relationships with health-related organizations of States and other jurisdictions; and (8) serves as a focal point for information on health resource programs and related efforts, including voluntary, professional, academic and other private sector activities.

Division of Operations III (RF47)

Directs and coordinates field development and implementation of programs and activities in six states within the West Central Field Cluster designed to increase access, capacity, and capabilities of local and state health systems and programs serving the underserved populations in the states served by the cluster, including primary care programs, maternal and child health, HIV/AIDS, health facilities construction under the Hill-Burton Program, rural health, and other health related programs in the cluster; (2) provides continuous program monitoring of HRSA health service grants and contracts for compliance with applicable laws, regulations, policies, and performance standards; (3) assists in the implementation and monitors policies related to National Health Service Corps scholarship and loan repayment programs; (4) provides for development, implementation, and monitoring of the annual field work plan related to assigned program areas, including setting objectives responsive to national and field priorities based on guidance provided by appropriate HRSA bureau components and assigns division resources required to attain these objectives; (5) coordinates with other field office staff and headquarters staff to develop and consolidate objectives crossing program and division lines; (6) serves as source of expertise on health resources and services development, primary health care, maternal and child health, rural health, HIV/AIDS, and health professions programs; (7) establishes effective communication and working relationships with health-related organizations of States and other jurisdictions; and (8) serves as a focal point for information on health resource programs and related efforts, including voluntary, professional, academic and other private sector activities.

Section RF–30 Delegations of Authority

All delegations and redelegations of authority which were in effect immediately prior to the effective date hereof have been continued in effect in them or their successors pending further redelegation.

This reorganization is effective upon the date of signature.

Dated: February 8, 2000.

Claude Earl Fox,

Administrator.

[FR Doc. 00–3916 Filed 2–17–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: January 2000

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of January 2000, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, *e.g.*, a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ANDERSON, DANIEL HENRY LEAWOOD, KS	02/20/00
ANELLO, ANDREW FLORAL PARK, NY	02/20/00
ATKINSON, ROBERT W BREA, CA	08/18/99
BRITO, MARIANELA MIAMI, FL	02/20/00
DUCRO, THOMAS A BREWSTER, MA	02/20/00
EL-ATTAR, MOHAMED A SOUTHFIELD, MI	02/20/00
HUTTO, DAVID TUCKER, GA	02/20/00
JAIN, SWARAN K LANSING, KS	02/20/00
LAHUE, RONALD H LEAWOOD, KS	02/20/00
LAHUE, ROBERT C STILWELL, KS	02/20/00
LUTHER, CHARLES EDWARDSVILLE, IL	02/20/00
MCQUEEN, VELDA LYNN VICTORVILLE, CA	02/20/00
PAYETTE, TAMMY LEE PASADENA, CA	02/20/00
PERKINS, CASSANDRA PAULA LOS ANGELES, CA	02/20/00
PICARD, PAUL D MELBOURNE, FL	02/20/00
SANTER, MARJORIE ANN FRESNO, CA	02/20/00
SAUCIER, BILLY GRANADA HILLS, CA	02/20/00
SINGH, TARVINDER YUBA CITY, CA	02/20/00
TARASSOUM, MARY R STONE MOUNTAIN, GA	02/20/00
TIPPETT, PAUL WINSTON VIDALIA, GA	02/20/00
TORRETTI, MICHAEL C RAMONA, CA	02/20/00
WALLO, GARY J JR	02/20/00

Subject, city, state	Effective date
WHITE LAKE, MI	
WHITEBLOOM, GREGORY ..... CRETE, IL	11/09/99

FELONY CONVICTION FOR HEALTH CARE FRAUD

DRASIN, MARTIN ..... MERRICK, NY	02/20/00
HUSSAIN, CHAUDHRY ..... WHITESTONE, NY	02/20/00

FELONY CONTROL SUBSTANCE CONVICTION

D'MORIAS, JEREMY L ..... FRESNO, CA	02/20/00
FRANCIS, WILLIAM J ..... SPRING LAKE, MI	02/20/00
LITTERELL, LINDA SUE ..... JENNINGS, OK	02/20/00
NIGALYE, BALKRISHNA ..... ALBERTSON, NY	02/20/00
RALLS, TEENA SHEREEN ..... ANNA, IL	02/20/00

PATIENT ABUSE/NEGLECT CONVICTIONS

ANDERSON, WILFRED LOUIS CLEVELAND, OH	02/20/00
BARRERE, SHARON ..... EKALAKA, MT	02/20/00
BEATTY, LINDA ..... CALVERSTON, NY	02/20/00
BRONSON, CYNTHIA L ..... CORNING, NY	02/20/00
CALDWELL, LUCIANA ..... NEWBERRY, SC	02/20/00
DOM, KOLLARY LYNDA ..... CANYON, TX	02/20/00
HEYWARD, JAMES ..... SYRACUSE, NY	02/20/00
HILL, BRETT C ..... HORSEHEADS, NY	02/20/00
KRUGLICK, LEWIS JOHN ..... SALINAS, CA	02/20/00
LOMELLI, SALLY NAVARETTE PORTERVILLE, CA	02/20/00
MENAFO, CARMINE ..... HONOLULU, HI	02/20/00
MENDENHALL, LUCY ..... LUDLOW, MA	02/20/00
PANICK, TAMERA JEAN ..... GUTHRIE, OK	02/20/00
PASCO, CHARITY R ..... TEMPLE TERRACE, FL	02/20/00
PERRY, ROSA LEE ..... AKANSAS CITY, KS	02/20/00
PICKENS, DIANA JAN ..... TUCSON, AZ	02/20/00
SIGNOR, LINDA M ..... HUDSON FALLS, NY	02/20/00
SIMIEN, VICKIE D ..... LAKE CHARLES, LA	02/20/00
WEST, CARY EUGENE ..... GILBERT, AR	02/20/00
WILLIAMS, GARY ..... CANTON, MS	02/20/00

CONVICTION FOR HEALTH CARE FRAUD

GARZA, TIFFANY ..... WICHITA, KS	02/20/00

CONVICTION—OBSTRUCTION OF AN INVESTIGATION

EASLEY, MOLLY ..... TUCKERMAN, AR	02/20/00
KONTOS, DIMITRIOS ..... ENGLEWOOD, NJ	02/20/00

LICENSE REVOCATION/SUSPENSION/SURRENDERED

ABRAM, SALLY K ..... HOPKINS, MN	02/20/00
ACKLEY, JANINE M ..... FARMINGDALE, NY	02/20/00
ALFARO, LINDA M ..... ST PAUL, MN	02/20/00
ALTMAN, ROBERT MICHAEL ALEXANDRIA, VA	02/20/00
ARMENT, PENNY S ..... GREEN ROCK, IL	02/20/00
BALCH, GWYN ..... WAITSFIELD, VT	02/20/00
BARNETTE, SALLY C ..... FAIR OAKS, CA	02/20/00
BEACHLER, EMILYN GREER REFORM, AL	02/20/00
BEHR, LAURA DIANE MINOR MUSCLE SHOALS, AL	02/20/00
BENFATTO, FRANK JR ..... OXNARD, CA	02/20/00
BENISCHECK, LAURA L ..... PHILADELPHIA, PA	02/20/00
BOISROND, MARTINE C ..... ELMONT, NY	02/20/00
BRACKET, ANGELIA DENISE BOAZ, AL	02/20/00
BRYSON, CECELIA ANN ..... ROSSVILLE, GA	02/20/00
CAMPBELL, RITA CULLIFER .. SLOCUMB, AL	02/20/00
CASTANERA, PAMELA ..... ST HELENA, CA	02/20/00
CLOUSE, ROBIN LEIGHNAY .. HUNTSVILLE, AL	02/20/00
COCHRAN, PAMELA R ..... DES MOINES, IA	02/20/00
COLE, LENA RUTH ..... FLORENCE, AL	02/20/00
COLLINS, KAREN L ..... MULKEYTOWN, IL	02/20/00
CZAJKOWSKI, DENIS P ..... COLLEGEVILLE, PA	02/20/00
DAVIS, KRISTIN J ..... STEWARTVILLE, MN	02/20/00
DAVIS, ELIZABETH J ..... HASTINGS, MN	02/20/00
DELOUGHERY, GRACE L ..... LA CRESCENT, MN	02/20/00
DONALDSON, KATHLEEN L ... ST CLOUD, MN	02/20/00
DUDLEY, BETTE E ..... BINGHAMTON, NY	02/20/00
ENGLE, JOSEPH D ..... READING, PA	02/20/00
FEMLING, CINDY L ..... DENT, MN	02/20/00
FIDDERMON, MARYLN ..... UPPER MARLBORO, MD	02/20/00
FINLEY, SEAN MICHAEL ..... LARGO, FL	02/20/00
FRANKOVICH, LORA L ..... RICHMOND, VA	02/20/00
FRESE, JAMES LYLE ..... CHULA VISTA, CA	02/20/00
GOLPHENEE, MALINDA D ..... RIFLE, CO	02/20/00
GORMLEY, CATHERINE E ..... NEWTON, MA	02/20/00
HAALAND, MELODY R ..... GARY, MN	02/20/00
HANSON, CAROL L ..... DENVER, CO	02/20/00
HASSON, BRIDGET T ..... PHILADELPHIA, PA	02/20/00
HAYES, LORI CAROL ..... HUNTINGTON BEACH, CA	02/20/00
HEINZ, LINDA B ..... ORWELL, VT	02/20/00
HENSON, BELINDA MOORE .. HARPERSVILLE, AL	02/20/00
HIATT, MARIE E ..... MARSHALL, IL	02/20/00
HODGES, RAMONA JOY ..... OMAHA, TX	02/20/00
HOFF, KAREN D ..... AKELEY, MN	02/20/00
HOLLAND, CECIL J ..... NEW BRAUNFELS, TX	02/20/00
HOLT, ANGELA D ..... DETROIT LAKES, MN	02/20/00
HOWARD, EDWARD LEE ..... BIRMINGHAM, AL	02/20/00
JORENBY, NITA JO ..... BESSEMER, AL	02/20/00
KENT, ETTA DAVIS LOVE ..... JACKSONVILLE, TN	02/20/00
KIM, YOUNG I ..... SAYVILLE, NY	02/20/00
KINTOP, CRISTY J ..... BRAINERD, MN	02/20/00
LAYNE, CHESTER L ..... SPRINGFIELD, IL	02/20/00
LEE, JAMES H ..... BRIDGEVIEW, IL	02/20/00
LEVITT, WILLIAM LAWRENCE DANVILLE, CA	02/20/00
LINSE-ZURIO, MARYBETH T CRYSTAL LAKE, IL	02/20/00
LOPEZ, CLYDE EDGAR ..... SANTA MARGARITA, CA	02/20/00
LUELLEN, VELMA ..... COLORADO SPRNGS, CO	02/20/00
MALLINGA, STEPHEN O ..... UGANDA, E AFRICA,	02/20/00
MAYER, GABRIEL ..... MAITLAND, FL	02/20/00
MELVIN, PHYLLIS FAYE ..... HARVEST, AL	02/20/00
MICKELSON, SHARRON A ..... THORNTON, CO	02/20/00
MORROW, SONIA KAY ..... DELTA, AL	02/20/00
MOSELEY, FLORENCE ALISIA ..... MERIDIAN, MS	02/20/00
MURDOCK, LINDA M ..... BENNINGTON, VT	02/20/00
MURO, PHYLLIS D ..... ROSEVILLE, MI	02/20/00
NAVES, VICKIE LYNNE ..... ATHENS, AL	02/20/00
OLSON, SHEILA K. ..... NELSON, MN	02/20/00
ORTIZ, ARMANDO L	02/20/00

Subject, city, state	Effective date
SYKESVILLE, MD	
PAGETT, LINDA MARIE ..... VENICE, FL	02/20/00
PANTAZI, BETH L ..... NORFOLK, MA	02/20/00
PEEBLES, PATRICIA ANN ..... JACKSON, MS	02/20/00
PETERSON, CHARLES A ..... SAN LEANDRO, CA	02/20/00
PETERSON, MICHELE J ..... SUPERIOR, WI	02/20/00
PRINCE, JENNIE V ..... PIPESTONE, MN	02/20/00
PUPECK, MARIA C ..... LEBANON, PA	02/20/00
PURVIANCE, RICHARD B ..... STREATOR, IL	02/20/00
QUAREQUIO, FRANCESCO ... WIDEN, WV	02/20/00
RAMIREZ, EDUARDO L ..... STONE PARK, IL	02/20/00
RATCLIFFE, JENNIE R ..... TRUMAN, MN	02/20/00
REID, DARCY D ..... CHISAGO CITY, MN	02/20/00
ROBINSON, JASPER JR ..... HOMEWOOD, IL	02/20/00
ROMANICK, MICHAEL ROBERT ..... LAKEWOOD, CA	02/20/00
ROMERO, JOSE E ..... MIAMI, FL	02/20/00
RYAN, JENNIFER LYNN ..... BIRMINGHAM, AL	02/20/00
RYHTI, CAROLYNN D ..... MOUNDSVIEW, MN	02/20/00
SANBERG, JOHN CARTER .... TULSA, OK	02/20/00
SATHER, JAY E L ..... PLYMOUTH, MN	02/20/00
SCHAAR, SHEILA E ..... DEER RIVER, MN	02/20/00
SCHAFFNER, DEBRA KLOSTERMAN ..... PITTSBURGH, PA	02/20/00
SCHIELD, SIGNE ..... MINNEAPOLIS, MN	02/20/00
SERENA, TERESA B ..... MADISON, AL	02/20/00
SHEEHY, MARGARET ANNE OLEAN, NY	02/20/00
SHULTZ, PAMELA J ..... APPLE VALLEY, MN	02/20/00
SIMMONS, JEAN S ..... RAINBOW CITY, AL	02/20/00
SINNETT, COVA SHANNON ... SYLACAUGA, AL	02/20/00
SMITH, ANDREW JACKSON .. BAYOU LA BATRE, AL	02/20/00
SMITH, PHYLLIS RUTH ..... SCOTTSBORO, AL	02/20/00
SMITH, CARRIE L ..... DULUTH, MN	02/20/00
SOLDANI, MARY E ..... MEMPHIS, TN	02/20/00
SPIVEY, SUSAN MARIE ..... BEACH PARK, IL	02/20/00
STEINBERG, ROXANNE M ..... COLUMBIA HGTS, MN	02/20/00
STIRDIVANT, AMY ..... GRAND RAPIDS, MI	02/20/00
STREIT, ROGER CRAIG ..... SAN ANTONIO, TX	02/20/00
STROM, KARLA A ..... CEDAR RAPIDS, IA	02/20/00
SVIOKLA, SYLVESTER CHARLES ..... LA JOLLA, CA	02/20/00
SWINDLE SCOTT, CHERYL ANNE ..... EMMETT, ID	02/20/00
TANG, DONNA J ..... ROMEOVILLE, IL	02/20/00
THEIN, SUSAN M ..... ANDOVER, MN	02/20/00
THOMPSON, MELISSA HALL STARKVILLE, MS	02/20/00
TRUONG, DANH CONG ..... GARDEN GROVE, CA	02/20/00
VAN WAGNER, KATHLEEN MARGARET ..... SCHENECTADY, NY	02/20/00
WALKER, ROGER C ..... KENMORE, NY	02/20/00
WALLACE, BARBARA ELAINE LUFKIN, TX	02/20/00
WARK, ELLEN ADAMS ..... HANOVER, PA	02/20/00
WECKESSER, HENRY ..... LONGMONT, CO	02/20/00
WEGSCHEID, ODELIA E ..... CHAMPLIN, MN	02/20/00
WEISS, LOIS C ..... FOSSTON, MN	02/20/00
WEST, ANGELA KAY ..... LANETT, AL	02/20/00
WHITEHEAD, TANYA ..... CHEYENNE, WY	02/20/00
YOUNG, ARTHUR D ..... MONTCLAIR, CA	02/20/00
FEDERAL/STATE EXCLUSION/ SUSPENSION	
GOPAL, RAM ..... SKOKIE, IL	02/20/00
LUANGKESORN, PRASERT ... MORTON GROVE, IL	02/20/00
MIGALE, SIMON ..... JOLIET, IL	02/20/00
SONG, YOU SOOL ..... WATESKA, IL	02/20/00
VEGA, HATUEY M ..... CHICAGO, IL	02/20/00
FRAUD/KICKBACKS	
JENKINS, JAMES T ..... CHRISTOPHER, IL	02/20/00
LEON SCD UNLIMITED ..... VINELAND, NJ	02/05/98
MKM NURSING HOME SPECIALITIES ..... TREVEOSE, PA	01/31/00
OWNED/CONTROLLED BY CONVICTED/ EXCLUDED	
CHOICE MANAGEMENT SERVICES INC ..... LECANTO, FL	02/20/00
PAUL PICARD, INC ..... MELBOURNE, FL	02/20/00
THE RECOVERY SOURCE UNLIMITED ..... MELBOURNE, FL	02/20/00
DEFAULT ON HEAL LOAN	
BOHNKER, CRAIG R ..... STORY CITY, IA	02/20/00
BROWN, KURT T ..... GRAHAM, TX	02/20/00
CLARK, RICHARD D ..... SAN DIEGO, CA	02/20/00
COFFMAN, RICHARD D ..... GRANITE, OK	02/20/00
COLE, DOUGLAS R ..... WOODLANDHILLS, CA	02/20/00
COLE, RANDAL W ..... HULL, MA	02/20/00
COOMBS, TIMOTHY R ..... ANAHEIM, CA	02/20/00
CRUMBLEY, WILLIAM R ..... REDINGTON SHORES, FL	02/20/00
DE FAZIO-MATHEWS, DANIEL ..... BRONX, NY	02/20/00
DIAZ, RUBEN D ..... FLUSHING, NY	02/20/00
DUEY, KENNETH A ..... LANSING, IL	02/20/00
EASLEY, WILLIAM W ..... HILLSBORO, OH	02/20/00
EPARD, DEBRA A ..... SILVER SPRING, MD	02/20/00
FERRIS, JEFFREY D ..... CARSON CITY, NV	02/20/00
GIFFORD, CRAIG P ..... SALT LAKE CITY, UT	12/28/99
GOMEZ, MENELEO P ..... GLENDALE, CA	02/20/00
GONZALEZ, MARIA E ..... E ROCKAWAY, NY	02/20/00
GROISMAN, LEONID ..... BROOKLYN, NY	02/20/00
HOLLOWAY, NATHANIEL L JR ..... LOS ANGELES, CA	02/20/00
JACKSON, DARLENE D ..... WORDEN, IL	02/20/00
LUCAS, TIMOTHY P ..... MOUNT CLEMENS, MI	02/20/00
MATTHEW, STEPHEN M ..... FORT SMITH, AR	02/20/00
MILLS, M STEPHEN ..... GROVE CITY, OH	02/20/00
MOORE, JOSEPH T ..... VANDALIA, IL	02/20/00
REYES, LUCIO A ..... EL PASO, TX	02/20/00
SARACO, VICENTE O ..... BROOKLYN, NY	02/20/00
STEINER, JEAN MARIE ..... NEWTOWN, PA	02/20/00
TAYLOR, KATHLEEN D ..... FORT WORTH, TX	02/20/00
WAGONER, IRA J ..... FOSTER CITY, CA	02/20/00

Dated: February 2, 2000.

Kathy Pettit,

Acting Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 00–3951 Filed 2–17–00; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group Subcommittee F—Manpower & Training.

Date: March 5–8, 2000.

Time: 6:30 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn-Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: Mary Bell, PhD, Health Scientist Administrator, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, PHS, DHHS, Rockville, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support, 93,398, Cancer Research Manpower; 93,399, Cancer Control, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3997 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Quick Trials for Prostate Cancer Therapy Grants.

Date: March 3, 2000.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Brian E. Wojcik, PhD., Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8019, Bethesda, MD 20892, 301/402–2785.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 92.298, Cancer Research Manpower, 93.399, Cancer Control, National institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3998 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee G—Education.

Date: March 20–22, 2000.

Time: 1 pm to 12 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Harvey P. Stein, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, Rm. 611B, Rockville, MD 20892, (301) 496–7481.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–4004 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Dietary and Hormonal Determinants of Cancer in Women.

Date: March 12–14, 2000.

Time: 7:30 pm to 12 pm

Agenda: To review and evaluate grant applications.

Place: Bell Tower Hotel, 300 South Thayer Street, Ann Arbor, MI 48104.

Contact Person: Christopher L. Hatch, Phd., Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8044, Bethesda, MD 20892, (301) 496–4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–4005 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: President's Cancer Panel.

Date: March 8, 2000.

Time: 9 am to 5 pm.

Agenda: Societal and Scientific Variables in Health Disparity.

Place: National Institutes of Health, 31 Center Drive, Building 31, Room 4A48, Bethesda, MD 20892–2473.

Contact Person: Maureen O. Wilson, PhD, Executive Secretary, National Cancer Institute, National Institutes of Health, 31 Center Drive, Building 31, Room 4A48, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393 Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–4006 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Minority Programs Review Committee, MBRS Review Subcommittee B.

Date: March 15–17, 2000.

Time: 9 AM to 2 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael A. Sesma, PhD, Office of Scientific Review, NIGMS, Natcher Building, Room 1AS19, 45 Center Drive, Bethesda, MD 20892, (301) 594–0534.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3991 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b((c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: March 20–21, 2000.

Time: 8:30 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Ave, Washington, DC 20007.

Contact Person: Nasrin Nabavi, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3993 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: March 8, 2000.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700–B Rockledge Drive, Room 2103, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: M. Sayeed Quraishi, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2220, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assisance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3994 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–5 M3 S.

Date: February 28, 2000.

Time: 11 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Bldg., 45 Center Drive, Room 6AS–37, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Fransisco O. Calvo, PhD, Deputy Chief, Review Branch, DEA NIDDK, National Institutes of Health, Room 6AS37D, Bldg. 45, Bethesda, MD 20892, 301–594–8897.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3995 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: March 5–7, 2000.

Time: 7:30 pm to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: University of North Carolina at Chapel Hill, Chapel Hill, NC.

Contact Person: Jon M. Ranhand, PhD., Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: March 16–17, 2000.

Time: 6 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Hameed Khan, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3999 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

Date: March 15–16, 2000.

Time: 8:30 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Nancy B. Saunders, PhD., Scientific Review Administrator, Scientific Review Progrm, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, ns120v@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 9, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–4000 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Medical Rehabilitation Research Subcommittee.

Date: March 27, 2000.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5E03, Bethesda, MD 20892, 301–435–6908.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–4001 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Mental Retardation Research Subcommittee.

Date: March 8–10, 2000.

Time: 7:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, 515 15th Street NW, Washington, DC 20004.

Contact Person: Norman Chang, PhD., Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–4002 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Maternal and Child Health Research Subcommittee.

Date: March 7–8, 2000.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, One Metro Center, Bethesda, MD 20814.

Contact Person: Gopal M. Bhatnagar, PhD., Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

(Catalog of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–4003 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 16, 2000.
Time: 2 PM to 3 PM.
Agenda: To review and evaluate grant applications.
Place: Monarch Hotel, 2400 M Street, N.W., Washington, DC 20037.
Contact Person: Larry Pinkus, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 28, 2000.
Time: 1 PM to 1:30 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.
Contact Person: Michael Micklin, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258, micklinm@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–39.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3992 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 22, 2000.
Time: 1 PM to 2 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Karen Sirocco, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–0676.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 23, 2000.
Time: 1:30 PM to 2 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Ave., Palladian West, Chevy Chase, MD 20815.
Contact Person: Gordon L. Johnson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7848, Bethesda, MD 20892, (301) 435–1212.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 24, 2000.
Time: 1 PM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites Hotel-Harbor Building, 1000 29th Street NW, Washington, DC 20007.
Contact Person: Julian L. Azoriosa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Endocrinology and Reproductive Sciences Initial Review Group Reproductive Biology Study Section.
Date: February 28–29, 2000.
Time: 8 AM to 3 PM.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Dennis Leszczynski, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, (301) 435–1044.

This notice is being published in less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 28–29, 2000.
Time: 8 AM to 11:30 AM.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 25th Street, Washington, DC 20037.
Contact Person: Nabeeh Mourad, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, (301) 435–1222.

This notice is being published in less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 28–29, 2000.
Time: 8 AM to 4 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Michael Micklin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258, micklinm@csr.nih.gov.

This notice is being published in less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 28–29, 2000.
Time: 8 AM to 3 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, Bethesda, MD 20814.
Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, dhindsad@csr.nih.gov.

This notice is being published in less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Oncological Sciences Initial Review Group, Radiation Study Section.
Date: February 28–March 1, 2000.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: University Park Marriott, 480 Wakara Way Street, Salt Lake City, UT 84108.
Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Infectious Diseases and Microbiology Initial Review Group Experimental Virology Study Section.
Date: February 28–29, 2000.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Garrett V. Keefer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7808, Bethesda, MD 20892, (301) 435–1152.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Biophysical and Chemical Sciences Initial Review Group Physical Biochemistry Study Section.
Date: February 28–29, 2000.
Time: 8:30 AM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Gopa Rakhit, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–1721, rakhitg@csr.nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 28–29, 2000.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Ritz-Carlton Hotel, 1250 S. Hayes Street, Arlington, VA 22202.
Contact Person: Ron Manning, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, (301) 435–1723.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 28–29, 2000.
Time: 9 AM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites, Chevy Chase Pavillon, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.
Contact Person: Julian L. Azorlosa, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scentific Review Special Emphasis Panel.
Date: February 28–March 1, 2000.
Time: 5 PM to 5 PM.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Houston Baker, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892, 301–435–1175, bakerh@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 29, 2000.
Time: 8 AM to 6 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.
Contact Person: Bruce Mauer, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1187.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scentific Review Special Emphasis Panel.
Date: February 29, 2000.
Time: 10 AM to 12 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John Bishop, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7844, Bethesda, MD 20892, 301–435–1250, bakerh@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93,837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–3996 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Uteroglobin in Treatment of IgA Mediated Autoimmune Disorders

AGENCY: National Institutes of Health, Public Health Services, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in: U.S. Patent Application Serial No. 60/130,434, filed April 21, 1999 entitled, ''Uteroglobin in Treatment of IgA Mediated Autoimmune Disorders'' to Claragen, Inc., having a place of business in Silver Spring, MD. The patent rights in this invention have been assigned to the United States of America.

DATE: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before May 18, 2000.

ADDRESS: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Dennis H. Penn, Pharm.D., Technology Licensing Specialist, Office

of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7056, ext. 211; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: Uteroglobin plays a significant role in human renal disease through its effect on the deposition of IgA. This invention relates to the use of uteroglobin and its role in the diagnosis and treatment of IgA nephropathy.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 90 days from the date of this published Notice, NIH received written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to the use of the invention for the development of therapeutic and diagnostic applications relating to IgA nephropathy.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: February 14, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 00–4009 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences, National Toxicology Program: Request for Data and Nomination of Expert Scientists To Participate in the Independent Peer Review Evaluation of the Revised Up-and-Down Procedure for Assessing Acute Oral Toxicity; Evaluation of the Up-and-Down Procedure

The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) and the National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) are currently planning a meeting where an Independent Peer Review Panel (hereafter, Panel) will assess the validation status of the revised Up-and-Down Procedure (UDP). This procedure is an updated version of the Organization for Economic Cooperation and Development (OECD) Test Guideline 425 (OECD Guideline for the Testing of Chemicals, Acute Oral Toxicity: Up-and-Down Procedure. Guideline 425, adopted September 21, 1998, OECD, Paris, France, *http://www.oecd.org/ehs/test*). The revised UDP is proposed as a substitute for the existing OECD Test Guideline 401 (OECD Guideline for the Testing of Chemicals, Acute Oral Toxicity, Guideline 401, adopted February 24, 1987, OECD, Paris, France). OECD has proposed that Guideline 401 should be deleted since three alternative methods are not available (OECD Document ENV/JM(99)19, Test Guidelines Programme, Acute Oral Toxicity Testing: Data Needs and Animal Welfare Considerations, 29th Joint Meeting, June 8–11, 1999, Paris, France). Prior to deletion of Guideline 401, U.S. agencies have requested that ICCVAM conduct an independent peer review of the revised UDP to determine the validity of the method as a replacement for Guideline 401. The Panel will evaluate the extent to which the validation and acceptance criteria (outline in NIH Publication 97–3981, Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the ad hoc Interagency Coordinating Committee on the Validation of Alternative Methods, *http://ntpserver.niehs.nih.gov/htdocs/ICCVAM/iccvam.html*) have been addressed and will provide conclusions and recommendations regarding the usefulness and limitations of the method as a substitute for the traditional acute oral toxicity test method (OECD Guideline 401, 1987). The UDP has the potential to reduce the number of animals required to classify chemicals for acute oral toxicity as compared to Guideline 401.

Nomination of Experts To Serve on Review Panel and Request for Data

The Center welcomes the nomination of scientists with relevant knowledge and experience who might be considered for the Panel to review information on UDP. For each person suggested, his/her name, address, and a brief summary of relevant experience and qualifications should be provided. Where possible, telephone and fax numbers and/or e-mail address should also be provided. Nominations should be sent by mail, fax, or e-mail to NICEATM within 30 days of this notice's publication date. Correspondence should be directed to Dr. William S. Stokes, Co-Chair, ICCVAM, NTP Interagency Center for the Evaluation of Alternative Toxicological Methods, Environmental Toxicology Program, NIEHS/NTP, 79 T.W. Alexander Drive, MD EC–17, P.O. Box 12233, Research Triangle Park, NC 27709; phone: 919–541–7997; fax: 919–541–0947; e-mail: *iccvam@niehs.nih.gov.*

The Center would also welcome data and information from completed, ongoing, or planned studies using or evaluating the UDP. Information should address applicable aspects of the validation and regulatory acceptance criteria provided in NIH Publication 97–3981, Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the ad hoc Interagency Coordinating Committee on the Validation of Alternative Methods (*http://ntp-server.niehs.nih.gov/htdocs/ICCVAM/iccvam.html*). Where possible, data and information should adhere to the guidance provided in the document, Evaluation of the Validation Status of Toxicological Methods: General Guidelines for Submissions to ICCVAM (*http://iccvam.niehs.nih.gov/doc1.htm*). Both documents are available by request from NICEATM at the address provided above. Information submitted in response to this request will be incorporated into the background material provided to the Panel. The Panel's peer review meeting is anticipated to take place in early to mid-summer, and meeting information (including date and location) and public availability of the background document will be announced in a future **Federal Register** notice and will be posted on the ICCVAM website (*http://iccvam.niehs.nih.gov*). Information about studies with UDP should be sent to Dr. Stokes (contact information provided above).

Persons requesting additional information regarding the rationale for the OECD proposal to delete the OECD Guideline 401 can contact William T. Meyer, U.S. Environmental Protection Agency, Office of Pesticide Programs, phone: 703–305–7188; fax: 703–308–1805; e-mail: *Meyer.WilliamT@epa.gov.* Mail address: Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW, Mail Code 7506C, Washington, DC 20460; Federal Express address: 1921 Jefferson Davis Highway, Room 1104H, Arlington, VA 22202.

Background Information

ICCVAM, with participation by 14 Federal regulatory and research agencies, was established in 1997 to coordinate cross-agency issues relating

to validation, acceptance, and national/international harmonization of toxicological test methods. ICCVAM seeks to promote the scientific validation and regulatory acceptance of toxicological test methods that will enhance the agencies' ability to assess risks and make decisions and that will refine, reduce, and replace animal use whenever possible. NICEATM provides administrative and technical support for ICCVAM and serves as a communication and information resource. NICEATM and ICCVAM collaborate to carry out related activities needed to develop, validate, and achieve regulatory acceptance of new and improved test methods applicable to Federal agencies. These activities may include:

1. Test Method Workshops are convened as needed to evaluate the adequacy of current test methods for assessing specific toxicities, to identify areas in need of improved or new testing methods, and to identify research and validation efforts that may be needed to develop a new test method.

2. Expert Panel Meetings are typically convened to evaluate the validation status of a test method following the completion of initial development and pre-validation studies. An Expert Panel is asked to recommend additional validation studies that might be helpful in further characterizing the usefulness of a method and to identify any additional research and development efforts that might support or enhance the accuracy and efficiency of a method.

3. Independent Peer Review Panel Meetings are typically convened following the completion of comprehensive validation studies on a test method. Panels are asked to develop scientific consensus on the usefulness and limitations of test methods and to generate information for specific human health and/or ecological risk assessment purposes. Following the review of a test method, ICCVAM forwards recommendations on its usefulness to agencies for their consideration. Federal agencies then determine the regulatory acceptability of a method according to their mandates.

Additional information about ICCVAM and NICEATM can be found at the website: *http://iccvam.niehs.nih.gov.*

Dated: February 11, 2000.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 00–4010 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4566–N–02]

Notice of Proposed Information, Collection: Comment Request—Hope for Homeownership of Single Family Homes (HOPE 3)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, 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:* April 18, 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: Shelia E. Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Patricia Mason, (202) 708–0614, ext. 4588 (this is not a toll-free number) for copies of the proposed forms and other available documents:

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 affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: HOPE for Homeownership of Single Family Homes (HOPE 3).

OMB Control Number, if applicable: 2506–0128.

Description of the need for the information and proposed use: The Homeownership Opportunities for People Everywhere (HOPE 3) Program provides Federal grants to develop and implement homeownership programs for low income people. This information is needed to assist HUD monitor grantees previously awarded HOPE 3 Program Implementation Grants through the collection of data in the Program's Cash and Management Information System, environmental review assessments and annual performance report requirements. The Department does not anticipate additional awards for the HOPE 3 Program.

Agency form numbers, if applicable: SF 424, HUD–40086, 40102–A, 40101–B, 40103, 40104, and 40105.

Members of affected public: State and local governments, nonprofit organizations.

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 Department estimates that the 158 respondents will require 15,490 hours annually (approximately 100 per respondent) to prepare the information collection.

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 12, 2000.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 00–3879 Filed 2–17–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4566–N–01]

Notice of Proposed Information Collection: Comment Request—Rural Housing and Economic Development

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of

Management and Budget for review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* April 18, 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 should be sent to: Shelia E. Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Donner Buchet, (202) 708–2290, ext. 4664 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB an information collection package with respect to a Notice of Funding Availability (NOFA) for the HUD Rural Housing and Economic Development program (RHED).

The Department of Veterans Affairs and Independent Agencies Appropriation Act, 2000 (Pub. L. 106–74, approved October 20, 1999) (FY 2000 HUD Appropriations Act) authorized and appropriated $25,000,000 to develop capacity at the state and local level for developing rural housing and economic development and to support innovative housing and economic development activities in rural areas.

The funds will be available as follows:

HUD will award up to $2.75 million to build capacity at the state, tribal, and local level for rural housing and economic development. This amount will go directly to local rural non-profits, community development corporations (CDCs), and Indian tribes.

HUD will award up to $19 million to Indian tribes, State Housing Finance Agencies (HFAs), state community and/or economic development agencies, local rural non-profits, and CDCs to support innovative housing and economic development activities in rural areas.

HUD will award up to $3 million in seed support for Indian tribes, local rural non-profits, and CDCs that are located in areas that have limited capacity for the development of innovative rural housing and economic development activities.

In addition to these funds which will be awarded in response to the NOFA, the remaining $0.25 million appropriated by the FY 2000 HUD Appropriations Act will be used to maintain a clearinghouse of ideas for innovative strategies for rural housing and economic development and revitalization.

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35):

Title of Proposal: NOFA: Rural Housing and Economic Development program.

OMB Control Number, if applicable: 2506–0169.

Description of the need for the information and proposed use: The information collection is essential so that HUD staff may determine the eligibility, qualifications, and capacity of applicants to carry out activities under the Rural Housing and Economic Development program. HUD will review the information provided by the applicants against the selection criteria contained in the NOFA in order to rate and rank the applications and select the best and most qualified applicants for funding. The selection criteria are: (1) Capacity and Organizational Experience of the applicant and relevant partners; (2) Need/Extent of the problem; (3) Soundness of Approach; (4) Leveraging of Resources; and (5) Comprehensiveness and Coordination.

Agency form numbers, if applicable: SF 424 (including a maximum 25 page application in response to the Factors for Award).

Members of the affected public: Eligible applicants include rural non-profits and Community Development Corporations, Indian tribes, State Housing Finance Agencies, and state community and/or economic development agencies.

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 applicants is 700, with approximately 90 recipients. The proposed frequency of the response to the collection of information is one-time; the application needs to be submitted only one time.

Status of the proposed information collection: Reinstatement of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: February 12, 2000.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 00–3880 Filed 2–17–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4557–N–07]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing-and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding

its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should sent a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number). HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7855 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: ARMY: Mr. Jeff Holste, Military Programs, U.S. Army Corps of Engineers, Installation Support Center, Planning & Real Property Branch, ATTN: CEMP–IP, 7701 Telegraph Road, Alexandria, VA 22315–3862; (703) 428–6318; (These are not toll-free numbers).

Dated: February 10, 2000.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistance Programs.

TITLE V—FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 2/18/00

Suitable/Available Properties

BUILDINGS (by State)

Alabama

Bldg. 60101
Shell Army Heliport
Ft. Rucker Co: Dale Al 36362–5000
Landholding Agency: Army
Property Number: 21199520152
Status: Unutilized
Comment: 6082 sq. ft., 1-story, most recent use—airfield fire station, off-site use only

Bldg. 60103
Shell Army Heliport
Ft. Rucker Co: Dale Al 36362–5000
Landholding Agency: Army
Property Number: 21199520154
Status: Unutilized
Comment: 12516 sq. ft., 2-story, most recent use—admin., off-site use only

Bldg. 60110
Shell Army Heliport
Ft. Rucker Co: Dale Al 36362–5000
Landholding Agency: Army
Property Number: 21199520155
Status: Unutilized
Comment: 8319 sq. ft., 1-story, most recent use—admin., off-site use only

Bldg. 60113
Shell Army Heliport
Ft. Rucker Co: Dale Al 36362–5000
Landholding Agency: Army
Property Number: 21199520156
Status: Unutilized
Comment: 4000 sq. ft., 1-story, most recent use—admin., off-site use only

Alaska

Bldgs. 420, 422, 426, 430
Fort Richardson
Anchorage AK 99505–6500
Landholding Agency: Army
Property Number: 21199740276
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—family housing, off-site use only

Bldg. 789
Fort Richardson
Anchorage Co: AK 99505–6500
Landholding Agency: Army
Property Number: 21199910084
Status: Excess
Comment: 19,001 sq. ft., concrete block, most recent use—vehicle maint., off-site use only

Bldg. 263
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21199930111
Status: Excess
Comment: 13056 sq. ft., most recent use—housing, off-site use only

Bldg. 636
Fort Richardson
Fort Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21199930112
Status: Excess
Comment: 33,726 sq. ft., concrete block, most recent use—library, off-site use only

Bldg. 736
Fort Richardson
Fort Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21199930113
Status: Excess
Comment: 7090 sq. ft., most recent use—admin., off-site use only

Bldg. 786
Fort Richardson
Fort Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21199930114
Status: Excess
Comment: 2242 sq. ft., most recent use—driver's testing facility, off-site use only

Bldg. 978
Fort Richardson
Fort Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21199930116
Status: Excess
Comment: 2411 sq. ft., concrete block, most recent use—training, off-site use only

Bldg. 980
Fort Richardson

Fort Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21199930117
Status: Excess
Comment: 11,651 sq. ft., concrete block, most recent use—vehicle maintenance, off-site use only

Bldg. 58780
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21199930118
Status: Excess
Comment: 3230 sq. ft., most recent use—admin., off-site use only

Arizona

Bldg. 30012, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 21199310298
Status: Excess
Comment: 237 sq. ft., 1-story block, most recent use—storage

Bldg. S–306
Yuma Proving Ground
Yuma Co: Yuma/La Paz AZ 85365–9104
Landholding Agency: Army
Property Number: 21199420346
Status: Unutilized
Comment: 4103 sq. ft., 2-story, needs major rehab, off-site use only

Bldg. 503, Yuma Proving Ground
Yuma Co: Yuma AZ 85365–9104
Landholding Agency: Army
Property Number: 21199520073
Status: Underutilized
Comment: 3789 sq. ft., 2-story, major structural changes required to meet floor loading & fire code requirements, presence of asbestos, off-site use only

5 Bldg.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 44101, 44102, 44124, 44125, 44201
Landholding Agency: Army
Property Number: 21199840129
Status: Excess
Comment: various sq. ft. & bdrm units, presence of asbestos/lead paint, most recent use—family housing, off-site use only

Bldgs. 87821, 90420
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 2119910087
Status: Excess
Comment: 377 and 5662 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. 12521, 13572
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 21199920183
Status: Unutilized
Comment: 448 sq. ft. & 54 sq. ft., off-site use only

Bldgs. 43101–43109
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 21199940001
Status: Excess
Comment: 969 sq. ft. per unit, 2-units per bldg., wood/stucco, presence of asbestos/lead paint, most recent use—housing, off-site use only

California

Bldg. 4282
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944–
Landholding Agency: Army
Property Number: 21199810378
Status: Unutilized
Comment: 2283 sq. ft. presence of asbestos/lead paint, most recent use—office

Bldg. 4461
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944–
Landholding Agency: Army
Property Number: 21199810379
Status: Unutilized
Comment: 992 sq. ft. presence of asbestos/lead paint, most recent use—storage

Bldg. 104
Presidio of Monterey
Monterey Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910088
Status: Unutilized
Comment: 8039 sq. ft. presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 106
Presidio of Monterey
Monterey Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910089
Status: Unutilized
Comment: 1950 sq. ft. presence of asbestos/lead paint, most recent use—office/storage, off-site use only

Bldg. 125
Presidio of Monterey
Monterey Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910090
Status: Unutilized
Comment: 371 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 339
Presidio of Monterey
Monterey Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910092
Status: Unutilized
Comment: 5654 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 340
Presidio of Monterey
Monterey Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910093
Status: Unutilized
Comment: 6500 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 341
Presidio of Monterey
Monterey Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910094
Status: Unutilized
Comment:371 sq ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 4214
Presidio of Monterey
Monterey Co: CA 93944–
Landholding Agency: Army
Property Number: 21199910095
Status: Unutilized
Comment: 3168 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Colorado

Bldg. P–1008
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 21199630127
Status: Unutilized
Comment: 3362 sq. ft., fair condition, possible asbestos/lead based paint, most recent use—service outlet, off-site use only

Bldg. P–1007
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21199730210
Status: Unutilized
Comment: 3818 sq. ft., needs repair, possible asbestos/lead paint, most recent use—health clinic, off-site use only

Bldg. T–1342
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21199730211
Status: Unutilized
Comment: 13,364 sq. ft., possible asbestos/lead paint, most recent use—instruction bldg.

Bldg. T–6005
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21199730213
Status: Unutilized
Comment: 19,015 sq. ft., possible asbestos/lead paint, most recent use—warehouse

Georgia

Bldg. 2285

Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199011704
Status: Unutilized
Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor

Bldg. 1252, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220694
Status: Unutilized
Comment: 583 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only

Bldg. 4881, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220707
Status: Unutilized
Comment: 2449 sq. ft., 1 story, most recent use—storehouse, need repairs, off-site removal only

Bldg. 4963, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220710
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storehouse, need repairs, off-site removal only

Bldg. 2396, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220712
Status: Unutilized
Comment: 9786 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only

Bldg. 4882, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220727
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, need repairs, off-site removal only

Bldg. 4967, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220728
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, need repairs, off-site removal only

Bldg. 4977, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220736
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—offices, need repairs, off-site removal only

Bldg. 4944, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220747
Status: Unutilized
Comment: 6400 sq. ft., 1 story, most recent use—vehicle maintenance shop, need repairs, off-site removal only

Bldg. 4960, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220752
Status: Unutilized
Comment: 3335 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only

Bldg. 4969, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220753
Status: Unutilized
Comment: 8416 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only

Bldg. 4884, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220762
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only

Bldg. 4964, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220763
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only

Bldg. 4966, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220764
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only

Bldg. 4965, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220769
Status: Unutilized
Comment: 7713 sq. ft., 1 story, most recent use—supply bldg., need repairs, off-site removal only

Bldg. 4945, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220779
Status: Unutilized
Comment: 220 sq. ft., 1 story, most recent use—gas station, needs major rehab, off-site removal only

Bldg. 4979, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220780
Status: Unutilized
Comment: 400 sq. ft., 1 story, most recent use—oil house, needs repairs, off-site removal only

Bldg. 4023, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199310461
Status: Unutilized
Comment: 2269 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only

Bldg. 4024, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199310462
Status: Unutilized
Comment: 3281 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only

Bldg. 4067, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199310465
Status: Unutilized
Comment: 4406 sq. ft., 1-story, needs rehab, most recent use—admin. off-site use only

Bldg. 10501
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410264
Status: Unutilized
Comment: 2516 sq. ft.; 1 story; wood; needs rehab.; most recent use—office; off-site use only

Bldg. 11813
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410269
Status: Unutilized
Comment: 70 sq. ft.; 1 story; metal; needs rehab.; most recent use—storage; off-site use only

Bldg. 21314
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410270
Status: Unutilized
Comment: 85 sq. ft.; 1 story; needs rehab.; most recent use—storage; off-site use only

Bldg. 12809
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199410272
Status: Unutilized
Comment: 2788 sq. ft.; 1 story; wood; needs rehab.; most recent use—maintenance shop; off-site use only

Bldg. 10306
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army

Property Number: 21199410273
Status: Unutilized
Comment: 195 sq. ft.; 1 story; wood; most recent use—oil storage shed; off-site use only

Bldg. 4051, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199520175
Status: Unutilized
Comment: 967 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. 2141
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199610655
Status: Unutilized
Comment: 2283 sq. ft., needs repair, most recent use—office, off-site use only

Bldg. 322
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720156
Status: Unutilized
Comment: 9600 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 1737
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720161
Status: Unutilized
Comment: 1500 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 2593
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720167
Status: Unutilized
Comment: 13644 sq. ft., needs rehab, most recent use—parachute shop, off-site use only

Bldg. 2595
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720168
Status: Unutilized
Comment: 3356 sq. ft., needs rehab, most recent use—chapel, off-site use only

Bldgs. 2865, 2869, 2872
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720169
Status: Unutilized
Comment: approx. 1100 sq. ft. each, needs rehab, most recent use—shower fac., off-site use only

Bldg. 4476
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720184
Status: Unutilized
Comment: 3148 sq. ft., needs rehab, most recent use—vehicle maint. shop, off-site use only

8 Bldgs.
Fort Benning
4700–4701, 4704–4707, 4710–4711
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720189
Status: Unutilized
Comment: 6433 sq. ft. each, needs rehab, most recent use—unaccompanied personnel housing, off-site use only

Bldg. 4714
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720191
Status: Unutilized
Comment: 1983 sq. ft., needs rehab, most recent use—battalion headquarters bldg., off-site use only

Bldg. 4702
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720192
Status: Unutilized
Comment: 3690 sq. ft., needs rehab, most recent use—dining facility off-site use only

Bldgs. 4712–4713
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720193
Status: Unutilized
Comment: 1983 sq. ft. and 10270 sq. ft., needs rehab, most recent use—company headquarters bldg., off-site use only

Bldg. 305
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810268
Status: Unutilized
Comment: 4083 sq. ft., most recent use—recreation center, off-site use only

Bldg. 318
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810269
Status: Unutilized
Comment: 374 sq. ft., poor condition, most recent use—maint. shop, off-site use only

Bldg. 1792
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810274
Status: Unutilized
Comment: 10,200 sq. ft., most recent use—storage, off-site use only

Bldg. 1836
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810276
Status: Unutilized
Comment: 2998 sq. ft., most recent use—admin., off-site use only

Bldg. 4373
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810286
Status: Unutilized
Comment: 409 sq. ft., poor condition, most recent use—station bldg. off-site use only

Bldg. 4628
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199810287
Status: Unutilized
Comment: 5483 sq. ft., most recent use—admin., off-site use only

Bldg. 92
Fort Benning
Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199830278
Status: Unutilized
Comment: 637 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 2445
Fort Benning
Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199830279
Status: Unutilized
Comment: 2385 sq. ft., needs rehab, most recent use—fire station, off-site use only

Bldg. 4232
Fort Benning
Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199830291
Status: Unutilized
Comment: 3270 sq. ft., needs rehab, most recent use—maint. bay off-site use only

Bldg. 39720
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21199930119
Status: Unutilized
Comment: 1520 sq. ft., concrete block, possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. 492
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930120
Status: Unutilized
Comment: 720 sq. ft., most recent use—admin/maint, off-site use only

Bldg. 880
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930121
Status: Unutilized
Comment: 57,110 sq. ft., most recent use—instruction, off-site use only

Bldg. 1370
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930122
Status: Unutilized
Comment: 5204 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 2288
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930123
Status: Unutilized
Comment: 2481 sq. ft., most recent use—admin., off-site use only

Bldg. 2290
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930124
Status: Unutilized
Comment: 455 sq. ft., most recent use—storage, off-site use only

Bldg. 2293
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930125
Status: Unutilized
Comment: 2600 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 2297
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930126
Status: Unutilized
Comment: 5156 sq. ft., most recent use—admin., off-site use only

Bldg. 2505
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930127
Status: Unutilized
Comment: 10,257 sq. ft., most recent use—repair shop, off-site use only

Bldg. 2508
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930128
Status: Unutilized
Comment: 2434 sq. ft., most recent use—storage, off-site use only

Bldg. 2815
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930129
Status: Unutilized
Comment: 2578 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 3815
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930130
Status: Unutilized
Comment: 7575 sq. ft., most recent use—storage, off-site use only

Bldg. 3816
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930131
Status: Unutilized
Comment: 7514 sq. ft., most recent use—storage, off-site use only

Bldg. 4555
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930132
Status: Unutilized
Comment: 18,240 sq. ft., most recent use—maint. shop, off-site use only

Bldg. 5886
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930134
Status: Unutilized
Comment: 67 sq. ft., most recent use—maint/storage, off-site use only

Bldgs. 5974–5978
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930135
Status: Unutilized
Comment: 400 sq. ft., most recent use—storage, off-site use only

Bldg. 5993
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930136
Status: Unutilized
Comment: 960 sq. ft., most recent use—storage, off-site use only

Bldg. 5994
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930137
Status: Unutilized
Comment: 2016 sq. ft., most recent use—storage, off-site use only

Hawaii

P–88
Aliamanu Military
Reservation
Honolulu Co: Honolulu HI 96818–
Location: Approximately 600 feet from Main Gate on Aliamanu Drive.
Landholding Agency: Army
Property Number: 21199030324
Status: Unutilized
Comment: 45,216 sq. ft. underground tunnel complex, pres. of asbestos clean-up required of contamination, use of respirator required by those entering property, use limitations

Bldg. T–675A
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 21199640202
Status: Unutilized
Comment: 4365 sq. ft., most recent use—office, off-site use only

Bldg. T–337
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 21199640203
Status: Unutilized
Comment: 132 sq. ft., most recent use—storage, off-site use only

Illinois

Bldg. 54
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 21199620666
Status: Unutilized
Comment: 2000 sq. ft., most recent use—oil storage, needs repair, off-site use only

Bldgs. HP113, 114
Sheridan Army Reserve
Complex
Sheridan Co: IL 60037–
Landholding Agency: Army
Property Number: 21199920186
Status: Unutilized
Comment: 2864 sq. ft. and 3458 sq. ft., most recent use—admin., off-site use only

Bldgs. HP432–439
Sheridan Army Reserve
Complex
Sheridan Co: IL 60037–
Landholding Agency: Army
Property Number: 21199920189
Status: Unutilized
Comment: 4845 sq. ft. each, presence of asbestos, most recent use—admin/storage, off-site use only

Bldgs. HP459, 460
Sheridan Army Reserve
Complex

Sheridan Co: IL 60037–
Landholding Agency: Army
Property Number: 21199920191
Status: Unutilized
Comment: 4848 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Kansas

Bldg. 166, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 21199410325
Status: Unutilized
Comment: 3803 sq. ft., 3-story brick residence, needs rehab, presence of asbestos, located within National Registered Historic District

Bldg. 184, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 21199430146
Status: Unutilized
Comment: 1959 sq. ft., 1-story, needs rehab, presence of asbestos, most recent use—boiler plant, historic district

Bldg. P–390
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199740295
Status: Unutilized
Comment: 4713 sq. ft., presence of lead based paint, most recent use—swine house, off-site use only

Bldg. T–323
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199810297
Status: Unutilized
Comment: 720 sq. ft., most recent use—boy scout bldg., off-site use only

Bldg. T–688
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199810298
Status: Unutilized
Comment: 832 sq. ft., possible lead paint, most recent use—girl scout bldg., off-site use only

Bldg. T–895
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199810299
Status: Unutilized
Comment: 228 sq. ft., possible lead paint, most recent use—storage, off-site use only

Bldg. P–68
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820153
Status: Unutilized
Comment: 2236 sq. ft., most recent use—vehicle storage, off-site use only

Bldg. P–69
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820154
Status: Unutilized
Comment: 224 sq. ft., most recent use—storage, off-site use only

Bldg. P–93
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820155
Status: Unutilized
Comment: 63 sq. ft., concrete, most recent use—storage, off-site use only

Bldg. P–128
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820156
Status: Unutilized
Comment: 79 sq. ft., concrete, most recent use—storage, off-site use only

Bldg. P–321
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820157
Status: Unutilized
Comment: 600 sq. ft., most recent use—picnic shelter, off-site use only

Bldg. P–347
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820158
Status: Unutilized
Comment: 2135 sq. ft., most recent use—bath house, off-site use only

Bldg. P–397
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820159
Status: Unutilized
Comment: 80 sq. ft., most recent use—storage, off-site use only

Bldg. S–809
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820160
Status: Unutilized
Comment: 39 sq. ft., most recent use—access control, off-site use only

Bldg. S–830
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820161
Status: Unutilized
Comment: 5789 sq. ft., most recent use—underground storage, off-site use only

Bldg. S–831
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199820162
Status: Unutilized
Comment: 5789 sq. ft., most recent use—underground storage, off-site use only

Bldg. T–2360
Fort Riley
Ft. Riley KS
Landholding Agency: Army
Property Number: 21199830310
Status: Unutilized
Comment: 4534 sq. ft., needs major rehab, most recent use—aces. fac.

Bldgs. P–104, P–105, P–106
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199830313
Status: Unutilized
Comment: 81 sq. ft., most recent use—storage, off-site use only

Bldg. P–108
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199830314
Status: Unutilized
Comment: 138 sq. ft., most recent use—storage, off-site use only

Bldg. P–147
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199830315
Status: Unutilized
Comment: 378 sq. ft., most recent use—storage, off-site use only

Bldgs. P–163, P–169
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199830316
Status: Unutilized
Comment: 87 sq. ft., most recent use—storage, off-site use only

Bldg. P–164
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199830317
Status: Unutilized
Comment: 145 sq. ft., most recent use—storage, off-site use only

Bldg. P–171
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199830318
Status: Unutilized

Comment: 144 sq. ft., most recent use—storage, off-site use only

Bldg. P–172
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199830319
Status: Unutilized
Comment: 87 sq. ft., most recent use—storage, off-site use only

Bldgs. P–173, P–174
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199830320
Status: Unutilized
Comment: 120 sq. ft., most recent use—storage, off-site use only

Bldg. P–243
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199830321
Status: Unutilized
Comment: 242 sq. ft., most recent use—industrial, off-site use only

Bldg. P–146
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199920198
Status: Unutilized
Comment: 196 sq. ft., most recent use—utility, off-site use only

Bldg. P–149
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199920199
Status: Unutilized
Comment: 76 sq. ft., most recent use—utility, off-site use only

Bldg. P–150
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199920200
Status: Unutilized
Comment: 96 sq. ft., most recent use—utility, off-site use only

Bldg. P–162
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199920201
Status: Unutilized
Comment: 81 sq. ft., most recent use—utility, off-site use only

Bldg. P–242
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199920202
Status: Unutilized
Comment: 4680 sq. ft., most recent use—storage, off-site use only

Bldg. T–71
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930139
Status: Unutilized
Comment: 180 sq. ft., most recent use—storage, off-site use only

Bldg. P–75
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930140
Status: Unutilized
Comment: 12,129 sq. ft., most recent use—storage, off-site use only

Bldg. P–76
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930141
Status: Unutilized
Comment: 180 sq. ft., most recent use—storage, off-site use only

Bldgs. P–26, P–97
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930142
Status: Unutilized
Comment: 84 sq. ft., most recent use—utility, off-site use only

Bldgs. P–110, P–114, P–115
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930143
Status: Unutilized
Comment: 85–92 sq. ft., most recent use—utility, off-site use only

Bldg. P–118
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930144
Status: Unutilized
Comment: 117 sq. ft., most recent use—storage, off-site use only

Bldgs. P–160, P–161, P–165
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930145
Status: Unutilized
Comment: 86–88 sq. ft., most recent use—utility, off-site use only

Bldg. P–223
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930146
Status: Unutilized
Comment: 7,174 sq. ft., most recent use—storage, off-site use only

Bldg. T–236
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930147
Status: Unutilized
Comment: 4563 sq. ft., most recent use—storage, off-site use only

Bldg. P–241
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930148
Status: Unutilized
Comment: 5920 sq. ft., most recent use—storage, off-site use only

Bldg. T–257
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930149
Status: Unutilized
Comment: 5920 sq. ft., most recent use—storage, off-site use only

Bldg. P–309
Fort Leavenworth
Leavenworth Co: KS 66027–
Landholding Agency: Army
Property Number: 21199930150
Status: Unutilized
Comment: 71 sq. ft., most recent use—storage, off-site use only

Bldg. T347
Fort Riley
Ft. Riley Co: Manhatten KS 66442–
Landholding Agency: Army
Property Number: 21199940012
Status: Unutilized
Comment: 2888 sq. ft., most recent use—storage, off-site use only

Louisiana

Bldg. 8405, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640524
Status: Underutilized
Comment: 1029 sq. ft., most recent use—office

Bldg. 8407, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640525
Status: Underutilized
Comment: 2055 sq. ft., most recent use—admin.

Bldg. 8408, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640526
Status: Underutilized
Comment: 2055 sq. ft., most recent use—admin.

Bldg. 8414, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640527
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8423, Fort Polk

Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640528
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8424, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640529
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8426, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640530
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8427, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640531
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8428, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640532
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8429, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640533
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8430, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640534
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8431, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640535
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8432, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640536
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8433, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640537
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8446, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640538
Status: Underutilized
Comment: 2093 sq. ft., most recent use—admin.

Bldg. 8449, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640539
Status: Underutilized
Comment: 2093 sq. ft., most recent use—office

Bldg. 8450, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640540
Status: Underutilized
Comment: 2093 sq. ft., most recent use—admin.

Bldg. 8458, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640542
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8459, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640543
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8460, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640544
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8461, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640545
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8462, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640546
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8463, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640547
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8501, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640548
Status: Underutilized
Comment: 1687 sq. ft., most recent use—office

Bldg. 8502, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640549
Status: Underutilized
Comment: 1029 sq. ft., most recent use—office

Bldg. 8451, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640551
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8542, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640552
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8543, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640553
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8544, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640554
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8545, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640555
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8546, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640556
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8547, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640557
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8548, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640558
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8549, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640559
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 4960 A–F
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199940013
Status: Unutilized
Comment: 4412 sq. ft., most recent use—housing, off-site use only

Bldg. 5143 A–D
Fort Polk
Ft. Polk Co: Vernon Parish La 71459–
Landholding Agency: Army
Property Number: 21199940014
Status: Unutilized
Comment: 4109 sq. ft., most recent use—housing, off-site use only

Bldg. 5179 A–F
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199940015
Status: Unutilized
Comment: 8969 sq. ft., most recent use—housing, off-site use only

Bldg. 5253 A–D
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199940016
Status: Unutilized
Comment: 4109 sq. ft., most recent use—housing, off-site use only

Bldg. 5846 A–E
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199940017
Status: Unutilized
Comment: 3919 sq. ft., most recent use—housing, off-site use only

Bldg. 5903 A–F
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199940018
Status: Unutilized
Comment: 5719 sq. ft., most recent use—housing, off-site use only

Bldg. 5909 A–B
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199940019
Status: Unutilized
Comment: 2025 sq. ft., most recent use—housing, off-site use only

Bldg. 6169 A–D
Fort Polk
Ft. Polk Co: Vernon Parish La 71459–
Landholding Agency: Army
Property Number: 21199940020
Status: Unutilized
Comment: 2850 sq. ft., most recent use—housing, off-site use only

Bldg. 6475 A–B
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199940021
Status: Unutilized
Comment: 5100 sq. ft., most recent use—housing, off-site use only

Bldg. 6477 A–D
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199940022
Status: Unutilized
Comment: 5972 sq. ft., most recent use—housing, off-site use only

Bldg. 6704 A–D
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199940023
Status: Unutilized
Comment: 5972 sq. ft., most recent use—housing, off-site use only

Bldg.6810 A–D
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199940024
Status: Unutilized
Comment: 6193 sq. ft., most recent use—housing, off-site use only

Maryland

Bldg. 370
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21199730256
Status: Unutilized
Comment: 19,583 sq. ft., most recent use—NCO club, possible asbestos/lead paint

Bldg. 2446
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21199740305
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2472
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21199740306
Status: Unutilized
Comment: 7670 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 4700
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21199740309
Status: Unutilized
Comment: 36,619 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 6294
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21199810302
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—custodial, off-site use only

Bldg. 3176
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21199810303
Status: Unutilized
Comment: 7670 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. E5813
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21199830326
Status: Unutilized
Comment: 69 sq. ft., presence of asbestos/lead paint, most recent use—storage

Bldg. 00307
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930152
Status: Unutilized
Comment: 4071 sq. ft., most recent use—admin., off-site use only

Bldg. 00646
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930153
Status: Unutilized
Comment: 880 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 01110
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930154
Status: Unutilized
Comment: 396 sq. ft., most recent use—magazine, off-site use only

Bldg. 01195
Aberdeen Proving Ground

Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930155
Status: Unutilized
Comment: 120 sq. ft., most recent use—storage, off-site use only

Bldg. E3264
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930156
Status: Unutilized
Comment: 64 sq. ft., most recent use—access control facility, off-site use only

Bldg. E3333
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21199930157
Status: Unutilized
Comment: 64 sq. ft., most recent use—access control facility, off-site use only

Bldgs. 2454–2457
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21199940025
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, presence of asbestos, most recent use—admin./health clinics, off-site use only

Bldg. 2478
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21199940026
Status: Unutilized
Comment: 2534 sq. ft., needs rehab, presence of asbestos, most recent use—health clinic, off-site use only

Bldg. 2845
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 21199940027
Status: Unutilized
Comment: 6104 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—admin., off-site use only

Missouri

Bldg. T599
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199230260
Status: Underutilized
Comment: 18270 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T2171
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199340212
Status: Unutilized
Comment: 1296 sq. ft., 1-story wood frame, most recent use—administrative, no handicap fixtures, lead base paint, off-site use only

Bldg. T6822
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199340219
Status: Underutilized
Comment: 4000 sq. ft., 1-story wood frame, most recent use—storage, no handicap fixtures, off-site use only

Bldg. T1497
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199420441
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2139
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199420446
Status: Underutilized
Comment: 3663 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T–2191
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199440334
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks

Bldg. T–2197
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199440335
Status: Excess
Comment: 4720 sq. ft., 2 story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks

Bldg. T590
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 21199510110
Status: Excess
Comment: 3263 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only

Bldg. T2385
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199510115
Status: Excess
Comment: 3158 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only

Bldgs. T–2340 thru T2343
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199710138
Status: Underutilized
Comment: 9267 sq. ft. each, most recent use—storage/general purpose

Bldg. 1226
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199730275
Status: Unutilized
Comment: 1600 sq. ft., presence of asbestos/lad paint, most recent use—admin., off-site use only

Bldg. 1271
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199730276
Status: Unutilized
Comment: 2360 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1280
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199730277
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 1281
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199730278
Status: Unutilized
Comment: 2360 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 1282
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000

Landholding Agency: Army
Property Number: 21199730279
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1283
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199730280
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1284
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199730281
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1285
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199730282
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1286
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199730283
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1287
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199730284
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1288
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199730285
Status: Unutilized
Comment: 2360 sq. ft., presence of asbestos/lead paint, most recent use—dining facility, off-site use only

Bldg. 1289
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199730286
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 430
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810305
Status: Unutilized
Comment: 4100 sq. ft., presence of asbestos/lead paint, most recent use—Red Cross facility, off-site use only

Bldg. 758
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810306
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 759
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810307
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 760
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810308
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, off-site use only

Bldgs. 761–766
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810309
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 1650
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810311
Status: Unutilized
Comment: 1676 sq. ft., presence of asbestos/lead paint, most recent use—union hall, off-site use only

Bldg. 2111
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810312
Status: Unutilized
Comment: 1600 sq. ft., presence of asbestos/lead paint, most recent use—union hall, off-site use only

Bldg. 2170
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810313
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2204
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810315
Status: Unutilized
Comment: 3525 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2225
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810316
Status: Unutilized
Comment: 820 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2271
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810317
Status: Unutilized
Comment: 256 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2275
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810318
Status: Unutilized
Comment: 225 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2291
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810319
Status: Unutilized

Comment: 510 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2318
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810322
Status: Unutilized
Comment: 9267 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2579
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810325
Status: Unutilized
Comment: 176 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2580
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810326
Status: Unutilized
Comment: 200 sq. ft., presence of asbestos/lead paint, most recent use—generator plant, off-site use only

Bldg. 4199
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199810327
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 386
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820163
Status: Unutilized
Comment: 4902 sq. ft., presence of asbestos/lead paint, most recent use—fire station, off-site use only

Bldg. 401
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820164
Status: Unutilized
Comment: 9567 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 856
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820166
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 859
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820167
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1242
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820168
Status: Unutilized
Comment: 260 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1265
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820169
Status: Unutilized
Comment: 2360 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1267
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820170
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1272
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820171
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1277
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820172
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. 2142, 2145, 2151–2153
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820174
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 2150
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820175
Status: Unutilized
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—dayroom, off-site use only

Bldg. 2155
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820176
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. 2156, 2157, 2163, 2164
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820177
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 2165
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820178
Status: Unutilized
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—dayroom, off-site use only

Bldg. 2167
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820179
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. 2169, 2181, 2182, 2183
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820180
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 2186
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820181
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2187
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820182
Status: Unutilized
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—dayroom, off-site use only

Bldgs. 2192, 2196, 2198
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820183
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldgs. 2304, 2306
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820184
Status: Unutilized
Comment: 1625 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 12651
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820186
Status: Unutilized
Comment: 240 sq. ft., presence of lead paint, off-site use only

Bldg. 1448
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199830327
Status: Unutilized
Comment: 8450 sq. ft., presence of asbestos/lead paint, most recent use—training, off-site use only

Bldg. 2210
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199830328
Status: Unutilized
Comment: 808 sq. ft., concrete, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2270
Fort Leonard Wood
Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199830329
Status: Unutilized
Comment: 256 sq. ft., concrete, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 6036
Fort Leonard Wood
Pulaski Co: MO 65473–8994
Landholding Agency: Army
Property Number: 21199910101
Status: Underutilized
Comment: 240 sq. ft., off-site use only

Bldg. 9110
Fort Leonard Wood
Pulaski Co: MO 65473–8994
Landholding Agency: Army
Property Number: 21199910108
Status: Underutilized
Comment: 6498 sq. ft., presence of asbestos/lead paint, most recent use—family quarters, off-site use only

Bldgs. 9113, 9115, 9117
Fort Leonard Wood
Pulaski Co: MO 65473–8994
Landholding Agency: Army
Property Number: 21199910109
Status: Underutilized
Comment: 4332 sq. ft., presence of asbestos/lead paint, most recent use—family quarters, off-site use only

Bldg. 493
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 21199930158
Status: Unutilized
Comment: 26,936 sq. ft., concrete, presence of asbestos/lead paint, most recent use—store, off-site use only

New Jersey

Bldg. 22
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740311
Status: Unutilized
Comment: 4220 sq. ft., needs rehab, most recent use—machine shop, off-site use only

Bldg. 178
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740312
Status: Unutilized
Comment: 2067 sq. ft., most recent use—research, off-site use only

Bldg. 642
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740314
Status: Unutilized
Comment: 280 sq. ft., most recent use—explosives testing, off-site use only

Bldg. 732
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740315
Status: Unutilized
Comment: 9077 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 1604
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740321
Status: Unutilized
Comment: 8519 sq. ft., most recent use—loading facility, off-site use only

Bldg. 3117
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740322
Status: Unutilized
Comment: 100 sq. ft., most recent use—sentry station, off-site use only

Bldg. 3201
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740324
Status: Unutilized
Comment: 1360 sq. ft., most recent use—water treatment plant, off-site use only

Bldg. 3202
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740325
Status: Unutilized
Comment: 96 sq ft., most recent use—snack bar, off-site use only

Bldg. 3219
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740326
Status: Unutilized
Comment: 288 sq. ft., most recent use—snack bar, off-site use only

New Mexico

68 Housing Units
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army

Property Number: 21199940028
Status: Unutilized
Comment: 1269 sq. ft. ea., needs major repair, presence of asbestos, most recent use—housing, off-site use only

Facility 11230
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 21199940029
Status: Unutilized
Comment: 1620 sq. ft., needs major repair, presence, of asbestos, most recent use—housing unit, off-site use only

3 Facilities
White Sands Missile Range
#00651, 00637, 00716
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 21199940030
Status: Unutilized
Comment: 1509 sq. ft. ea., needs major repair, presence of asbestos, most recent use—housing units, off-site use only

17 Garages
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 21199940031
Status: Unutilized
Comment: 598 sq. ft., needs major repair, presence of asbestos, most recent use—garages, off-site use only

37 Garages
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 21199940032
Status: Unutilized
Comment: 312 sq. ft., needs major repair, presence of asbestos, most recent use—garages, off-site use only

New York

Bldg. T–35
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840143
Status: Unutilized
Comment: 1296 sq. ft., most recent use—admin., off-site use only

Bldg. S–149
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840144
Status: Unutilized
Comment: 2488 sq. ft., most recent use—admin., off-site use only

Bldg. T–250
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840145
Status: Unutilized
Comment: 2360 sq. ft., most recent use—storage, off-site use only

Bldg. T–254
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840146
Status: Unutilized
Comment: 4720 sq. ft., most recent use—barracks, off-site use only

Bldg. T–260
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840147
Status: Unutilized
Comment: 2371 sq. ft., most recent use—HQ bldg., off-site use only

Bldg. T–261
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840148
Status: Unutilized
Comment: 1144 sq. ft., most recent use—HQ bldg., off-site use only

Bldg. T–262
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840149
Status: Unutilized
Comment: 1144 sq. ft., most recent use—HQ bldg., off-site use only

Bldg. T–340
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840150
Status: Unutilized
Comment: 2360 sq. ft., most recent use—storage, off-site use only

Bldg. T–392
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840151
Status: Unutilized
Comment: 2740 sq. ft., most recent use—storage, off-site use only

Bldg. T–413
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840152
Status: Unutilized
Comment: 3663 sq. ft., most recent use—admin., off-site use only

Bldg. T–415
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840153
Status: Unutilized
Comment: 1676 sq. ft., most recent use—HQ bldg., off-site use only

Bldg. T–530
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840154
Status: Unutilized
Comment: 2588 sq. ft., most recent use—HQ bldg., off-site use only

Bldg. T–840
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840155
Status: Unutilized
Comment: 2803 sq. ft., most recent use—dining, off-site use only

Bldg. T–892
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840156
Status: Unutilized
Comment: 2740 sq. ft., most recent use—HQ bldg., off-site use only

Bldg. T–991
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840157
Status: Unutilized
Comment: 2740 sq. ft., most recent use—HQ bldg., off-site use only

Bldg. P–996
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840158
Status: Unutilized
Comment: 9602 sq. ft., most recent use—storage, off-site use only

Bldg. S–998
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840159
Status: Unutilized
Comment: 1432 sq. ft., most recent use—storage, off-site use only

Bldg. T–2159
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840160
Status: Unutilized
Comment: 1948 sq. ft., off-site use only

Bldg. T–2339
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840163
Status: Unutilized
Comment: 2027 sq. ft., most recent use—museum, off-site use only

Bldg. P–2415
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840164

Status: Unutilized
Comment: 214 sq. ft., most recent use—incinerator, off-site use only

Bldg. P–21572
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840167
Status: Unutilized
Comment: 240 sq. ft., most recent use—bunker, off-site use only

Bldg. P–87
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199920203
Status: Unutilized
Comment: 360 sq. ft., needs rehab, most recent use—admin., off-site use only

Ohio

15 Units
Military Family Housing
Ravenna Army Ammunition
Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 21199230354
Status: Excess
Comment: 3 bedroom (7 units)—1,824 sq. ft. each, 4 bedroom 8 units)—2,430 sq. ft. each, 2-story wood frame, presence of asbestos, off-site use only

7 Units
Military Family Housing
Garages
Ravenna Army Ammunition
Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 21199230355
Status: Excess
Comment: 1–4 stall garage and 6–3 stall garages, presence of asbestos, off-site use only

Oklahoma

Bldg. T–2606
Fort Sill
2606 Currie Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199011273
Status: Unutilized
Comment: 2722 sq. ft.; possible asbestos, one floor wood frame; most recent use—Headquarters Bldg.

Bldg. T–838, Fort Sill
838 Macomb Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199220609
Status: Unutilized
Comment: 151 sq. ft.; wood frame, 1 story, off-site removal only, most recent use—vet facility (quarantine stable).

Bldg. T–954, Fort Sill
954 Quinette Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199240659
Status: Unutilized
Comment: 3571 sq., ft., 1 story wood frame, need rehab off-site use only, most recent use—motor repair shop.

Bldg. T–4050, Fort Sill
4050 Pitman Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199240676
Status: Unutilized
Comment: 3177 sq., ft., 1 story wood frame, need rehab off-site use only, most recent use—storage.

Bldg. T–3325, Fort Sill
3325 Naylor Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199240681
Status: Unutilized
Comment: 8832 sq., ft., 1 story wood frame, need rehab off-site use only, most recent use—warehouse.

Bldg. T1652, Fort Sill
325 Naylor Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199330380
Status: Unutilized
Comment: 1606 sq., ft., 1-story wood possible asbestos, most recent use—storage, off-site use only

Bldg. T5637, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199330419
Status: Unutilized
Comment: 1606 sq., ft., 1 story, possible asbestos, most recent use—storage, off-site use only

Bldg. T–4226
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21199440384
Status: Unutilized
Comment: 114 sq., ft., 1-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only

Bldg. P–1015, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199520197
Status: Unutilized
Comment: 15402 sq., ft., 1-story, most recent use—storage, off-site use only

Bldg. P–366, Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21199610740
Status: Unutilized
Comment: 482 sq. ft., possible asbestos, most recent use—storage, off-site use only

Bldg. P–1800
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710033
Status: Unutilized
Comment: 2,545 sq. ft., possible asbestos and leadpaint, most recent use—military equipment, off-site use only

Bldg. T–2952
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710047
Status: Unutilized
Comment: 4,327 sq. ft., possible asbestos and leadpaint, most recent use—motor repair shop, off-site use only

Bldg. P–5042
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710066
Status: Unutilized
Comment: 119 sq. ft., possible asbestos and leadpaint, most recent use—heatplant, off-site use only

6 Buildings
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: P–6449, S–6451, T–6452, P–6460, P–6463, S–6450
Landholding Agency: Army
Property Number: 21199710085
Status: Unutilized
Comment: various sq. ft., possible asbestos and leadpaint, most recent use—range support, off-site use only

4 Buildings
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: T–6465, T–6466, T–6467, T–6468,
Landholding Agency: Army
Property Number: 21199710086
Status: Unutilized
Comment: various sq. ft., possible asbestos and leadpaint, most recent use—range support, off site use only

Bldg. P–6539
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710087
Status: Unutilized
Comment: 1,483 sq. ft., possible asbestos and leadpaint, most recent use—office, off-site use only

Bldg. T–208
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730344
Status: Unutilized
Comment: 20525 sq. ft., possible asbestos/lead paint, most recent use—training center, off-site use only

Bldg. T–214
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730346
Status: Unutilized
Comment: 6332 sq. ft., possible asbestos/lead paint, most recent use—training center, off-site use only

Bldgs. T–215, T–216
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730347
Status: Unutilized
Comment: 6300 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–217
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730348
Status: Unutilized
Comment: 6394 sq. ft., possible asbestos/lead paint, most recent use—training center, off-site use only

Bldg. T–810
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730350
Status: Unutilized
Comment: 7205 sq. ft., possible asbestos/lead paint, most recent use—hay storage, off-site use only

Bldgs. T–837, T–839
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730351
Status: Unutilized
Comment: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–934
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730353
Status: Unutilized
Comment: 402 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1177
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730356
Status: Unutilized
Comment: 183 sq. ft., possible asbestos/lead paint, most recent use—snack bar, off-site use only

Bldgs. T–1468, T–1469
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730357
Status: Unutilized
Comment: 114 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1470
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730358
Status: Unutilized
Comment: 3120 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1940
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730360
Status: Unutilized
Comment: 1400 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–1954, T–2022
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730362
Status: Unutilized
Comment: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2180
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730363
Status: Unutilized
Comment: possible asbestos/lead paint, most recent use—vehicle maint. facility, off-site use only

Bldg. T–2184
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730364
Status: Unutilized
Comment: 454 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2185
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730365
Status: Unutilized
Comment: 151 sq. ft., possible asbestos/lead paint, most recent use—fuel storage, off-site use only

Bldgs. T–2186, T–2188, T–2189
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730366
Status: Unutilized
Comment: 1656—3583 sq. ft., possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. T–2187
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730367
Status: Unutilized
Comment: 1673 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2209
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730368
Status: Unutilized
Comment: 1257 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2240, T–2241
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730369
Status: Unutilized
Comment: approx. 9500 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2262, T–2263
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730370
Status: Unutilized
Comment: approx. 3100 sq. ft., possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldgs. T–2271, T–2272
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730371
Status: Unutilized
Comment: 232 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2291 thru T–2296
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730372
Status: Unutilized
Comment: 400 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

5 Bldgs.
Fort Sill
T–2300, T–2301, T–2303,
T–2306, T–2307
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730373
Status: Unutilized
Comment: various sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2406
Fort Sill

Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730374
Status: Unutilized
Comment: 114 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

3 Bldgs.
Fort Sill
#T–2430, T–2432, T–2435
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730376
Status: Unutilized
Comment: approx. 8900 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–2434
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730377
Status: Unutilized
Comment: 8997 sq. ft., possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldgs. T–3001, T–3006
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730383
Status: Unutilized
Comment: approx. 9300 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3025
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730384
Status: Unutilized
Comment: 5259 sq. ft., possible asbestos/lead paint, most recent use—museum, off-site use only

Bldg. T–3314
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730385
Status: Unutilized
Comment: 229 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–3323
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730387
Status: Unutilized
Comment: 8832 sq. ft., possible asbestos/lead paint, most recent use—office, off-site only

Bldgs. T–4021, 4022
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730389
Status: Unutilized
Comment: 442–869 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site only

Bldg. T–4065
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730390
Status: Unutilized
Comment: 3145 sq. ft., possible asbestos/lead paint, most recent use—maint. shop, off-site only

Bldg. T–4067
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730391
Status: Unutilized
Comment: 1032 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site only

Bldg. T–4281
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730392
Status: Unutilized
Comment: 9405 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site only

Bldgs. T–4401, T–4402
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730393
Status: Unutilized
Comment: 2260 sq. ft., possible asbestos/lead paint, most recent use—office, off-site only

Bldg. T–4407
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730395
Status: Unutilized
Comment: 3070 sq. ft., possible asbestos/lead paint, most recent use—dining facility, off-site only

4 Bldgs.
Fort Sill
#T–4410, T–4414, T–4415, T–4418
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730396
Status: Unutilized
Comment: 1311 sq. ft., possible asbestos/lead paint, most recent use—office, off-site only

5 Bldgs.
Fort Sill
#T–4411 thru T–4413, T–4416 thru T–4417
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730397
Status: Unutilized
Comment: 1244 sq. ft., possible asbestos/lead paint, most recent use—showers, off-site only

Bldg. T–4421
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730398
Status: Unutilized
Comment: 3070 sq. ft., possible asbestos/lead paint, most recent use—dining, off-site only

10 Bldgs.
Fort Sill
#T–4422 thru T–4427, T–4431 thru T–4434
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730399
Status: Unutilized
Comment: 2263 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site only

6 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4436, T–4440, T–4444, T–4445, T–4448, T–4449
Landholding Agency: Army
Property Number: 21199730400
Status: Unutilized
Comment: 1311–2263 sq. ft., possible asbestos/lead paint, most recent use—office, off-site only

5 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4441, T–4442, T–4443, T–4446, T–4447
Landholding Agency: Army
Property Number: 21199730401
Status: Unutilized
Comment: 1244 sq. ft., possible asbestos/lead paint, most recent use—showers, off-site use only

Bldg. T–5041
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730409
Status: Unutilized
Comment: 763 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–5044, T–5045
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730410
Status: Unutilized
Comment: 1798/1806 sq. ft., possible asbestos/lead paint, most recent use—class rooms, off-site use only

4 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–5046, T–5047, T–5048, T–5049

Landholding Agency: Army
Property Number: 21199730411
Status: Unutilized
Comment: various sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–5420
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730414
Status: Unutilized
Comment: 189 sq. ft., possible asbestos/lead paint, most recent use—fuel storage, off-site use only

Bldg. T–5639
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730416
Status: Unutilized
Comment: 10,720 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. T–7290, T–7291
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730417
Status: Unutilized
Comment: 224/840 sq. ft., possible asbestos/lead paint, most recent use—kennel, off-site use only

Bldg. T–7775
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730419
Status: Unutilized
Comment: 1452 sq. ft., possible asbestos/lead paint, most recent use—private club, off-site use only

Bldg. T–207
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910130
Status: Unutilized
Comment: 19,531 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. P–364, P–584, P–588
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910131
Status: Unutilized
Comment: 106 sq. ft., possible asbestos/lead paint, most recent use—utility plant, off-site use only

Bldg. P–599
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910132
Status: Unutilized
Comment: 1400 sq. ft., possible asbestos/lead paint, most recent use—clubhouse, off-site use only

4 Bldgs.
Fort Sill
P–617, P–1114, P–1386, P–1608
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910133
Status: Unutilized
Comment: 106 sq. ft., possible asbestos/lead paint, most recent use—utility plant, off-site use only

Bldg. P–746
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910135
Status: Unutilized
Comment: 6299 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. P–1908, P–2078
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910136
Status: Unutilized
Comment: 106 & 131 sq. ft., possible asbestos/lead paint, most recent use—utility plant, off-site use only

Bldg. T–2183
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910139
Status: Unutilized
Comment: 14,530 sq. ft., possible asbestos/lead paint, most recent use—repair shop, off-site use only

Bldgs. P–2581, P–2773
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910140
Status: Unutilized
Comment: 4093 and 4129 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–2582
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910141
Status: Unutilized
Comment: 3672 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. S–2790, P–2906
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910142
Status: Unutilized
Comment: 1602 and 1390 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–2909
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910143
Status: Unutilized
Comment: 1236 sq. ft., possible asbestos/lead paint, most recent use—classroom, off-site use only

Bldgs. P–2912, P–2921, P–2944
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910144
Status: Unutilized
Comment: 1390 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. S–3169
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910145
Status: Unutilized
Comment: 6437 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–2914
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910146
Status: Unutilized
Comment: 1236 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–3469
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910147
Status: Unutilized
Comment: 3930 sq. ft., possible asbestos/lead paint, most recent use—car wash, off-site use only

Bldg. S–3559
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910148
Status: Unutilized
Comment: 9462 sq. ft., possible asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. S–4064
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910149
Status: Unutilized
Comment: 1389 sq. ft., possible asbestos/lead paint, off-site use only

Bldg. T–4748
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910151
Status: Unutilized
Comment: 1896 sq. ft., possible asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. S–5086
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910152
Status: Unutilized
Comment: 6453 sq. ft., possible asbestos/lead paint, most recent use—maintenance shop, off-site use only

Bldg. P–5101
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910153
Status: Unutilized
Comment: 82 sq. ft., possible asbestos/lead paint, most recent use—gas station, off-site use only

Bldg. P–5638
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910155
Status: Unutilized
Comment: 300 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–6430
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910156
Status: Unutilized
Comment: 2080 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6461
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910157
Status: Unutilized
Comment: 200 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6462
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910158
Status: Unutilized
Comment: 64 sq. ft., possible asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. P–7230
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910159
Status: Unutilized
Comment: 160 sq. ft., possible asbestos/lead paint, most recent use—transmitter bldg., off-site use only

Bldg. S–7960
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21199930159
Status: Unutilized
Comment: 120 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–7961
Fort Sill
Lawton Co: Comanche OK 73503—
Landholding Agency: Army
Property Number: 21199930160
Status: Unutilized
Comment: 36 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Pennsylvania

Bldg. T884
Carlisle Barracks
Carlisle Co: Cumberland PA 17013–
Landholding Agency: Army
Property Number: 21199940039
Status: Unutilized
Comment: 1500 sq. ft., needs major repair, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T889
Carlisle Barracks
Carlisle Co: Cumberland PA 17013–
Landholding Agency: Army
Property Number: 21199940040
Status: Unutilized
Comment: 1500 sq. ft., needs major repair, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T894
Carlisle Barracks
Carlisle Co: Cumberland PA 17013–
Landholding Agency: Army
Property Number: 21199940041
Status: Unutilized
Comment: 1555 sq. ft., needs major repair, presence of asbestos, most recent use—maint. facility, off-site use only

Bldg. T879
Carlisle Barracks
Carlisle Co: Cumberland PA 17013–
Landholding Agency: Army
Property Number: 21199940042
Status: Unutilized
Comment: 1850 sq. ft., needs major repair, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T895
Carlisle Barracks
Carlisle Co: Cumberland PA 17013–
Landholding Agency: Army
Property Number: 21199940043
Status: Unutilized
Comment: 1500 sq. ft. needs major repair, presence of asbestos, most recent use—maint. facility, off-site use only

South Carolina

Bldg. 3499
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199730310
Status: Unutilized
Comment: 3724 sq. ft., needs repair, most recent use—admin.

Bldg. 2441
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199820187
Status: Unutilized
Comment: 2160 sq. ft., needs repair, most recent use—admin.

Bldg 3605
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199820188
Status: Unutilized
Comment: 711 sq. ft., needs repair, most recent use—storage

Texas

Bldg. P–377, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199330444
Status: Unutilized
Comment: 74 sq. ft., 1-story brick, needs rehab, most recent use—scale house, located in National Historic District, off-site use only

Bldg. T–5901
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199330486
Status: Unutilized
Comment: 742 sq. ft., 1-story wood frame, most recent use—admin., off-site use only.

Bldg. 4480, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21199410322
Status: Unutilized
Comment: 2160 sq. ft., 1-story, most recent use—storage, off-site use only

Bldg. P–6615
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199440454
Status: Excess
Comment: 400 sq. ft., 1 story concrete frame, off-site removal only, most recent use—detached garage

Bldg. 4201, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21199520201
Status: Unutilized
Comment: 9000 sq. ft., 1-story, off-site use only

Bldg. 4202, Fort Hood

Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21199520202
Status: Unutilized
Comment: 5400 sq. ft., 1-story, most recent use—storage, off-site use only

Bldg. P–197
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199640220
Status: Unutilized
Comment: 13819 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. T–230
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199640221
Status: Unutilized
Comment: 18102 sq. ft., presence of asbestos/lead paint, most recent use—printing plant and shop, off-site use only

Bldg. S–3898
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199640235
Status: Unutilized
Comment: 4200 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. S–3899
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199640236
Status: Unutilized
Comment: 4200 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. P–5126
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199640240
Status: Unutilized
Comment: 189 sq. ft., off-site use only

Bldg. P–6201
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199640241
Status: Unutilized
Comment: 3003 sq. ft., presence of asbestos/lead paint, most recent use—officers family quarters, off-site use only

Bldg. P–6202
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199640242
Status: Unutilized
Comment: 1479 sq. ft., presence of lead paint, most recent use—officers family quarters, off-site use only

Bldg. P–6203
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199640243
Status: Unutilized
Comment: 1381 sq. ft., presence of lead paint, most recent use—military family quarters, off-site use only

Bldg. P–6204
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199640244
Status: Unutilized
Comment: 1454 sq. ft., presence of asbestos/lead paint, most recent use—military family quarters, off-site use only

Bldg. 7137, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 21199640564
Status: Unutilized
Comment: 35,736 sq. ft., 3-story, most recent use—housing, off-site use only

Building 4630
Fort Hood
Fort Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21199710088
Status: Unutilized
Comment: 21,833 sq. ft., most recent use—Admin., off-site use only

Bldg. T–330
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730315
Status: Unutilized
Comment: 59,149 sq. ft., presence of asbestos/lead paint, historical category, most recent use—laundry, off-site use only

Bldg. PT–605A & P–606A
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730316
Status: Unutilized
Comment: 2418 sq. ft., poor condition presence of asbestos/lead paint, historical category, most recent use—indoor firing range, off-site use only

Bldg. S–1150
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730317
Status: Unutilized
Comment: 8629 sq. ft., presence of asbestos/lead paint, most recent use—instruction bldg., off-site use only

Bldgs. S–1440–S–1446, S–1452
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730318
Status: Unutilized
Comment: 4200 sq. ft., presence of lead, most recent use—instruction bldgs., off-site use only

4 Bldgs.
Fort Sam Houston
#S–1447, S–1449, S–1450, S–1451
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730319
Status: Unutilized
Comment: 4200 sq. ft., presence of asbestos/lead paint, most recent use—instruction bldgs., off-site use only

Bldg. P–4115
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730327
Status: Unutilized
Comment: 529 sq. ft., presence of asbestos/lead paint, historic bldg., most recent use—admin., off-site use only

Bldg. 4205
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730328
Status: Unutilized
Comment: 24,573 sq. ft., presence of asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. T–5113
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730330
Status: Unutilized
Comment: 2550 sq. ft., presence of asbestos/lead paint, historical bldg. most recent use—medical clinic, off-site use only

Bldg. T–5122
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730331
Status: Unutilized
Comment: 3602 sq. ft., presence of asbestos/lead paint, historical category, most recent use—instruction bldg., off-site use only

Bldg. T–5903
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730332
Status: Unutilized
Comment: 5200 sq. ft., presence of asbestos/lead paint, historical category, most recent use—admin., off-site use only

Bldg. T–5907
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000

Landholding Agency: Army
Property Number: 21199730333
Status: Unutilized
Comment: 570 sq. ft., presence of asbestos/lead paint, historical category, most recent use—admin., off-site use only

Bldg. T–6284
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730335
Status: Unutilized
Comment: 120 sq. ft., presence of lead paint, most recent use—pump station, off-site use only

Bldg. T–5906
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199730420
Status: Unutilized
Comment: 570 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–1382
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199810365
Status: Unutilized
Comment: 30,082 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. P–2014
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199810367
Status: Unutilized
Comment: 10,990 sq. ft., historical property, presence of asbestos/lead paint, most recent use—instruction, off-site use only

Bldg. P–2015
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199810368
Status: Unutilized
Comment: 11,333 sq. ft., historical property, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–2016
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199810369
Status: Unutilized
Comment: 11,517 sq. ft., historical property, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–2017
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199810370
Status: Unutilized
Comment: 10,990 sq. ft., historical property, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. S–3897
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199810371
Status: Unutilized
Comment: 4200 sq. ft., presence of asbestos/lead paint, most recent use—instruction, off-site use only

Bldg. S–1155
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830347
Status: Unutilized
Comment: 2100 sq. ft., good, hazard abatement required, most recent use—instruction bldg., off-site use only

Bldg. S–3896
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830349
Status: Unutilized
Comment: 4200 sq. ft., fair, hazard abatement required, most recent use—training, off-site use only

Bldg. T–5123
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830350
Status: Unutilized
Comment: 2596 sq. ft., fair, hazard abatement required, most recent use—instruction, off-site use only, historical significance

Bldg. P–6150
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830351
Status: Unutilized
Comment: 48 sq. ft., fair, hazard abatement required, most recent use—pumphouse, off-site use only

Bldgs. P–6331, P–6335, P–6495
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830353
Status: Unutilized
Comment: 36 sq. ft., fair, hazard abatement required, most recent use—pumping station, off-site use only

Bldg. P–8000
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830354
Status: Unutilized
Comment: 1766 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

9 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8001, P8008, 8014, 8027, 8033, 8035, 8127, 8229, 8265
Landholding Agency: Army
Property Number: 21199830355
Status: Unutilized
Comment: 2456 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

11 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8003, P8011, 8012, 8019, 8043, 8202, 8204, 8216, 8235, 8241, 8261
Landholding Agency: Army
Property Number: 21199830356
Status: Unutilized
Comment: 2358 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

Bldgs. P–8003C, P–8220C
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830357
Status: Unutilized
Comment: 1174 sq. ft., fair, hazard abatement required, most recent use—detached garage, off-site use only

Bldg. P–8004
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830358
Status: Unutilized
Comment: 2243 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

7 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8005, 8101, 8107, 8141, 8143, 8146, 8150
Landholding Agency: Army
Property Number: 21199830359
Status: Unutilized
Comment: 1804 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

15 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8006, 8007, 8010, 8013, 8015, 8017, 8020, 8029, 8103, 8105, 8201, 8208, 8218, 8225, 8234
Landholding Agency: Army
Property Number: 211998303060
Status: Unutilized
Comment: 1703 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

7 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8009, 8024, 8207, 8214, 8217, 8226, 8256
Landholding Agency: Army
Property Number: 21199830361
Status: Unutilized
Comment: 2253 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

4 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8009C, 8027C, 8248C, 8256C
Landholding Agency: Army
Property Number: 21199830362
Status: Unutilized
Comment: 681 sq. ft., fair, hazard abatement required, most recent use—detached garage, off-site use only

3 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8012C, 8039C, 8224C
Landholding Agency: Army
Property Number: 21199830363
Status: Unutilized
Comment: 1185 sq. ft., fair, hazard abatement required, most recent use—detached garage, off-site use only

Bldg. P8016
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830364
Status: Unutilized
Comment: 2347 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

8 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8021, 8211, 8244, 8270, 8213, 8233, 8243, 8266
Landholding Agency: Army
Property Number: 21199830365
Status: Unutilized
Comment: 249 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

Bldg. P–8022
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830366
Status: Unutilized
Comment: 1849 sq. ft., fair, hazard abatement reqired, most recent use—housing, off-site use only

5 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #8022C, 8023C, 8106C, 8127C, 8206C
Landholding Agency: Army
Property Number: 21199830367
Status: Unutilized
Comment: 513 sq. ft., fair, hazard abatement reqired, most recent use—detached garage, off-site use only

Bldgs. P8026, P8028
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830369
Status: Unutilized
Comment: approx. 1850 sq. ft., fair, hazard abatement reqired, most recent use—housing, off-site use only

3 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8028C, P8143C, P8150C
Landholding Agency: Army
Property Number: 21199830370
Status: Unutilized
Comment: 838 sq. ft., fair, hazard abatement reqired, most recent use—detached garage, off-site use only

3 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8035C, P8104C, P8236C
Landholding Agency: Army
Property Number: 21199830372
Status: Unutilized
Comment: 1017 sq. ft., fair, hazard abatement reqired, most recent use—detached garage, off-site use only

3 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8102, P8106, P8108
Landholding Agency: Army
Property Number: 21199830375
Status: Unutilized
Comment: approx. 2700 sq. ft., fair, hazard abatement reqired, most recent use—housing, off-site use only

Bldgs. P8109, P8137
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830376
Status: Unutilized
Comment: 1540 sq. ft., fair, hazard abatement reqired, most recent use—housing, off-site use only

Bldgs. P8112, P8228
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830378
Status: Unutilized
Comment: 1807 sq. ft., fair, hazard abatement reqired, most recent use—housing, off-site use only

3 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8116, 8151, 8158
Landholding Agency: Army
Property Number: 21199830380
Status: Unutilized
Comment: approx. 1691 sq. ft., fair, hazard abatement reqired, most recent use—housing, off-site use only

Bldg. P8117
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830381
Status: Unutilized
Comment: 1581 sq. ft., fair, hazard abatement reqired, most recent use—housing, off-site use only

8 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8118, 8121, 8125, 8153, 8119, 8120, 8124, 8168
Landholding Agency: Army
Property Number: 21199830382
Status: Unutilized
Comment: various. sq. ft., fair, hazard abatement reqired, most recent use—housing, off-site use only

Bldgs. P8122, P8123
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830383
Status: Unutilized
Comment: approx. 1400 sq. ft., fair, hazard abatement reqired, most recent use—housing, off-site use only

Bldg. P8126
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830384
Status: Unutilized
Comment: 1331 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

8 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: P8131C, 8139C, 8203C, 8211C, 8231C, 8243C, 8249C, 8261C
Landholding Agency: Army
Property Number: 21199830386
Status: Unutilized
Comment: 849 sq. ft., fair, hazard abatement required, most recent use—detached garage, off-site use only

Bldgs. P8133, P8134
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830387
Status: Unutilized
Comment: approx. 2000 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

Bldgs. P8135, P8136
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army

Property Number: 21199830388
Status: Unutilized
Comment: approx. 1500 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

4 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8144, 8267, 8148, 8149
Landholding Agency: Army
Property Number: 21199830389
Status: Unutilized
Comment: approx. 2200 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

Bldg. P8171
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830392
Status: Unutilized
Comment: 1289 sq. ft., fair, hazard abatement required, most recent use —housing, off-site use only

Bldg. P8172
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830393
Status: Unutilized
Comment: 1597 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

Bldgs. P8173, P8174
Fort Sam Houston
San Antonio Co: Bexar TX 78234—5000
Landholding Agency: Army
Property Number: 21199830394
Status: Unutilized
Comment: approx. 2200 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

Bldg. P8174C
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830395
Status: Unutilized
Comment: 670 sq. ft., fair, hazard abatement required, most recent use—detached garage, off-site use only

Bldg. P8175
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830396
Status: Unutilized
Comment: 2220 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

Bldg. P8200
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830397
Status: Unutilized
Comment: 892 sq. ft., fair, hazard abatement required, most recent use—officers quarters, off-site use only

Bldg. P8200C
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830398
Status: Unutilized
Comment: 924 sq. ft., fair, hazard abatement required, most recent use—detached garage, off-site use only

Bldg. P8205
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830399
Status: Unutilized
Comment: 1745 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

3 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8206, 8232, 8233
Landholding Agency: Army
Property Number: 21199830400
Status: Unutilized
Comment: approx. 2400 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

Bldg. P8245
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830401
Status: Unutilized
Comment: 2876 sq. ft., hazard abatement required, most recent use—housing, off-site use only

Bldgs. P8262C, 8271C
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830403
Status: Unutilized
Comment: 1006 sq. ft., fair, hazard abatement required, most recent use—detached garage, off-site use only

Bldg. P8269
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199830404
Status: Unutilized
Comment: 2396 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

20 Bldgs.
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Location: #P8271, 8002, 8018, 8025, 8037, 8100, 8130, 8132, 8138, 8140, 8142, 8145, 8147, 8210, 8212, 8221, 8242, 8247, 8264, 8257
Landholding Agency: Army
Property Number: 21199830405
Status: Unutilized
Comment: 2777 sq. ft., fair, hazard abatement required, most recent use—housing, off-site use only

Bldg. P–1374
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199840169
Status: Unutilized
Comment: 111,448 sq. ft., presence of asbestos/lead paint, hazard abatement responsibility, most recent use—barracks, off-site use only

Bldg. P–1980
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199840170
Status: Unutilized
Comment: 2989 sq. ft., presence of asbestos/lead paint, hazard abatement responsibility, most recent use—radio system station, off-site use only

Bldg. P–1981
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199840171
Status: Unutilized
Comment: 200 sq. ft., presence of asbestos/lead paint, hazard abatement responsibility, most recent use—generator plant, off-site use only

Bldg. P–2396
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199840172
Status: Unutilized
Comment: 1080 sq. ft., presence of asbestos, hazard abatement responsibility, most recent use—generator plant, off-site use only

Bldg. P–4226
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199840173
Status: Unutilized
Comment: 1809 sq. ft., presence of lead paint, hazard abatement responsibility, most recent use—storage, off-site use only

Bldg. 2842
Fort Hood
Ft. Hood TX 76544–
Landholding Agency: Army
Property Number: 21199840177
Status: Unutilized
Comment: 2650 sq. ft., most recent use—admin., off-site use only

Bldg. 2843
Fort Hood
Ft. Hood TX 76544–
Landholding Agency: Army
Property Number: 21199840178
Status: Unutilized
Comment: 8043 sq. ft., most recent use—admin., off-site use only

Bldg. 2845

Fort Hood
Ft. Hood TX 76544–
Landholding Agency: Army
Property Number: 21199840180
Status: Unutilized
Comment: 8043 sq. ft., most recent use—admin., off-site use only

Bldg. 2846
Fort Hood
Ft. Hood TX 76544–
Landholding Agency: Army
Property Number: 21199840181
Status: Unutilized
Comment: 8043 sq. ft., most recent use—admin., off-site use only

Bldg. 36
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920204
Status: Unutilized
Comment: 2250 sq. ft., needs repair, most recent use—ACS center, off-site use only

Bldg. 37
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920205
Status: Unutilized
Comment: 2220 sq. ft., needs repair, most recent use—storage, off-site use only

Bldg. 38
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920206
Status: Unutilized
Comment: 2700 sq. ft., needs repair, most recent use—gen. inst., off-site use only

Bldg. 39
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920207
Status: Unutilized
Comment: 2220 sq. ft., needs repair, most recent use—storage, off-site use only

Bldg. 41
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920208
Status: Unutilized
Comment: 1750 sq. ft., needs repair, most recent use—admin., off-site use only

Bldgs. 43–44
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920209
Status: Unutilized
Comment: 2750 sq. ft., needs repair, most recent use—admin., off-site use only

Bldgs. 209–212
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920210
Status: Unutilized
Comment: 8043 sq. ft., needs repair, most recent use—admin., off-site use only

Bldg. 213
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920211
Status: Unutilized
Comment: 7670 sq. ft., needs repair, most recent use—operations, off-site use only

Bldg. 919
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920212
Status: Unutilized
Comment: 11,800 sq. ft., needs repair, most recent use—Bde. Hq. Bldg., off-site use only

Bldg. 923
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920213
Status: Unutilized
Comment: 4440 sq. ft., needs repair, most recent use—admin., off-site use only

Bldg. 924
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920214
Status: Unutilized
Comment: 3500 sq. ft., needs repair, most recent use—admin., off-site use only

Bldgs. 3949–3950
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920219
Status: Unutilized
Comment: 5310 sq. ft., needs repair, most recent use—Bn. Hq. Bldg., off-site use only

Bldg. 3951
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920220
Status: Unutilized
Comment: 2500 sq. ft., needs repair, most recent use—admin., off-site use only

Bldgs. 3952–3953
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920221
Status: Unutilized
Comment: 3100 sq. ft., needs repair, most recent use—admin., off-site use only

Bldgs. 3954–3957
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920222
Status: Unutilized
Comment: 5310 sq. ft., needs repair, most recent use—admin., off-site use only

Bldg. 3958
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920223
Status: Unutilized
Comment: 3241 sq. ft., needs repair, most recent use—admin., off-site use only

Bldg. 3959
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920224
Status: Unutilized
Comment: 3373 sq. ft., needs repair, most recent use—admin., off-site use only

Bldgs. 3960–3962
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920225
Status: Unutilized
Comment: 5310 sq. ft., needs repair, most recent use—admin., off-site use only

Bldgs. 3964–3965
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920226
Status: Unutilized
Comment: 3100 sq. ft., needs repair, most recent use—Bn. Hq. Bldg., off-site use only

Bldg. 3966
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920227
Status: Unutilized
Comment: 2741 sq. ft., needs repair, most recent use—Co. Hq. Bldg., off-site use only

Bldgs. 3967–3969
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920228
Status: Unutilized
Comment: 5310 sq. ft., needs repair, most recent use—admin., off-site use only

Bldgs. 3970–3971
Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 21199920229
Status: Unutilized
Comment: 3241 sq. ft., needs repair, most recent use—admin., off-site use only

Virginia

Bldg. 178
Fort Monroe
Ft. Monroe Co: VA 23651–
Landholding Agency: Army
Property Number: 21199940046
Status: Unutilized
Comment: 1180 sq. ft., needs repair, most recent use—storage, off-site use only

Bldg. T246
Fort Monroe
Ft. Monroe Co: VA 23651–
Landholding Agency: Army
Property Number: 21199940047
Status: Unutilized
Comment: 756 sq. ft., needs repair, possible lead paint, most recent use—scout meetings, off-site use only

Washington

13 Bldgs., Fort Lewis
A0402, C0723, C0726, C0727, C0902
C0907, C0922, C0923, C0926, C0927
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630199
Status: Unutilized
Comment: 2360 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

7 Bldgs., Fort Lewis
A0438, A0439, C0901, C0910, C0911
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630200
Status: Unutilized
Comment: 1144 sq. ft., possible asbestos/lead paint, most recent use—dayroom bldgs., off-site use only

6 Bldgs., Fort Lewis
C0908, C0728, C0921, C1008
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630204
Status: Unutilized
Comment: 2207 sq. ft., possible asbestos/lead paint, most recent use—dining, off-site use only

Bldg. C0909, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630205
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. C0920, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630206
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. C1249, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630207
Status: Unutilized
Comment: 992 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1164, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630213
Status: Unutilized
Comment: 230 sq. ft., possible asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 1307, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630216
Status: Unutilized
Comment: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1309, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630217
Status: Unutilized
Comment: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2167, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630218
Status: Unutilized
Comment: 288 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 4078, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630219
Status: Unutilized
Comment: 10200 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 9599, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630220
Status: Unutilized
Comment: 12366 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. A1404, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199640570
Status: Unutilized
Comment: 557 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. A1419, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199640571
Status: Unutilized
Comment: 1307 sq. ft., needs rehab, most recent use—storage, off-site use only

11 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: #E0103–E0106, E0306, E0315–E0316, E0343–E0344, E0353–E0354
Landholding Agency: Army
Property Number: 21199710143
Status: Unutilized
Comment: 2360 sq. ft., possible asbestos/lead paint, most recent use—officer's quarters, off-site use only

Bldgs. E0109, E0350
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710144
Status: Unutilized
Comment: 1165 sq. ft., possible asbestos/lead paint, most recent use—dayroom, off-site use only

Bldgs. E0120, E0321, E0338
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710145
Status: Unutilized
Comment: 3810 sq. ft., possible asbestos/lead paint, most recent use—officer's quarters, off-site use only

5 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: #E0127, E0136, E0302, E0204, E0330
Landholding Agency: Army
Property Number: 21199710146
Status: Unutilized
Comment: 2284 sq. ft., possible asbestos/lead paint, most recent use—offices, off-site use only

Bldg. E0136
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710147
Status: Unutilized
Comment: 3885 sq. ft., possible asbestos/lead paint, most recent use—officer's quarters, off-site use only

Bldgs. E0158, E0303
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710148
Status: Unutilized

Comment: 1675 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. E0202
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710149
Status: Unutilized
Comment: 992 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. E0312
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710150
Status: Unutilized
Comment: 3885 sq. ft., possible asbestos/lead paint, most recent use—officer's quarters, off-site use only

Bldg. E0322
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710151
Status: Unutilized
Comment: 2250 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. E0325
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710152
Status: Unutilized
Comment: 3336 sq. ft., possible asbestos/lead paint, most recent use—officer's quarters, off-site use only

Bldg. E0329
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710153
Status: Unutilized
Comment: 1843 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. E0334
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710154
Status: Unutilized
Comment: 3779 sq. ft., possible asbestos/lead paint, most recent use—recreation, off-site use only

Bldg. E0335
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710155
Status: Unutilized
Comment: 2207 sq. ft., possible asbestos/lead paint, most recent use—dining facility, off-site use only

Bldg. E0347
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710156
Status: Unutilized
Comment: 1800 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. E0349, E0110
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710157
Status: Unutilized
Comment: 1296 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

4 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: #E0351, E0308, E0207, E0108
Landholding Agency: Army
Property Number: 21199710158
Status: Unutilized
Comment: 1144 sq. ft., possible asbestos/lead paint, most recent use—dayroom, off-site use only

Bldgs. E0352, E0307
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710159
Status: Unutilized
Comment: 992 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. E0355
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710160
Status: Unutilized
Comment: 2360 sq. ft., possible asbestos/lead paint, most recent use—training facility, off-site use only

Bldg. B1008, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199720216
Status: Unutilized
Comment: 7387 sq. ft., 2-story, needs rehab, possible asbestos/lead paint, most recent use—medical clinic, off-site use only

Bldgs. B1011–B1012
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199720217
Status: Unutilized
Comment: 992 sq. ft., and 1144 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. C0509, C0709, C0720
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199810372
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—storage, off-site use only

4 Bldgs.
Fort Lewis
C0511, C0710, C0711, C0719
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199810373
Status: Unutilized
Comment: 1,144 sq. ft possible asbestos/lead paint, needs rehab, most recent use—dayrooms, off-site use only

11 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location:
C0528, C0701, C0708, C0721, C0526, C0527, C0702, C0703, C0706, C0707, C0722
Landholding Agency: Army
Property Number: 21199810374
Status: Unutilized
Comment: 2207 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—dining, off-site use only

Bldg. 1021
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830418
Status: Unutilized
Comment: 3724 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—carport, off-site use only

Bldg. 5162
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830419
Status: Unutilized
Comment: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. A0631
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830422
Status: Unutilized
Comment: 2207 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. C1246
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830426
Status: Unutilized
Comment: 7670 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. B0813
Fort Lewis

Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830427
Status: Unutilized
Comment: 1144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. B0812
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830428
Status: Unutilized
Comment: 1144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—dayroom, off-site use only

Bldg. B0228
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830429
Status: Unutilized
Comment: 2739 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. C0409
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830431
Status: Unutilized
Comment: 1948 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 9575
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830432
Status: Unutilized
Comment: 17,217 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—veh. maint., off-site use only

Bldg. 5224
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830433
Status: Unutilized
Comment: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—educ. fac., off-site use only

Bldg. 9794
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830435
Status: Unutilized
Comment: 210 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—vet. fac., off-site use only

Bldg. 4540
Fort Lewis
Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199840183
Status: Unutilized
Comment: 1200 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 4541
Fort Lewis
Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199840184
Status: Unutilized
Comment: 880 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 4542
Fort Lewis
Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199840185
Status: Unutilized
Comment: 112 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—heat plant, off-site use only

Bldg. 4549
Fort Lewis
Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199840186
Status: Unutilized
Comment: 26220 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—green house heat plant, off-site use only

Bldg. U001B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920237
Status: Excess
Comment: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U001C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920238
Status: Unutilized
Comment: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

10 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U002B, U002C, U005C, U015I, U016E, U019C, U022A, U028B, 0091A, U093C
Landholding Agency: Army
Property Number: 21199920239
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U003A, U004B, U006C, U015B, U016B, U019B
Landholding Agency: Army
Property Number: 21199920240
Status: Unutilized
Comment: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U004D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920241
Status: Unutilized
Comment: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

Bldg. U005A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920242
Status: Unutilized
Comment: 360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldgs. U006A, U024A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920243
Status: Excess
Comment: 1440 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldgs. U007A, U021A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920244
Status: Excess
Comment: 100 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

7 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U014A, U022B, U023A, U043B, U059B, U060A, U101A
Landholding Agency: Army
Property Number: 21199920245
Status: Excess
Comment: needs repair, presence of asbestos/lead paint, most recent use—ofc/tower/support, off-site use only

Bldg. U015J
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920246
Status: Excess
Comment: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U018B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920247
Status: Unutilized
Comment: 121 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U018C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920248
Status: Unutilized
Comment: 48 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U024B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920249
Status: Unutilized
Comment: 168 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U024D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920250
Status: Unutilized
Comment: 120 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—ammo bldg., off-site only

Bldg. U027A
Fort Lewis
Ft. Lewis Co: Pierce WA
Landholding Agency: Army
Property Number: 21199920251
Status: Excess
Comment: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tire house, off-site use only

Bldgs. U028A–U032A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920252
Status: Unutilized
Comment: 72 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U031A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920253
Status: Excess
Comment: 3456 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—line shed, off-site use only

Bldg. U031C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920254
Status: Unutilized
Comment: 32 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U040D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920255
Status: Excess
Comment: 800 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U052C, U052H
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920256
Status: Excess
Comment: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U035A, U035B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920257
Status: Excess
Comment: 192 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldgs. U035C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920258
Status: Excess
Comment: 242 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U039A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920259
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldgs. U039B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920260
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—grandstand/bleachers, off-site use only

Bldgs. U039C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920261
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldgs. U043A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920262
Status: Excess
Comment: 132 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U052A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920263
Status: Excess
Comment: 69 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldgs. U052E
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920264
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. U052G
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920265
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

3 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U058A, U103A, U018A
Landholding Agency: Army
Property Number: 21199920266
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U059A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920267
Status: Excess
Comment: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U093B

Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920268
Status: Excess
Comment: 680 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

4 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U101B, U101C, U507B, U557A
Landholding Agency: Army
Property Number: 21199920269
Status: Excess
Comment: 400 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U102B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920270
Status: Excess
Comment: 1058 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. U108A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920271
Status: Excess
Comment: 31,320 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—line shed, off-site use only

Bldg. U110B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920272
Status: Excess
Comment: 138 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U111A, U015A, U024E, U052F, U109A, U110A
Landholding Agency: Army
Property Number: 21199920273
Status: Excess
Comment: 1000 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support/shelter/mess, off-site use only

Bldg. U112A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920274
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. U115A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920275
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U507A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920276
Status: Excess
Comment: 400 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldg. U516B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920277
Status: Excess
Comment: 5000 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shed, off-site use only

7 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: F0002, F0004, F0003, F0005, F0006, F0008, F0009
Landholding Agency: Army
Property Number: 21199920278
Status: Excess
Comment: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. F0022A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920279
Status: Excess
Comment: 4373 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—gen. inst., off-site use only

Bldg. F0022B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920280
Status: Excess
Comment: 3100 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. C0120
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920281
Status: Excess
Comment: 384 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—scale house, off-site use only

Bldg. A0220
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920282
Status: Excess
Comment: 2284 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—club facility, off-site use only

18 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: A0337, A0617, B0820, B0821, C0319, C0833, C0310, C0311, C0318, C1019, D0712, D0713, D0720, D0721, D1108, D1153, C1011, C1018
Landholding Agency: Army
Property Number: 21199920283
Status: Excess
Comment: 1144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—day room, off-site use only

Bldg. A0334
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920284
Status: Excess
Comment: 1092 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

7 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: C0302, C0303, C0306, C0322, C0323, C0326, C0327
Landholding Agency: Army
Property Number: 21199920285
Status: Excess
Comment: 2340 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—barracks, off-site use only

12 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: C1002, C1003, C1006, C1007, C1022, C1023, C1026, C1027, C1207, C1301, C13333, C1334
Landholding Agency: Army
Property Number: 21199920287
Status: Excess
Comment: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. E1010
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920288
Status: Excess
Comment: 148 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—gas station, off-site use only

Bldg. D1154

Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920289
Status: Excess
Comment: 1165 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—day room, off-site use only

Bldg. 01205
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920290
Status: Excess
Comment: 87 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 01259
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920291
Status: Excess
Comment: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 01266
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920292
Status: Excess
Comment: 45 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. B1410
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920293
Status: Excess
Comment: 3108 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—motor repair, off-site use only

Bldg. 1445
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920294
Status: Excess
Comment: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—generator bldg., off-site use only

Bldg. 02082
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920295
Status: Excess
Comment: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. 03091, 03099
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920296
Status: Excess
Comment: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldgs. 03100, 3101
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920297
Status: Excess
Comment: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 4040
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920298
Status: Excess
Comment: 8326 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shed, off-site use only

Bldgs. 4072, 5104
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920299
Status: Excess
Comment: 24/36 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 4295
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920300
Status: Excess
Comment: 48 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 5170
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920301
Status: Excess
Comment: 19,411 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—store, off-site use only

Bldg. 6191
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920303
Status: Excess
Comment: 3663 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—exchange branch, off-site use only

Bldgs. 08076, 08080
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920304
Status: Excess
Comment: 3660/412 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 08093
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920305
Status: Excess
Comment: 289 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—boat storage, off-site use only

Bldg. 8279
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920306
Status: Excess
Comment: 210 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—fuel disp. fac., off-site use only

Bldgs. 8280, 8291
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920307
Status: Excess
Comment: 800/464 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 8956
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920308
Status: Excess
Comment: 100 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 9530
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920309
Status: Excess
Comment: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 9574
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920310
Status: Excess
Comment: 6005 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—veh. shop., off-site use only

Bldg. 9596
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–

Landholding Agency: Army
Property Number: 21199920311
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—gas station, off-site use only

Bldg. 9939
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920313
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—recreation, off-site use only

Bldg. E0324
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920314
Status: Excess
Comment: 2207 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

LAND (by State)

Georgia

Land (Railbed)
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199440440
Status Unutilized
Comment: 17.3 acres extending 1.24 miles, no known utilities potential

Maryland

13 acres
Fort George G. Meade
west side of Rt 175
Ft. Meade Co: Anne Arundel MD 20755–5111
Landholding Agency: Army
Property Number: 21199930151
Status: Underutilized
Comment: small paved area, remainder wooded

Nevada

Parcel A
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: At Foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Landholding Agency: Army
Property Number: 21199012049
Status: Unutilized
Comment: 160 acres, road and utility easements, no utility hookup, possible flooding problem.

Parcel B
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: At Foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Landholding Agency: Army
Property Number: 21199012056
Status: Unutilized
Comment: 1920 acres; road and utility easements; no utility hookup, possible flooding problem.

Parcel C
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at Western edge of State Route 359
Landholding Agency: Army
Property Number: 21199012057
Status: Unutilized
Comment: 85 acres; road and utility easements; no utility hookup.

Parcel D
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at western edge of State Route 359.
Landholding Agency: Army
Property Number: 21199012058
Status: Unutilized
Comment: 955 acres; road and utility easements; no utility hookup.

New York

Land—6.965 Acres
Dix Avenue
Queensbury Co: Warren NY 12801–
Landholding Agency: Army
Property Number: 21199540018
Status: Unutilized
Comment: 6.96 acres of vacant land, located in industrial area, potential utilities

Texas

Old Camp Bullis Road
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199420461
Status: Unutilized
Comment: 7.16 acres; rural gravel road

Castner Range
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 21199610788
Status: Unutilized
Comment: approx. 56.81 acres; portion in floodway, most recent use—recreation picnic park

Suitable/Unavailable Properties

BUILDINGS (by State)

Alaska

Bldg. 806
Fort Richardson
Ft. Richardson Co: AK 99505–
Landholding Agency: Army
Property Number: 21199930115
Status: Excess
Comment: 93,178 sq. ft., concrete block, most recent use—storage, off-site use only

Georgia

Bldg. 4090
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199630007
Status: Underutilized
Comment: 3530 sq. ft., most recent use—chapel, off-site use only

Kansas

Bldg. P–295
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 21199810296
Status: Unutilized
Comment: 3480 sq. ft., concrete, most recent use—underground storage, off-site use only

New York

Bldg. T–2215
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840161
Status: Unutilized
Comment: 7670 sq. ft., most recent use—quarters, off-site use only

Bldg. T–2216
Fort Drum
Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21199840162
Status: Unutilized
Comment: 7670 sq. ft., most recent use—quarters, off-site use only

Texas

Bldg. P–2000, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199220389
Status: Underutilized
Comment: 49,542 sq. ft., 3-story brick structure, within National Landmark Historic District

Bldg. P–2001, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199220390
Status: Underutilized
Comment: 16,539 sq. ft., 4-story brick structure, within National Landmark Historic District

LAND (by State)

North Carolina

.92 Acre—Land

Military Ocean Terminal,
Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 21199610728
Status: Underutilized
Comment: municipal drinking waterwell, restricted by explosive safety regs., New Hanover County Buffer Zone

10 Acre—Land
Military Ocean Terminal,
Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 21199610729
Status: Underutilized
Comment: municipal drinking waterwell, restricted by explosive safety regs., New Hanover County Buffer Zone

257 Acre—Land
Military Ocean Terminal,
Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 21199610730
Status: Underutilized
Comment: state park, restricted by explosive safety regs., New Hanover County Buffer Zone

24.83 acres—Tract of Land
Military Ocean Terminal,
Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 21199620685
Status: Underutilized
Comment: 24.83 acres, municipal park, most recent use—New Hanover County explosive buffer zone

Texas

Vacant Land, Fort Sam Houston
All of Block 1800, Portions of Blocks 1900, 3100 and 3200
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21199220438
Status: Unutilized
Comment: 210.83 acres, 85% located in floodplain, presence of unexploded ordnance, 2 land fill areas

Suitable/To Be Excessed

BUILDINGS (by State)

Idaho

Moore Hall U.S. Army Rsve Ctr
1575 N. Skyline Dr.
Idaho Falls Co: Bonneville ID 83401–
Landholding Agency: Army
Property Number: 21199720207
Status: Unutilized
Comment: 12582 sq. ft. dental clinic in mobile home, 1138 sq. ft. maint. shop, good condition, possible asbestos

Illinois

WARD Army Reserve Center
1429 Northmoor Road
Peoria Co: Peoria IL 61614–3498
Landholding Agency: Army
Property Number: 21199430254
Status: Unutilized
Comment: 2 bldgs. on 3.15 acres, 36451 sq. ft., reserve center & warehouse, presence of asbestos, most recent use—office/storage/training

Stenafich Army Reserve Center
1600 E. Willow Road
Kankakee Co: Kankakee IL 60901–2631
Landholding Agency: Army
Property Number: 21199430255
Status: Unutilized
Comment: 2 bldgs.—reserve center & vehicle maint. shop on 3.68 acres, 5641 sq. ft., most recent use—office/storage/training, presence of asbestos

Indiana

Bldg. 27, USARC Paulsen
North Judson Co: Starke IN 46366–
Landholding Agency: Army
Property Number: 21199610669
Status: Unutilized
Comment: 10379 sq. ft., presence of asbestos, most recent use—office/storage/training

Bldg. 36, USARC Paulsen
North Judson Co: Starke IN 46366–
Landholding Agency: Army
Property Number: 21199610670
Status: Unutilized
Comment: 1802 sq. ft., presence of asbestos, most recent use—vehicle maintenance

Kansas

U.S. Army Reserve Center Annex
800 South 29th St.
Parsons KS
Landholding Agency: Army
Property Number: 21199720208
Status: Unutilized
Comment: 3157 sq. ft., 1-story, reserve center annex and storage

New York

Bldgs. P–1 & P–2
Olean Reserve Center
423 Riverside Drive
Olean Co: Cattaraugus NY 14760–
Landholding Agency: Army
Property Number: 21199540017
Status: Unutilized
Comment: 4464 sq. ft. reserve center/1325 sq. ft. motor repair shop, 1 story each, concrete block/brick frame, on 3.9 acres

Reserve Center
PFC. Robert J. Manville
USARC
1205 Lafayette Street
Ogdensburg Co: St. Lawrence NY 13669–
Landholding Agency: Army
Property Number: 21199710241
Status: Unutilized
Comment: 11,540 sq. ft., good condition

Motor Repair Shop
PFC. Robert J. Manville
USARC
1205 Lafayette Street
Ogdensburg Co: St. Lawrence NY 13669–
Landholding Agency: Army
Property Number: 21199710242
Status: Unutilized
Comment: 2524 sq. ft., good condition

Wisconsin

U.S. Army Reserve Center
2310 Center Street
Racine Co: Racine WI 53403–3330
Landholding Agency: Army
Property Number: 21199620740
Status: Unutilized
Comment: 3 bldgs. (14,137 sq. ft.) on 3 acres, needs repair, most recent use—office/storage/training

LAND (by State)

California

U.S. Army Reserve Center
Mountain Lakes Industrial Park
Redding Co: Shasta CA
Landholding Agency: Army
Property Number: 21199610645
Status: Unutilized
Comment: 5.13 acres within a light industrial park

Tennessee

Railroad Bed
Fort Campbell
Jack Miller Blvd.
Clarksville TN
Landholding Agency: Army
Property Number: 21199840189
Status: Unutilized
Comment: approx. 6.06 acres

Unsuitable Properties

BUILDINGS (by State)

Alabama

72 Bldgs.
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–
Landholding Agency: Army
Property Number: 219014015, 219430286, 219530034, 219630015, 219630017, 219710163–219710170
219810011–219810023, 21199840008, 21199910003, 21199910006, 21199920026, 21199930010–21199930018, 21199930110, 21199940048–21199940049,

21200010001–21200010008
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

55 Bldgs., Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219310016, 219330003, 219340116, 219340124, 219410022, 219520057–219520058, 2196300011, 219640440, 219710091, 219730009, 219730011, 219740004, 219740006, 219810010, 219830002, 219830007, 21199910001, 21199930019, 21200010009–21200010010
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 25203, 25205–25207, 25209
Fort Rucker
Stagefield Areas
Ft. Rucker CO; Dale AL 36362–5138
Landholding Agency: Army
Property Number 219410020
Status: Unutilized
Reason Secured area.

Alaska

16 Bldgs.
Fort Greely
Ft. Greely AK 99790–
Landholding Agency: Army
Property Number: 219210124–219210125, 219220320–219220332, 219520064
Status: Unutilized
Reason: Extensive deterioration

8 Bldgs., Fort Wainwright
Ft. Wainwright AK 99703
Landholding Agency: Army
Property Number: 219710090 219710195–219710198, 219810002, 219810007, 21199920001
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured area; Floodway (Some are extensively deteriorated)

Bldg. 1501, Fort Greely
Ft. Greely AK 99505
Landholding Agency: Army
Property Number: 219240327
Status: Unutilized
Reason: Secured Area

Sullivan Roadhouse, Fort Greely
Ft. Greely AK
Landholding Agency: Army
Property Number: 219430291
Status: Unutilized
Reason: Extensive deterioration

27 Bldgs., Fort Richardson
Ft. Richardson AK 99505
Landholding Agency: Army
Property Number: 219710199–219710220, 21199930004–21199930009
Status: Unutilized
Reason: Extensive deterioration

Arizona

32 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Number: 219014560–219014591
Status: Underutilized
Reason: Secured Area

10 properties: 753 earth covered igloos; above ground standard, magazines
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Number: 219014592–219014601
Status: Underutilized
Reason: Secured Area

9 Bldgs.
Navajo Deport Activity
Bellemont Co: Coconino AZ 86015–5000
Location: 12 miles west of Flagstaff, on I–40
Landholding Agency: Army
Property Number: 219030273–219030274, 219120175–219120181
Status: Unutilized
Reason: Secured Area

Bldg. 47017
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635
Landholding Agency: Army
Property Number: 21199930020
Status: Excess
Reason: Extensive deterioration

Arkansas

177 Bldgs., Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219630019–219630029, 219640462–219640477
Status: Unutilized
Reason: Extensive deterioration

California

Bldg. 18
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219012554
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

11 Bldgs., Nos. 2–8, 156, 1, 120, 181
Riverbank Army Ammunition Plant
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219013582–219013588, 219013590, 219240444–219240446
Status: Underutilized
Reason: Secured area

9 Bldgs.
Oakland Army Base
Oakland Co; Alameda CA 94626–5000
Landholding Agency: Army
Property Number: 219013903–219013906, 219120051, 219340008–219340011
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

Bldgs. 13, 171, 178 Riverbank Ammun Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219120162–219120164
Status: Underutilized
Reason: Secured Area

6 Bldgs.
DDDRW Sharpe Facility
Tracy Co: San Joaquin CA 95331
Landholding Agency: Army
Property Number: 219610289, 219610291, 21199930021, 21200010011–21200010013
Status: Unutilized
Reason: Secured Area

6 Buildings
Oakland Army Base
Oakland Co: Alameda CA 94626
Location: Include: 90, 790, 792, 807, 829, 916
Landholding Agency: Army
Property Number: 219510097
Status: Unutilized
Reason: Secured Area; Within 2000 ft. of flammable or explosive material

Bldgs. 29, 39, 73, 154, 155, 193, 204, 257
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219520040
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 1103, 1131, 1120
Parks Reserve Forces Training Area
Dublin Co: Alameda CA 94568–5201
Landholding Agency: Army
Property Number: 219520056, 219830010
Status: Unutilized
Reason: Extensive deterioration

15 Bldgs.
Sierra Army Depot
Herlong Co: Lassen CA 96113
Landholding Agency: Army
Property Number: 21199840015–21199840020, 21199920033–21199920036, 21199940052–21199940056

Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

449 Bldgs.
Camp Roberts
Camp Roberts Co: San Obispo CA
Landholding Agency: Army
Property Number: 21199730014, 219820192–219820235
Status: Excess
Reason: Secured Area; Extensive deterioration

30 Bldgs.
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944
Landholding Agency: Army
Property Number: 219810380–219810381, 21199930106–21199930108, 21199940050–21199940051
Status: Unutilized
Reason: Extensive deterioration

21 Bldgs.
Fort Irwin
Ft. Irwin Co: San Bernardino CA 92310
Landholding Agency: Army
Property Number: 21199920037–21199920038
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Colorado

Bldgs. T–317, T–412, 431, 433
Rocky Mountain Arsenal
Commerce Co: Adams Co 80022–2180
Landholding Agency: Army
Property Number: 219320013–219320016
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area; Extensive deterioration

46 Bldgs. Fort Carson
Ft. Carson Co: El Paso Co 80913–5023
Landholding Agency: Army
Property Number: 219610317, 219620400, 219710093, 219710173, 219730015, 219730017, 219830020–219830032, 21199910008–21199910010, 21199930022–21199930025
Status: Unutilized
Reason: Extensive deterioration

15 Storage Sheds
Pueblo Chemical Depot
Pueblo CO 81006–9330
Landholding Agency: Army
Property Number: 219830011
Status: Unutilized
Reason: Extensive deterioration

Connecticut

Bldgs. DK001, DKL05, DKL10
USARC Middletown
Middletown Co: Middlesex CT 06457–1809
Landholding Agency: Army
Property Number: 219810024–219810026
Status: Unutilized
Reason: Extensive deterioration

Georgia

Fort Stewart
Sewage Treatment Plant
Ft. Stewart Co: Hinesville GA 31314–
Landholding Agency: Army
Property Number: 219013922
Status: Unutilized
Reason: Sewage treatment

Facility 12304
Fort Gordon
Augusta Co: Richmond GA 30905–
Location: Located off Lane Avenue
Landholding Agency: Army
Property Number: 219014787
Status: Unutilized
Reason: Wheeled vehicle grease/inspection rack

210 Bldgs.
Fort Gordon
Augusta Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219220269, 219320026, 219410050–219410060, 219410071–219410072, 219410100, 219410109, 219410114–219410115, 219520067, 219610330–219610331, 219610336, 219630044–219630067, 219640011–219640037, 219710094, 219730019–219730020, 219810027, 219830034–219830067, 21199910012, 21199940057–21199940059
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs., Fort Benning
Fort Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220335–219220337
Status: Unutilized
Reason: Detached lavatory

24 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219520150, 219610320–219610321, 219640046, 219720017–219720022, 219810028–219810031, 219810035, 219830073–219830083, 21199930030–21199930037
Status: Unutilized
Reason: Extensive deterioration

18 Bldgs.
Fort Gillem
Forest Park Co: Clayton GA 30050
Landholding Agency: Army
Property Number: 219620815, 21199920044–21199920051, 21199930026–21199930029
Status: Unutilized
Reason: Extensive deterioration; Secured Area

3 Bldgs., Fort Stewart
Hinesville Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 219740012–219740013, 21199940060
Status: Unutilized
Reason: Extensive Deterioration

4 Bldgs., Hunter Army Airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 219620413, 219630034, 219740010, 219830068
Status: Unutilized
Reason: Extensive deterioration

14 Bldgs., Fort McPherson
Ft. McPherson Co: Fulton GA 30330–5000
Landholding Agency: Army
Property Number: 21199920040–21199920043
Status: Unutilized
Reason: Secured Area

Hawaii

PU–01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11
Schofield Barracks
Kolekole Pass Road
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219014836–219014837
Status: Unutilized
Reason: Secured Area

P–3384, T–1089, T–1093, T–1133
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219030361, 21199930039, 21200010014
Status: Unutilized
Reason: Secured Area

Bldgs. T–1305, P408
Wheeler Army Airfield
Wahiawa HI 96857
Landholding Agency: Army
Property Number: 219610348, 21199940061
Status: Unutilized
Reason: Extensive deterioration

Bldgs. T–226, T–224
Dillingham Military Reservation
Wahiawa Co: HI 96857
Landholding Agency: Army
Property Number: 21199930040
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs.
Fort Shafter
#S–720, S–721, S722, P1610
Honolulu Co: HI 96819
Landholding Agency: Army
Property Number: 21200010015–21200010018
Status: Unutilized
Reason: Extensive deterioration

Illinois

Bldgs. 58, 59 and 72, 69, 64, 105, 135

Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Number: 219110104–219110108, 219620427
Status: Unutilized
Reason: Secured Area

Bldgs. 133, 141 Rock Island Arsenal
Gillespie Avenue
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 219210100, 219620428
Status: Unutilized
Reason: Extensive deterioration

16 Bldgs.
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040
Landholding Agency: Army
Property Number: 219820027, 21199930042–21199930053
Status: Unutilized
Reason: Secured Area; Extensive deterioration; Floodway

Indiana

181 Bldgs.
Newport Army Ammunition Plant
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219011584, 219011586–219011587, 219011589–219011590, 219011592–219011627, 219011629–219011636, 219011638–219011641, 219210149–219210151, 219220220, 219230034–219230033, 219430336–219430338, 219520033, 219520042, 219530075–219530097, 219740021–219740026, 219820031–219820032, 21199920063
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

2 Bldgs.
Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson IN 46124–1096
Landholding Agency: Army
Property Number: 219230030–219230031
Status: Unutilized
Reason: Extensive deterioration

12 Bldgs., Camp Atterbury
Edinburgh IN 46124
Landholding Agency: Army
Property Number: 219610351–219610352, 219620429–219620434
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Iowa

96 Bldgs.
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219012605–219012607, 219012609, 219012611, 219012613, 219012615, 219012620, 219012622, 219012624, 219013706–219013738, 219120172–219120174, 219440112–219440158, 219520002, 219520070, 219610414, 219740027
Status: Unutilized
Reason: (Many are in a Secured Area) (Most are within 2000 ft. of flammable or explosive material.)

27 Bldgs., Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638
Landholding Agency: Army
Property Number: 219230005–219230029, 219310017, 219340091
Status: Unutilized
Reason: Extensive deterioration

Kansas

37 Bldgs.
Kansas Army Ammunition Plant
Production Area
Parsons Co: Labette KS 67357–
Landholding Agency: Army
Property Number: 219011909–219011945
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material)

11 Bldgs.
Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219430040, 219610623–219610626, 219620825–219620826, 219630085
Status: Unutilized
Reason: Extensive deterioration

121 Bldgs.
Kansas Army Ammunition Plant
Parsons Co: Labette KS 67357
Landholding Agency: Army
Property Number: 219620518–219620638
Status: Unutilized
Reason: Secured Area

Bldgs. P–417, T–994
Fort Leavenworth
Leavenworth KS 66027
Landholding Agency: Army
Property Number: 219740029, 21199920064
Status: Unutilized
Reason: Extensive deterioration; Sewage pump station

Kentucky

Bldg. 126
Lexington-Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles northeast of Lexington, Kentucky.
Landholding Agency: Army
Property Number: 219011661
Status: Unutilized
Reason: Secured Area; Sewage treatment facility

Bldg. 12
Lexington—Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles Northeast of Lexington Kentucky.
Landholding Agency: Army
Property Number: 219011663
Status: Unutilized
Reason: Industrial waste treatment plant

20 Bldgs., Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219820033, 2199940062–21199940072
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs., Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 21200010019–21200010021
Status: Unutilized
Reason: Extensive deterioration

Louisiana

528 Bldgs.
Louisiana Army Ammunition Plant
Doylin Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219011714–219011716, 219011735–219011737, 219012112, 219013863–219013869, 219110131, 219240138–219240147, 219420332, 219610049–219610263, 219620002–219620200, 219620749–219620801, 219820047–219820078
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material) (Some are extensively deteriorated)

116 Bldgs., Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 219430339, 219520059, 219810039–219810061, 219820035–219820043, 219830105–219830108, 21199840033–21199840047, 21199920067–21199920080, 21199940074–21199940083, 21200010022–21200010040
Status: Unutilized
Reason: Extensive deterioration; (Some are in Floodway)

Maryland

141 Bldgs.
Aberdeen Proving Ground
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219011417, 219012610, 219012626, 219012628, 219012634, 219012637–219012642, 219012649, 219012650, 219012658–219012662, 219013773, 219014711,

219610480, 219610489–219610490, 219730077–219730084, 219810070–219810127, 219820081–219820096, 219830114, 21199840059, 21199920081, 21200010046–21200010060
Status: Unutilized
Reason: Most are in a secured area; (Some are within 2000 ft. of flammable or explosive material) (Some are in a floodway) (Some are extensively deteriorated)

82 Bldgs. Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 219130059, 219140461, 219310031, 219710186–219710192, 219740068–219740088, 219810064–219810069, 21199910018, 21199910019, 21199930055–21199930058, 21199940084–21199940088
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 132 Fort Ritchie
Ft. Ritchie Co: Washington MD 21719–5010
Landholding Agency: Army
Property Number: 219330109
Status: Underutilized
Reason: Secured Area

6 Bldgs. Fort Detrick
Frederick Co: Frederick MD 21762–5000
Landholding Agency: Army
Property Number: 219830110, 21200010041–21200010045
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Massachusetts

Bldg. 3462, Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Number: 219230095
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Bldgs. 3596, 1209–1211 Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Number: 219230096, 219310018–219310020
Status: Unutilized
Reason: Secured Area

Facility No. 0G001
LTA Granby
Granby Co: Hampshire MA
Landholding Agency: Army
Property Number: 219810062
Status: Unutilized
Reason: Extensive deterioration

Michigan

Detroit Arsenal Tank Plant
28251 Van Dyke Avenue
Warren Co: Macomb MI 48090–
Landholding Agency: Army
Property Number: 219014605
Status: Underutilized
Reason: Secured Area

Bldgs. 5755–5756
Newport Weekend Training Site
Carleton Co: Monroe MI 48166
Landholding Agency: Army
Property Number: 219310060–219310061
Status: Unutilized
Reason: Secured Area; Extensive deterioration

25 Bldgs.
Fort Custer Training Center
2501 26th Street
Augusta Co: Kalamazoo MI 49102–9205
Landholding Agency: Army
Property Number: 219014947–219014963, 219140447–219140454
Status: Unutilized
Reason: Secured Area

6 Bldgs.
Selfridge ANG Base
Selfridge Co: MI 48045
Landholding Agency: Army
Property Number: 21199930059, 21199940089–21199940093
Status: Unutilized
Reason: Secured Area

Minnesota

169 Bldgs.
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Number: 219120165–219120166, 219210014–219210015, 219220227–219220235, 219240328, 219310055–219310056, 219320145–219320156, 219330096–219330108, 219340015, 219410159–219410189, 219420195–219420283, 219430059–219430064, 21199840060
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated)

Missouri

82 Bldgs.
Lake City Army Ammo. Plant
Independence Co: Jackson MO 64050–
Landholding Agency: Army
Property Number: 219013666–219013669, 219530134–219530138, 21199910023–21199910035, 21199920082
Status: Unutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

9 Bldgs.
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: St. Louis MO 63120–1798
Landholding Agency: Army
Property Number: 219120067–219120068, 219610469–219610475
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

14 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219430070–219430078, 219830115–219830116, 21199910020–21199910022, 21199930060
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material (Some are extensively deteriorated.)

Montana

19 Bldgs.
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636
Landholding Agency: Army
Property Number: 219620473–219620475, 219740093–219740101
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Extensive deterioration

Nevada

Bldg. 292
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219013614
Status: Unutilized
Reason: Secured Area

Bldg. 396
Hawthorne Army Ammunition Plant
Bachelor Enlisted Qtrs W/Dining Facilities
Hawthorne Co: Mineral NV 89415–
Location: East side of Decatur Street-North of Maine Avenue
Landholding Agency: Army
Property Number: 219011997
Status: Unutilized
Reason: Within airport runway clear zone; Secured Area

41 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219012013, 219012021, 219012044, 219013615–219013643,
Status: Underutilized
Reason: Secured Area (Some within airport runway clear zone; many within 2000 ft. of flammable or explosive material)

Group 101, 34 Bldgs.
Hawthorne Army Ammunition Plant Co: Mineral NV 89415–0015

Landholding Agency: Army
Property Number: 219830132
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

New Jersey

218 Bldgs.
Armament Res. Dev. & Eng. Ctr.
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219010440–219010474, 219010476, 219010478, 219010639–219010665, 219010671–219010721, 219012424, 219012427–219012428, 219012430, 219012433–219012466, 219012469–219012472, 219012475, 219012760, 219012763–219012767, 219014306–219014307, 219014311, 219014313–219014321, 219140617, 219230121–219230125, 219420001–219420002, 219420006–219420008, 219530144–219530150, 219540002–219540007, 219740110–219740127,
Status: Excess
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated) (Some are in a floodway)

Structure 403B
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219510001
Status: Unutilized
Reason: Drop Tower

9 Bldgs.
Armament Research
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199940094–21199940099
Status: Unutilized
Reason: unexploded ordnance, Extensive deterioration

New York

Bldgs. 110, 143, 2084, 2105, 2110
Seneca Army Depot
Romulus Co: Seneca NY 14541–5001
Landholding Agency: Army
Property Number: 219240439, 219240440–219240443
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Parcel 19
Stewart Army Subpost, U.S. Military Academy
New Windsor Co: Orange NY 12553
Landholding Agency: Army
Property Number: 219730098
Status: Unutilized
Reason: Within airport runway clear zone

Bldg. 12
Watervliet Arsenal
Watervliet NY
Landholding Agency: Army
Property Number: 219730099
Status: Unutilized
Reason: Extensive deterioration

Bldg. 134
Watervliet Arsenal Co: Albany NY 12189–4050
Landholding Agency: Army
Property Number: 21199840068
Status: Unutilized
Reason: Secured Area

Bldg. T–2222
Fort Drum
Ft. Drum Co: Jefferson NY 13602
Landholding Agency: Army
Property Number: 21199920083
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 4056, 4275
Stewart Army Subpost
New Windsor Co: Orange NY 12553
Landholding Agency: Army
Property Number: 21199930061
Status: Unutilized
Reason: sewage pump station

North Carolina

47 Bldgs.
Fort Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219620478, 219620480, 219640064, 219640074, 219710102–219710111, 219710224, 219810167, 219830117, 219830120 21199930062–21199930067
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 16, 139, 261, 273
Military Ocean Terminal
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219530155, 219810158–219810160
Status: Unutilized
Reason: Secured Area

North Dakota

Bldgs. 440, 455, 456, 3101, 3110
Stanley R. Mickelsen
Nekoma Co: Cavalier ND 58355
Landholding Agency: Army
Property Number: 21199941013–21199940107
Status: Unutilized
Reason: Extensive deterioration

Ohio

190 Bldgs.
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219012476–219012507, 219012509–219012513, 219012515, 219012517–219012518, 219012520, 219012522–219012523, 219012525–219012528, 219012530–219012532, 219012534–219012535, 219012537, 219013670–219013677, 219013781, 219210148, 2119984069–21199840104, 21199930070–21199930072
Status: Unutilized
Reason: Secured Area

7 Bldgs.
Lima Army Tank Plant
Lima OH 45804–1898
Landholding Agency: Army
Property Number: 219730104–219730110
Status: Unutilized
Reason: Secured Area

3 Bldgs.
Defense Supply Center
Columbia Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 219830134–21199910037
Status: Unutilized
Reason: Extensive deterioration

Oklahoma

548 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–5000
Landholding Agency: Army
Property Number: 219011674, 219011680, 219011684, 219011687, 219012113, 219013981–210913991, 219013994, 219014081–219014102, 21901404, 219014107–219014137, 219014141–219014159, 219014162, 219014165–219014216, 219014218–219014274, 219014336–219014559, 219030007–219030127, 21904004, 21199910039–21199910040
Status: Underutilized
Reason: Secured Area, (Some are within 2000 ft. of flammable or explosive material)

5 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219140548, 219140550, 219440309, 219510023, 219730342
Status: Unutilized
Reason: Extensive deterioration

33 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501
Landholding Agency: Army
Property Number: 219310050–219310052, 219320170–219320171, 219330149–219330160, 219430122–219430125, 219620485–219620490, 219630110–219630111, 219810174–219810176
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

Oregon

11 Bldgs.

Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012174–219012176, 219012178–219012179, 219012190–219012191, 219012197–219012198, 219012217, 219012229
Status: Underutilized
Reason: Secured Area

34 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012177, 219012185–219012186, 219012189, 219012195–219012196, 219012199–219012205, 219012207–219012208, 219012225, 219012279, 219014304–219014305, 219014782, 219030362–219030363, 219120032, 21199840107–21199840110, 21199920084–21199920090
Status: Unutilized
Reason: Secured Area

Pennsylvania

Bldg. 82001, Reading USARC
Reading Co: Berks PA 19604–1528
Landholding Agency: Army
Property Number: 219320173
Status: Unutilized
Reason: Extensive deterioration

Bldg. T–685, Carlisle Barracks
Carlisle Co: Cumberland PA 17013
Landholding Agency: Army
Property Number: 219610530
Status: Unutilized
Reason: Extensive deterioration

74 Bldgs.
Fort Indiantown Gap
Annville Co: Lebanon PA 17003–5011
Landholding Agency: Army
Property Number: 219640337, 219720093, 219730116–219730128, 219740129–219740132, 219740134, 219740137, 219810177–219810194
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs.
Defense Distribution Depot
New Cumberland Co: York PA 17070–5001
Landholding Agency: Army
Property Number: 219830135, 21199940108–21199940112
Status: Unutilized
Reason: Secured Area

South Carolina

57 Bldgs., Fort Jackson
Ft. Jackson Co: Richland SC 29207
Landholding Agency: Army
Property Number: 219440237, 219440239, 219510017, 219620306, 219620312, 219620317, 219620348–219620351, 219620368, 219640138–219640139, 21199640148–21199640149, 219640167, 219720095, 219720097, 219730130–219730157, 219740138, 219820102–219820111, 219830139–219830157
Status: Unutilized
Reason: Extensive deterioration

Tennessee

32 Bldgs.
Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Number: 219012304–219012309, 219012311–219012312, 219012314, 219012316–219012317, 219012319, 219012325, 219012328, 219012330, 219012332, 219012334–219012335, 219012337, 219013789–219013790, 219030266, 219140613, 219330178, 219440212–219440216, 219510025–219510028
Status: Unutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

10 Bldgs.
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240447–219240449, 219320182–219320184, 219330176–219330177, 219520034, 219740139
Status: Unutilized
Reason: Secured Area

Bldg. Z–183A
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240783
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Texas

20 Bldgs.
Lone Star Army Ammunition Plant
Highway 82 West
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219012524, 219012529, 219012533, 219012536, 219012539–219012540, 219012542, 219012544–219012545, 219030337–219030345
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

186 Bldgs.
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661–
Location: State highway 43 north
Landholding Agency: Army
Property Number: 219012546, 219012548, 219610553–219610584, 219610635, 219620243–219620291, 219620827–219620837
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material)

17 Bldgs., Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Landholding Agency: Army
Property Number: 219420314–219420327, 219430094–219430097, 219440217
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

11 Bldgs., Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219610549, 219640172, 219640177, 219640182, 219810197–219810201, 219830201–219830205
Status: Unutilized
Reason: Extensive Deterioration

Bldgs. T–2916, T–3180, T–3192, T–3398, T–2915
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330476–219330479, 219640181
Status: Unutilized
Reason: Detached latrines

83 Bldgs. Fort Bliss
El Paso Co: El Paso TX 79916
Landholding Agency: Army
Property Number: 219640490–219640491, 219730160–219730186, 219740146, 219830161–219830197
Status: Unutilized
Reason: Extensive deterioration

Starr Ranch, Bldg. 703B
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661
Landholding Agency: Army
Property Number: 219640186, 219640494
Status: Unutilized
Reason: Floodway

Bldgs. 53
Laredo USARC
Laredo Co: Webb TX 78040
Landholding Agency: Army
Property Number: 21199930073
Status: Unutilized
Reason: Extensive deterioration

Utah

14 Bldgs.
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012153, 219012166, 219030366, 212000100610212000100 68
Status: Unutilized
Reason: Secured Area Most are extensively deteriorated)

8 Bldgs.
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012148–219012149, 219012152, 219012155, 219012156, 219012158, 219012751, 219240267
Status: Underutilized
Reason: Secured Area

3 Bldgs.
Dugway Proving Ground
Dugway Co: Tooele UT 84022–
Landholding Agency: Army
Property Number: 219013997, 219130012, 219130015
Status: Underutilized
Reason: Secured Area

59 Bldgs.
Dugway Proving Ground
Dugway Co: Tooele UT 84022–
Landholding Agency: Army
Property Number: 219330181–219330182, 219330185, 219420328–219420329, 21199920091–21199920101
Status: Unutilized
Reason: Secured Area

Bldgs. 3102, 5145, 8030
Deseret Chemical Depot
Tooele UT 84074
Landholding Agency: Army
Property Number: 219820119–219820121
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Virginia

320 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Landholding Agency: Army
Property Number: 219010833, 219010836, 219010839, 219010842, 219010844, 219010847–219010890, 219010892–219010912, 219011521–219011577, 219011581–219011583, 219011585, 219011588, 219011591, 219013559–219013570, 219110142–219110143, 219120071, 21940618–219140633, 219440219–219440225, 219510031–219510033, 219610607–219610608, 219830223–219830267
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

13 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Landholding Agency: Army
Property Number: 219010834–219010835, 219010837–219010838, 219010840–219010841, 219010843, 219010845–219010846, 219010891, 219011578–219011580
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area; Latrine, detached structure

46 Bldgs.
U. S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219240107, 219330210–219330211, 212330219–219330220, 219330225–219330228, 219520062, 219610595, 219601597, 219620497, 21962505, 219620863–219620876, 219630115, 219640497, 219740155–219740156, 219830206–219830210, 21199910041–21199910043, 21199920117–21199920118, 21199940128–21199940131, 21200010072–21200010073
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area.)

16 Bldgs.
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219220210–219220218, 219230100–219230103, 219520037
Status: Unutilized
Reason: Secured Area

Bldgs. B7103–01, Motor House
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219240324
Status: Unutilized
Reason: Secured Area; Within 2000 ft. of flammable or explosive material; Extensive deterioration

56 Bldgs.
Red Water Field Office
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219430341–219430396
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

3 Bldgs.
Fort A.P. Hill
Bowling Green Co: Caroline VA 22427
Landholding Agency: Army
Property Number: 219510030, 219610588, 21199930079
Status: Underutilized
Reason: Secured Area; Extensive deterioration

Bldgs. 2013–00, B2013–00, A1601–00
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219520052, 219530194
Status: Unutilized
Reason: Extensive deterioration

19 Bldgs.
Fort Belvoir
Ft. Belvoir Co: Fairfax VA 22060–5116
Landholding Agency: Army
Property Number: 21199910050–21199910052, 21199920107–21199920111, 21199940117–21199940127
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs.
Fort Story
Ft. Story Co: Princess Ann VA 23459
Landholding Agency: Army
Property Number: 219640506, 219710193,
Status: Unutilized
Reason: Extensive deterioration

16 Bldgs., Fort Eustis
#219, 220, 229, 231, 232, 651, 654, 1400, 1404, 1408, 1416, 1419, 1505, 1547, 1743, 421
Ft. Eustis Co: VA 23604
Landholding Agency: Army
Property Number: 21199930074–21199930076, 21200010071
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 448, Fort Myer
Ft. Myer Co: Arlington VA 22211–1199
Landholding Agency: Army
Property Number: 21200010069
Status: Underutilized
Reason: Extensive deterioration

Bldg. T–113
Defense Supply Center
Richmond Co: Chesterfield VA 23297
Landholding Agency: Army
Property Number: 21200010070
Status: Unutilized
Reason: Extensive deterioration

Washington

665 Bldgs., Fort Lewis
Ft. Lewis Co: Pierce WA 98433–5000
Landholding Agency: Army
Property Number: 219610001, 219610006–219610007, 219610009–219610010, 219619912, 219610042–219610046, 219620509–219620517, 219640193, 219710194, 219720142–219720151, 219810205–219810243, 219820130–219820132, 21199840118–21199840123, 21199910063–21199910080, 21199920125–21199920181, 21199930080–21199930105, 21199940134
Status: Unutilized
Reason: Secured Area; Extensive deterioration

11 Bldgs., Fort Lewis
Huckleberry Creek Mountain Training Site
Co: Pierce WA
Landholding Agency: Army
Property Number: 219740162–219740172
Status: Unutilized
Reason: Extensive deterioration

Bldg. 575
Fort Lawton
Seattle Co: King WA 98199
Landholding Agency: Army
Property Number: 21199920119
Status: Unutilized
Reason: Secured Area

Bldg. 415, Fort Worden
Port Angeles Co: Clallam WA 98362
Landholding Agency: Army
Property Number: 21199910062
Status: Excess
Reason: Extensive deterioration

Bldg. U515A, Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920124
Status: Excess
Reason: gas chamber

Bldg. 303
Yakima Training Center
Yakima Co: WA 98901
Landholding Agency: Army
Property Number: 21200010074
Status: Unutilized
Reason: Extensive deterioration

Wisconsin

6 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011094, 219011290–219011212, 219011217
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material; Friable asbestos; Secured Area

154 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 59313–
Landholding Agency: Army
Property Number: 219011104, 219011106, 219011108–219011113, 219011115–219011117, 219011119–219011120, 219011122–219011139, 219011141–219011142, 219011144, 219011148–219011208, 219011213–219011216, 219011218–219011234, 219011236, 219011238, 219011240, 219011242, 219011244, 219011247, 219011249, 219011251, 219011254, 219011256, 19011259, 219011263, 219011265, 219011268, 219011270, 219011275, 219011277, 219011280, 219011282, 219011284, 219011286, 219011290, 219011293, 219011295, 219011297, 219011300, 219011302, 219011304–219011311, 219011317, 219011319–219011321, 219011323
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Friable asbestos; Secured Area

4 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013871–219013873, 219013875
Status: Underutilized
Reason: Secured Area

31 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013876–219013878, 219220295–219220311, 219510058–219510068
Status: Unutilized
Reason: Secured Area

316 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 29210097–219210099, 219740184–219740271
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

Bldg. 6513–3
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Landholding Agency: Army
Property Number: 219510057
Status: Unutilized
Reason: Detached Latrine

124 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Landholding Agency: Army
Property Number: 219510069–219510077
Status: Unutilized
Reason: Secured Area; Extensive deterioration

Bldgs. 101, 2017
Fort McCoy
Ft. McCoy Co: Monroe WI 54656–5163
Landholding Agency: Army
Property Number: 21200010075–21200010076
Status: Unutilized
Reason: Extensive deterioration

LAND (by State)

Alabama

23 acres and 2284 acres
Alabama Army Ammunition Plant
110 Hwy. 235
Childersburg Co: Talladega AL 35044–
Landholding Agency: Army
Property Number: 219210095–219210096
Status: Excess
Reason: Secured Area

Indiana

Newport Army Ammunition Plant
East of 14th St. & North of S. Blvd.
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219012360
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

Maryland

Carroll Island, Graces Quarters
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Number: 219012630, 219012632
Status: Underutilized
Reason: Floodway; Secured Area

Minnesota

Portion of R.R. Spur
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112
Landholding Agency: Army
Property Number: 219620472
Status: Unutilized
Reason: landlocked

New Jersey

Land
Armament Research Development & Eng. Center
Route 15 North
Picatinny Arsenal Co: Morris NJ 07806–
Landholding Agency: Army
Property Number: 219013788
Status: Unutilized
Reason: Secured Area

Spur Line/Right of Way
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219530143
Status: Unutilized
Reason: Floodway

2.0 Acres, Berkshire Trail
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910036
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Ohio

0.4051 acres, Lot 40 & 41
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219630109
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Oklahoma

McAlester Army Ammo. Plant
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–
Landholding Agency: Army
Property Number: 219014603
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Texas

Land—Approx. 50 acres
Lone Star Army Ammunition Plant
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219420308
Status: Unutilized
Reason: Secured Area

Land—Harrison Bayou
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661
Landholding Agency: Army
Property Number: 219640187
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Floodway

Land—.036 acres
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730202
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Wisconsin

Land
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Location: Vacant land within plant boundaries.
Landholding Agency: Army
Property Number: 219013783
Status: Unutilized
Reason: Secured Area

[FR Doc. 00–3530 Filed 2–17–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Renewal To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Information collection; request for comments.

SUMMARY: The collection of information described below will be submitted to OMB for renewal under the provisions of the Paperwork Reduction Act of 1995. A copy of the information collection requirement is included in this notice. Copies of specific information collection requirements, related forms and explanatory material may be obtained by contacting the Service Information Collection Office at the address and/or phone numbers listed below.

DATES: Consideration will be given to all comments received on or before April 18, 2000.

ADDRESSES: Comments and suggestions on specific requirements should be sent to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222 ARLSQ, 1849 C Street NW, Washington DC 20240. If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to the above address. You may also comment via the Internet to R9LE www@fws.gov. Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Please also include ''Attn: Information Collection Renewal, 3–177 Form'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at the telephone number listed below. Finally, you may hand-deliver comments to the above address.

FOR FURTHER INFORMATION CONTACT: Kevin Adams, Chief, Office of Law Enforcement, U.S. Fish and Wildlife Service, telephone (703) 358–1949, fax (703) 358–2271.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service (Service) will submit a request to OMB to renew its approval of the collection of information for the ''Declaration For Importation or Exportation of Fish or Wildlife.'' The current OMB control number is 1018–0012. As part of this process, we invite comments on (1) whether the collection of information is necessary as it relates to the function of the Service, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden on the public to complete the form; and (3) ways to enhance the quality and clarity of the information collection for those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. This form will be made available in an electronic format. We are requesting a 3-year term of approval for this information collection activity.

Federal agencies 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 Endangered Species Act (16 U.S.C. 1538(e)) makes it unlawful to import or export fish, wildlife or plants without filing any declaration or report deemed necessary for enforcing the Act or upholding the Convention on International Trade in Endangered Species (CITES). The U.S. Fish and Wildlife Service Form 3–177, ''Declaration for Importation or Exportation of Fish or Wildlife,'' is the documentation required of any individual importing or exporting a fish or wildlife product into or out of the United States. The information collected is unique to each wildlife shipment and enables the Service to accurately inspect the contents of the shipment, maintain records and enforce government regulations. Additionally, much of the collected information is compiled in an annual report and is forwarded to the CITES Secretariat in Geneva, Switzerland. Submission of an annual report on the number and types of imports and exports of fish and wildlife is a treaty obligation under CITES.

Service personnel use the information obtained from a 3–177 form as an enforcement tool and management aid in monitoring the international wildlife market and detecting trends and changes in the commercial trade of wildlife and plants. The Agency's Office of Scientific Authority and the Office of Management Authority use this data to assess the needs for additional protection for indigenous species.

In addition, non-government organizations, as well as the commercial wildlife community request information that has been obtained from the 3–177 declaration form.

The 3–177 form must be filed with the Service at the time of import or export, at a port where clearance is requested. In certain instances, this form may be filed with the U.S. Customs Service.

The standard information collection includes the name of the importer/exporter and broker, the scientific and common name of the wildlife, permit numbers (if a permit is required), a description of the commodity, quantity and value, and country of origin of the wildlife. In addition, information such as the airway bill or bill of lading number, the location of the goods for inspection, and number of cartons containing wildlife assists the inspectors if a physical examination is required, and expedites the inspection and eventual clearance of the shipment.

Title: Declaration for Importation or Exportation of Fish or Wildlife.

Approval Number: 1018–0012.

Service Form Number: 3–177.

Frequency of Collection: Hourly.

Description of Respondents: Businesses or individuals that import/export wildlife, scientific institutions, government agencies.

Total Annual Burden Hours: The reporting burden is estimated to average 14 minutes per respondent. The total annual burden hours is 19,780 hours.

Total Annual Responses: Approximately 86,000 individual declaration forms are filed with the Service in a fiscal year.

We invite comments on the renewal of the 3–177 form. The information collections in this program are part of a system of records covered by the Privacy Act (5 U.S.C. 552(a)). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law. There may also be limited circumstances in which we would withhold from the rulemaking record, a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this clearly at the beginning of your comment. We will not consider anonymous comments. We generally make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

BILLING CODE 4310–55–U

USFWS Form 3-177
(Revised)
Form Approved O.M.B. No. 1018-0012
Approval Expires:

U.S. FISH AND WILDLIFE SERVICE

Page ___ of ___

DECLARATION FOR IMPORTATION OR EXPORTATION OF FISH OR WILDLIFE

1. Date of Import/Export: (mm/dd/yyyy) __ __ / __ __ / __ __ __ __
2. I/E License Number:
3. Indicate One: ☐ Import ☐ Export
4. Port of Clearance: ___ ___
5. Purpose Code: ___
6. Customs Entry Number:
7. Name of Carrier:
8. Air Way Bill or Bill of Lading No.:
   Master:
   House:
9. Transportation Code: ___
   License ___ State ___
10. Bonded Location for Inspection:
11. Number of Cartons Containing Wildlife:
12. Package Markings Containing Wildlife:

Please Type or Print Legibly

13. (indicate one)
☐ U.S. Importer of Record
☐ U.S. Exporter
(complete name / address)

14a. Foreign Supplier / Receiver:
(complete name / address)

14b. __ __

15. Customs Broker, Shipping Agent or Freight Forwarder:

Phone No. / Fax Number: Contact Name:

Species Code (Official Use)	16a. Scientific Name / 16b. Common Name	17a. Foreign CITES Permit No. / 17b. U.S. CITES Permit No.	18a. Description Code / 18b. Source	19a. Quanity / Unit / 19b. Total Monetary Value	20. Country of Origin of Animal

Knowingly making a false statement in a Declaration for Importation or Exportation of Fish or Wildlife may subject the declarant to the penalty provided by 18 U.S.C 1001.

21. I certify under penalty of perjury that the information furnished is true and correct:

Signature ___ Date ___

Type or Print Name ___

FOR OFFICIAL USE ONLY

Action/Comments:

Wildlife Inspected:
None / Partial / Full

SEE REVERSE OF THIS FORM FOR PRIVACY ACT NOTICE

USFWS Form 3-177a
(Revised)
Form Approved O.M.B. No. 1018-0012
Approval Expires:

U.S. FISH AND WILDLIFE SERVICE
DECLARATION FOR IMPORTATION OR EXPORTATION OF FISH OR WILDLIFE

Page ___ of ___

13. Name of Importer/Exporter:

8. Air Way Bill or Bill of Lading No.:
Master:
House:

2. I/E License Number:

CONTINUATION SHEET

Species Code (Official Use)	16a. Scientific Name / 16b. Common Name	17a. Foreign CITES Permit No. / 17b. U.S. CITES Permit No.	18a. Description Code / 18b. Source	19a. Quantity / Unit / 19b. Total Monetary Value	20. Country of Origin of Amimal

Knowingly making a false statement in a Declaration for Importation or Exportation of Fish or Wildlife may subject the declarant to the penalty provided by 18 U.S.C 1001.

21. I certify under penalty of perjury that the information furnished is true and correct:

Signature ____ Date ____

Type or Print Name ____

FOR OFFICIAL USE ONLY

SEE REVERSE OF THIS FORM FOR PRIVACY ACT NOTICE

BILLING CODE 4310–55–C

Filing Instructions

Note: Failure to file a declaration for importation or exportation of fish or wildlife when required by the regulations in 50 CFR 14.61–14.64 is a violation of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq*)

Regulations concerning the importation and exportation of wildlife may be found in 50 CFR Part 14. Specific regulation concerning the filing of declaration for the importation and exportation of wildlife may be found in 50 CFR 14.61–14.64.

Instructions: File original declaration and up to 2 copies to be retained by Importer/Exporter or broker. Print or type legibly. Provide all relevant information, including supplemental documentation (as required in 50 CFR 14.52(c)(1–5).

1. Enter the date of import or export (as defined by 50 CFR 14.4)

2. Enter Import/Export License Number as in 50 CFR 14.91.

3. Check appropriate box.

4. Use 2-letter code on list. Include a copy of your Non-designated Port Permit, if applicable. If the Port is not listed, use the numeric code for the Region where the port is located.

Agana, GU—AG
Alcan, AK—AL
Anchorage, AK—AN
Atlanta, GA—AT
Baltimore, MD—BA
Blaine, WA—BL
Boston, MA—BO
Brownsville, TX—BV
Buffalo/Niagara Falls, NY—BN
Calais, ME—CA
Calexico, CA—CX
Champlain, NY—CP
Chicago, IL—CH
Cleveland, OH—CL
Dallas, Fort Worth, TX—DF
Del Rio, TX—DR
Denver, CO—DN
Detroit, MI—DE
Douglas, AZ—DG
Dunseith, ND—DS
Eastport, ID—EA
El Paso, TX—EL
Fairbanks, AK—FB
Golden, CO—GO
Grand Portage, MN—GP
Highgate Springs, VT—HS
Honolulu, HI—HA
Houlton, ME—HO
Houston, TX—HN
International Falls, MN—IF
Jackman, MN—JK
Juneau, AK—JU
Laredo, TX—LR
Los Angeles, CA—LA
Lukeville, AZ—LK
Miami, FL—MI
Minneapolis/St. Paul, MN—MP
New Orleans, LA—NO
New York, NY—NY
Newark, NJ—NW
Nogales, AZ—NG
Norfolk, VA—NF
Pembina, ND—PB
Philadelphia, PA—PA
Port Huron, MI—PH
Portal, ND—PL
Portland, OR—PT
Raymond, MT—RY
San Diego/San Ysidro, CA—SY
San Francisco, CA—SF
San Juan, PR—SJ
Sault Saint Marie, MI—SS
Seattle, WA—SE
Sumas, WA—SU
Sweetgrass, MT—SW
Tampa, FL—TP
Tulsa, OK—TU
Washington Dulles, VA—DU
Region 1—Other 01
Region 2—Other 02
Region 3—Other 03
Region 4—Other 04
Region 5—Other 05
Region 6—Other 06
Region 7—Other 07

5. Use one-letter Purpose Code on list.

T—Commercial
Z—Zoos
G—Botanical gardens
Q—Circuses and traveling exhibitions
S—Scientific
H—Hunting trophies
P—Personal
M—Biomedical research
E—Educational
N—Reintroduction or introduction into the wild
B—Breeding in captivity or artificial propagation

6. Provide the Customs entry number, if applicable.

7. Name of carrier—airline, vessel, rail or truck company, or personally owned vehicle.

8. Provide Master, House Airway Bill number or Bill of Lading , if applicable.

9. Use one-letter Transportation Code on list. For automobiles, list license number and state.

A—Air cargo
R—Rail
M—Mail
P—Personal baggage
T—Truck (commercial)
O—Ocean cargo
V—Personal vehicle
B—Border crossing on foot

10. Provide bonded location where available for inspection.

11. Indicate the quantity of cartons in the entire shipment containing wildlife.

12. List any unique markings or codes on cartons containing the wildlife, if applicable.

13. Check appropriate box and complete the name and address in full.

14a. Provide complete name and address information.

14b. Use the two letter ISO (International Organization for Standardization) Country Code.

Afghanistan—AF
Albania—AL
Algeria—DZ
American Samoa—AS
Andorra—AD
Angola—AO
Anguilla—AI
Antarctica—AQ
Antigua and Barbuda—AG
Argentina—AR
Armenia—AM
Aruba—AW
Ascension Islands—GB
Australia—AU
Austria—AT
Azerbaijan—AZ
Azores—ES
Bahamas—BS
Bahrain—BH
Bangladesh—BD
Barbados—BB
Belarus—BY
Belgium—BE
Belize—BZ
Benin—BJ
Bermuda—BM
Bhutan—BT
Bolivia—BO
Bosnia-Herzegovina—BA
Botswana—BW
Bouvet Island—BV
Brazil—BR
British Indian Ocean Territory—IO
British Virgin Islands—VG
Brunei Darussalam—BN
Bulgaria—BG
Burkina Faso—BF
Burundi—BI
Cambodia (Kampuchea)—KH
Cameroon—CM
Canada—CA
Canary Islands—ES
Cape Verde—CV
Cayman Islands—KY
Central African Republic—CF
Chad—TD
Chile—CL
China, People's Republic of—CN
Christmas Island—CX
Cocos Islands (Keeling)—CC
Colombia—CO
Comoros—KM
Congo—CG
Congo, Democratic Republic of (formerly Zaire)—CD
Cook Islands—CK
Costa Rica—CR
Cote d'Ivoire (Ivory Coast)—CI
Croatia—HR
Cuba—CU
Curacao (Netherlands Antilles)—AN
Cyprus—CY
Czech Republic—CZ
Denmark—DK
Djibouti—DJ
Dominica—DM
Dominican Republic—DO
Ecuador—EC
Egypt—EG
El Salvador—SV
Equatorial Guinea—GQ
Eritrea—ER
Estonia—EE
Ethiopia—ET
Falkland Islands (Malvinas)—FK
Faroe Islands—FO
Fiji—FJ
Finland—FI
France—FR
French Guiana—GF
French Polynesia (Tahiti)—PF
French Southern and Antarctic Lands—TF
Gabon—GA
Gambia—GM
Gaza Strip—GZ
Georgia—GE
Germany—DE

Ghana—GH
Gibraltar—GI
Greece—GR
Greenland—GL
Grenada—GD
Guadeloupe—GP
Guam—GU
Guatemala—GT
Guinea—GN
Guinea-Bissau—GW
Guyana—GY
Haiti—HT
Heard and McDonald Islands—HM
Honduras—HN
Hong Kong—HK
Hungary—HU
Iceland—IS
India—IN
Indonesia—ID
Iran—IR
Iraq—IQ
Ireland—IE
Israel—IL
Italy—IT
Jamaica—JM
Japan—JP
Jordan—JO
Kazakhstan—KZ
Kenya—KE
Kiribati—KI
Korea, Democratic People's Republic of—KP
Korea, Republic of—KR
Kuwait—KW
Kyrgyzstan—KG
Lao People's Democratic Republic—LA
Latvia—LV
Lebanon—LB
Lesotho—LS
Liberia—LR
Libyan Arab Jamahiriya—LY
Liechtenstein—LI
Lithuania—LT
Luxembourg—LU
Macau—MO
Macedonia (Skopje)—MK
Madagascar (Malagasy)—MG
Malawi—MW
Malaysia—MY
Maldives—MV
Mali—ML
Malta—MT
Maritius—MU
Marshall Islands—MH
Martinique—MQ
Mauritania—MR
Mayotte—YT
Mexico—MX
Micronesia, Federated States of—FS
Moldova—MD
Monaco—MC
Mongolia—MN
Montserrat—MS
Morocco—MA
Mozambique—MZ
Myanmar (Burma)—MM
Namibia—NA
Nauru—NR
Nepal—NP
Netherlands Antilles—AN
Netherlands—NL
New Caledonia—NC
New Zealand—NZ
Nicaragua—NI
Niger—NE
Nigeria—NG
Niue—NU
Norfolk Island—NF
Northern Mariana Islands—MP
Norway—NO
Oman—OM
Pacific Islands (Miscellaneous)—PC
Pakistan—PK
Palau—PW
Panama—PA
Papua New Guinea—PG
Paraguay—PY
Peru—PE
Philippines—PH
Pitcairn Islands—PN
Poland—PL
Portugal—PT
Puerto Rico—PR
Qatar—QA
Reunion—RE
Romania—RO
Russian Federation—RU
Rwanda—RW
Saint Helena—SH
Saint Kitts and Nevis—KN
Saint Lucia—LC
Saint Pierre and Miquelon—PM
Saint Vincent and the Grenadines—VC
San Marino—SM
Sao Tome and Principe—ST
Saudi Arabia—SA
Senegal—SN
Seychelles—SC
Sierra Leone—SL
Singapore—SG
Slovakia—SK
Slovenia—SI
Solomon Islands—SB
Somalia—SO
South Africa—ZA
South Georgia/South Sandwich Islands—GS
Spain—ES
Sri Lanka—LK
Sudan—SD
Suriname—SR
Svalbard and Jan Mayen Islands—SJ
Swaziland—SZ
Sweden—SE
Switzerland—CH
Syrian Arab Republic—SY
Taiwan (Province of China)—TW
Tajikistan—TJ
Tanzania, United Republic of—TZ
Thailand—TH
Togo—TG
Tokelau—TK
Tongo—TO
Trinidad and Tobago—TT
Tunisia—TN
Turkey—TR
Turkmenistan—TM
Turks and Caicos Islands—TC
Tuvalu—TV
Uganda—UG
Ukraine—UA
United Arab Emirates—AE
United Kingdom (England/N. Ireland/Scotland/Wales)—GB
United States Minor Outlying Islands—UM
United States of America—US
United States, Virgin Islands—VI
Unknown—XX
Uruguay—UY
Uzbekistan—UZ
Vanuatu—VU
Vatican City—VA
Viet Nam—VN
Wallis and Futuna Islands—WF
West Bank—WE
''West Indies''/Unidentified Carribean Is.—WI
Western Sahara—EH
Western Samoa—WS
Yemen—YE
Yugoslavia—YU
Zambia—ZM
Zimbabwe—ZW

15. Enter the name of the appropriate agent, if applicable. (including phone number, FAX number and printed contact name)

16a. List the scientific name for each species. This is a Latin name including genus and species (and sub-species, when applicable).

16b. Include the common name in English.

17a. List the shipper's Foreign CITES permit number for each species in 16a, if applicable. List one permit number per block.

17b. List any U.S. CITES permit number, if applicable.

18a . Use the description code from the list below.

BOC—*Bone product* or carving
BOD—*Whole dead animal*
BON—*Bones* (including jaws, but not skulls)
BOP—*Bone pieces* (not manufactured)
BUL—*Bulbs*, corms or tubers
CAL—*Calipees* (turtle calipees or calipashes)
CAP—*Carapaces* (raw or unworked turtle or tortoise shells)
CAR—*Carvings* (other than bone, horn, or ivory which have separate codes)
CLA—*Claws*
CLO—*Cloth*
COR—*Coral* (raw or unworked))
CPR—*Coral products*
CUL—*Cultures* (of artificially propagated plants)
CUT—*Cuttings* (plant cuttings or divisions)
DEA—*Dead specimens* (live animals or plants that died during shipment)
DPL—*Dried plants*
EAR—*Ears* (usually elephant)
EGG—*Eggs* (whole dead or blown eggs, including caviar)
EGL—*Live eggs*
EXT—*Extracts* (usually plant)
FEA—*Feathers*
FIB—*Fiber* (usually plant, but includes tennis racket strings)
FLO—*Flowers*
FPT—*Flower pots* (flower pots made of tree fern fiber)
LEG—*Frog legs*
FRU—*Fruit*
FOO—*Feet*
GAL—*Galls* (bile)
GAB—*Gall bladders*
GAR—*Garments* (not including shoe or trim, which have separate codes)
GRS—*Graft rootstocks*
HAI—*Hair*
HAP—*Hair products* (such as paint brushes, etc.)
HOC—*Horn carving* (horn or antler carvings or products)
HOP—*Horn pieces* (pieces of horn, not manufactured)
HOR—*Horns* (substantially whole horns or antlers)
IJW—*Ivory jewelry*
IVC—*Ivory carvings*
IVP—*Ivory pieces* (pieces of ivory, not

manufactured—includes scraps)
JWL—*Jewelry* (other than ivory jewelry)
KEY—*Ivory piano keys*
LPS—*Small leather product* (small manufactured leather products, *e.g.* notebooks, purses, wallets, watch bands)
LPL—*Large leather products* (large manufactured leather products, *e.g.* briefcases, furniture, handbags, suitcases)
LIV—*Live specimens* (live animal or plant specimens)
LVS—Leaves
ME— *Meat*
MED—*Medicinals*
MUS—*Musk*
OIL—*Oil*
PIV—*Pianos with ivory keys*
PLA—*Fur plates* (plates of fur skins—includes rugs if made from more than one skin)
ROO—*Dead roots* (roots, usually ginseng)
RUG—*Rugs* (rugs if made from one skin)
SAL—*Saw logs* (substantially whole tree trunks)
SAW—*Sawn wood* (tree trunks sawn into unworked planks, beams, blocks, etc.)
SCA—*Scales* (Scales of turtles, other reptiles, fish, pangolins)
SDL—*Seedlings*
SEE—*Seeds*
SHE—*Shells* (raw or unworked shells of molluscs or eggshell, except whole eggs)
SHO—*Shoes* (shoes or boots)
SID—*Sides* (skin sides or flanks, not including tinga frames)
SKE—*Skeletons* (substantially whole skeletons)
SKI—*Skins* (substantially whole skins, raw or tanned, including tinga frames)
SKP—*Skin pieces* (pieces of skin, including scraps, raw or tanned)
SKU—*Skulls*
SOU—*Soup*
SPE—*Scientific specimens* (scientific or biological specimens, including blood, tissue, histological preparations)
SPR—*Shell products* (products from mollusc or turtle shells)
STE—*Stems* (planrt stems)
TAI—*Tails*
TEE—*Teeth* (tusks are recorded as ''TUS'')
TIM—*Timber* (raw timber except saw-logs and sawn wood)
TRI—*Trim* (shoe trim, garment trim, or other decorative trim)
TRO—*Trophies* (all the trophy parts of one animal, if they are exported together *e.g.,* horns, skull, cape, backskin, tail, and feet constitute one trophy)
TUS—*Tusks* (substantially whole tusks, whether worked or not)
UNS—*Unspecified*
VEN—*Veneers*
WAX—*Wax* (including ambergris)
WPR—*Wood products* (wood products, including furniture, cactus rainsticks, etc.)

18b. Use one-letter code for wildlife source from the list below.

W—Specimens taken from the wild
R—Specimens originating from a ranching operation
D—Appendix—I animals bred in captivity for commercial purposes and Appendix I plants artificially propagated for commercial purposes, as well as parts and derivatives thereof, exported under the provisions of Article VII, paragraph 4, of the Convention.
A—Plants that are artificially propagated, parts and derivatives.
C—Animals bred in captivity, parts and derivatives.
F—Animals born in captivity (F1 or subsequent generations) that do not fulfill the definition of ''bred in captivity'' in Resolution Conf. 10.16, as well as parts and derivatives thereof.
U—Source unknown (must be justified)
I—Confiscated or seized specimens.
P—Pre-convention

19a. Provide the specific quantity of wildlife, and the unit of measure from the list. Multiply pairs by two.
C3—Cubic centimeters
GM—Grams
KG—Kilograms
LT—Liters
MT—Meters
M2—Square meters
M3—Cubic Meters
NO—Number of specimens

19b. Indicate total value of items containing wildlife in U.S. dollars (rounded to the nearest dollar).

20. Use two-letter ISO (International Organization for Standardization) Code for country where animal originated.

21. Sign and date the form. Type or print your name below signature.

If additional space is needed, please use continuation form USFWS Form 3–177a.

Dated: February 2, 2000.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 00–3741 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for the Wiley Creek Unit, Linn County, OR

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

SUMMARY: This notice advises the public that Mr. Alvin and Mrs. Marsha Seiber (applicants) have applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application has been assigned permit number TE022715–0. The proposed permit would authorize the incidental take, in the form of habitat modification, of the northern spotted owl (*Strix occidentalis caurina*), federally listed as threatened. The permit term has not yet been defined by the applicants. The permit would address up to approximately 200 acres, which is the entirety of their property in Linn County, Oregon.

The Service announces the receipt of the applicant's incidental take permit application and the availability of the proposed Wiley Creek Unit Habitat Conservation Plan (Plan) and draft Implementation Agreement, which accompany the incidental take permit application, for public comment. The Plan describes the proposed project and the measures the applicant will undertake to mitigate for project impacts to the spotted owl. These measures and associated impacts are also described in the background and summary information that follow. The Service is presently reviewing our responsibilities for compliance under the National Environmental Policy Act (NEPA) and will announce the availability of any appropriate NEPA documents at a later date.

DATES: Written comments on the permit application and Plan should be received on or before March 20, 2000.

ADDRESSES: Individuals wishing copies of the permit application or copies of the full text of the Plan, should immediately contact the office and personnel listed below. Documents also will be available for public inspection, by appointment, during normal business hours at the address below. Comments regarding the permit application, Draft Implementation Agreement or the Plan should be addressed to State Supervisor, Fish and Wildlife Service, Oregon State Office, 2600 S.E. 98th Avenue, Suite 100, Portland, Oregon 97266. Please refer to permit number TE022715–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Rich Szlemp, Fish and Wildlife Service, Oregon State Office, telephone (503) 231–6179.

SUPPLEMENTARY INFORMATION: Section 9 of the Act and federal regulation prohibits the ''taking'' of a species listed as endangered or threatened. However, the Service, under specific circumstances, may issue permits to ''incidentally take'' listed species, which is take that is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened species are promulgated in 50 CFR 17.32. Regulations governing permits for endangered species are promulgated in 50 CFR 17.22.

Background

The applicants are proposing to harvest approximately 40 acres of mature second growth forest from a 200-

acre parcel of land which contains a little over 150 acres of forest land. These 40 acres have been delineated by the Oregon Department of Forestry as a portion of an approximately 70-acre spotted owl core area under the Oregon Forest Practices Act (OFPA). The remaining approximately 30 acres are located immediately to the north on adjacent private property. The surrounding ownership primarily consists of private forest lands. There are a few scattered parcels of Federal forest lands within a radius of five miles of the property, with much larger contiguous Federal forest lands (Willamette National Forest) located about seven miles to the northeast. A spotted owl nest tree is located within about 300 feet of the northern portion of the property on adjacent private land. A pair of spotted owls was last documented using this site in 1996. Other federally listed species may also be affected by the proposed Plan. Steelhead salmon (*Oncorhynchus mykiss*), federally listed as threatened, are found in Little Wiley Creek within the property boundaries. The eastern portion of the harvest area encompasses both sides of Cedar Creek, which is a perennial fish-bearing stream that drains into Little Wiley Creek. No surveys have been conducted for bald eagles (*Haliaeeus leucocephalus*), which are also federally listed as threatened, but the Plan area does contain potential suitable bald eagle habitat.

The Wiley Creek Plan area contains forests that are generally second growth between 40-65 years old. The predominant species are Douglas-fir, silver fir, and western hemlock, with scattered western red cedar, big-leaf maple, and alder. The percent canopy coverage and relative density of trees varies widely throughout the Plan area. Most of the surrounding land is similar second growth, with many patches of clearcuts that are less than 20 years old.

The Wiley Creek Plan contains two alternatives: preferred and no action. Under the preferred alternative, the applicants would harvest 40 acres of mature second growth timber in the Plan area to the extent allowed by the OFPA rules. Under the no action alternative, the subject timber would be left standing. The applicants rejected the no action alternative because they believe it would deny them of all economically productive use of the subject timber.

The applicants propose the following minimization and mitigation measures:

a. Conduct harvest activities outside of the nesting season for the spotted owl (March 1—September 15), except for road building

b. Replant Douglas-fir, western red cedar, and/or western hemlock over the harvest units. As per OFPA Rules, this planting will take place within 12 months after completion of harvest.

c. Meet current OFPA Rules with regard to management of riparian areas.

d. Meet the current OFPA Rules to leave standing and unharvested, all snags and dead trees until they have fallen to the ground and rotted away except when they provide a safety hazard for the logging operation.

Summary of Service's Concerns and Recommendations

The Wiley Creek Plan was prepared without any technical assistance from the Service. The Service received the Plan and application on November 26, 1999. The Wiley Creek Plan lacks much of the biological analysis and information routinely provided by other applicants or developed by working together with the Service prior to submitting an incidental take permit application. For example, no information on the quality of the existing northern spotted owl habitat, current information on northern spotted owl survey efforts, or surrounding landscape was provided in the Plan. Information on the timber harvest or yarding methods was inadequate to determine effects to the listed species and the affected environment. Information on the effect of implementing the proposed minimization or mitigation measures was also lacking. Potential effects to steelhead were also not addressed.

Service employees visited the Plan area on January 25, 2000, to assess existing habitat conditions and to evaluate additional options to minimize and mitigate impacts to spotted owls. However, on February 4, 2000, the applicants' counsel informed the Services that there will be no changes in the Wiley Creek Plan. The applicants' counsel also requested this notice be published prior to February 15, 2000.

The Service has reviewed the Wiley Creek Plan and has some concerns with the adequacy of the minimization and mitigation measures. We specifically invite the public to provide comments on these measures proposed by the applicant. We also invite comment on potential alternative options. The Service believes that other practicable minimization and mitigation measures may exist that would provide the basis for reducing the net long-term adverse effects to owls by allowing for the regeneration of suitable nesting habitat conditions within a shorter time period than would result from the proposed harvest. These alternatives could also provide some increased opportunities for owl foraging and roosting immediately after the timber harvest, which would minimize and mitigate the incidental take of owls. Specifically, the Service wishes to receive comment on options that may include partial harvest of the proposed 40 acres that would provide some level of spotted owl habitat either immediately after harvest or within a given period of time after harvest. Additionally, we seek comments on the management of the remaining forested acreage on the applicant's property that would provide habitat conditions to mitigate for the loss of the 40 acres of forest proposed for clearcut harvest. Comments on alternatives should include discussion of time periods that would be appropriate to create or maintain spotted owl habitat to mitigate for any potential losses of suitable habitat under any suggested alternative. This information would assist the Service in addressing appropriate permit duration.

The impacts from the applicant's preferred alternative would reduce the likelihood of spotted owls nesting within the boundaries of the 70 acre core area due to the smaller remaining patch of habitat surrounded by recent clearcut timber harvests. The OFPA requires the leaving of two trees per acre with a minimum of 11 inches diameter at breast height per acre harvested. The location and size of actual leave trees has not been specified. Based upon the available size classes and numbers, these trees will not likely provide or contribute to any measurable spotted habitat immediately post-harvest. Except for some potential clumping of trees, and the riparian buffer areas, the remaining landscape would consist of a very open canopy that would not be conducive to owl nesting, roosting, or foraging. The Plan would leave a minimum 70-foot riparian buffer along Cedar Creek and a minimum 50-foot buffer along an unnamed tributary that enters into Cedar Creek. These narrow, treed corridors would not provide suitable forested habitat conditions for spotted owls.

This notice is provided pursuant to section 10(c) of the Act. The Service will evaluate the permit application, Plan, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that the requirements are met, a permit will be issued for the incidental take of the northern spotted owl. The final permit decision will not be made prior to ensuring compliance with NEPA.

Dated: February 10, 2000.

Anne Badgley,

Regional Director, Region 1, Portland, Oregon

[FR Doc. 00–3783 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination To Acknowledge the Cowlitz Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs (Assistant Secretary) by 209 DM 8. Pursuant to 25 CFR 83.10(m), notice is hereby given that the Assistant Secretary acknowledges that the Cowlitz Indian Tribe, c/o Mr. John Barnett, 1417 15th Avenue, P.O. Box 2547, Longview, Washington 98632–8594 exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group satisfies all seven criteria for acknowledgment in 25 CFR 83.7.

DATES: This determination is final and will become effective on May 18, 2000, pursuant to 25 CFR 83.10(l)(4), unless a request for reconsideration is filed pursuant to 25 CFR 83.11.

A notice of the Proposed Finding to acknowledge the Cowlitz Indian Tribe (CIT) was published in the **Federal Register** on February 27, 1997 (62 FR 8983). The original 180-day comment period provided under the regulations closed August 26, 1997, but was extended to November 19, 1997, at the request of the Quinault Indian Nation (Quinault). Then, as a result of a Stipulated Order entered on the docket in Quinault Indian Nation v. Gover (Civ. No. C97–5625RJB, D. W.D. Wash.), a case involving Quinault's FOIA request for CIT materials, the public comment period was reopened for 75 days. A formal meeting was held under 25 CFR 83.10(j)(2). Quinault submitted additional comments December 12, 1998, and the CIT submitted its reply February 9, 1999.

This determination is made following a review of the Cowlitz Indian Tribe's response to the Proposed Finding, the public comments on the Proposed Finding, and the Cowlitz response to the public comments. This notice is based on a determination that the group satisfies the seven criteria for acknowledgment in 25 CFR 83.7, as modified by 25 CFR 83.8.

This final determination incorporates the evidence considered for the proposed finding, new documentation and argument received from third parties and the petitioner, including that in the formal meeting, and interview and documentary evidence collected by the BIA during the final evaluation. The final determination reaches factual conclusions based on a review and reanalysis of the existing record in light of this new evidence.

The proposed finding evaluated this case under § 83.8 of the regulations and concluded that the CIT was Federally acknowledged in 1855 when its leaders represented the tribe at the Chehalis River Treaty negotiations. This final determination now extends the date of previous Federal acknowledgment to 1878–1880 to when Federal Indian agents appointed Atwin Stockum chief in 1878 and included both the Lower Cowlitz and Upper Cowlitz bands in Office of Indian Affairs censuses taken in 1878 and 1880. The proposed finding found that the government administratively joined the Lower Cowlitz, which included the Lower Cowlitz metis, and the Upper Cowlitz. Although Government documents of the 1860's and 1870's noted separate groups, they handled them together. The Quinault Nation submitted substantial comment, disagreeing both with the finding that different Cowlitz populations amalgamated and with the application of 83.8 to the amalgamated entity. First, the Cowlitz metis were always part of the Lower Cowlitz. Second, the regulations allow for amalgamations of historical tribes at § 83.6(f). Because both the Upper and Lower Cowlitz bands had prior recognition in 1880, and because the regulations do not require that the amalgamated entity have separate Federal recognition when made up of two recognized entities, Quinault's arguments against the applicability of 83.8 is rejected.

The CIT meets criterion 83.7(a), as modified by the application of § 83.8(d)(1), which requires external sources to identify the petitioner from the date of last Federal acknowledgment until the present not only as an Indian entity, but also as the same entity, which was previously acknowledged. The proposed finding found that certain Federal records, ethnographers, local historians and newspapers have identified the CIT as an Indian entity on a substantially continuous basis since 1855. The Quinault Nation's comments disputed the analysis but did so by confusing the concepts of ''recognition'' which refers to an actual government-to-government relationship between an Indian tribe and the Federal Government, and ''identification'' as required under 83.7(a) which refers to naming or identifying the petitioner as an Indian entity, without regard to the actual political character, social organization or origins of the entity or the political relationships that entity may or may not maintain with other governments. Quinault's comments did not require a change in the proposed finding for 83.7(a) as modified by 83.8(d)(1).

Under 83.8(d)(2), the regulations require petitioners to demonstrate that they meet the criterion for community at 83.7(b). They do not need to demonstrate that they meet the criterion for community from 1878–80, the last point of unambiguous Federal acknowledgment, to the present. The proposed finding and final determination define the period for the modern community as 1981 to the present, starting some ten years before the documented petition and the response to the technical assistance letters were submitted. Quinault argues that the Government used this earlier data as evidence for community at a later date. The Department disagrees. The pre-1981 activities only provide background for evaluating community at present and do not constitute actual evidence for meeting 83.7(b) at present; other evidence demonstrates community at present.

Quinault comments extensively on the period between 1878 and 1981 and attempts to demonstrate that CIT did not meet the requirements of § 83.7(b). They often compared the evidence in other cases to evidence in this case in an attempt to show that the criteria were applied arbitrarily. However, under 83.8(d)(2), the petitioner need not demonstrate existence as a community historically. Further, as the preamble to the regulations explains, evidence submitted by previously acknowledged petitioners concerning their continued existence is entitled to greater weight. The reduced burden is in part accomplished by the requirement to show continued existence under criterion 83.7(c), not 83.7(b). To evaluate the evidence submitted under 83.7(b) for all time periods as Quinault suggests the Government should have been done, is contrary to the regulations. Therefore, this final determination finds Quinault's comments on historic community are irrelevant because they discuss evidence for community during time periods when the petitioner is not required to demonstrate that they meet criterion

83.7(b). Therefore, such arguments and evidence do not change the proposed finding that CIT meets § 83.7(b) as modified by § 83.8(d)(2).

For the final determination, additional evidence and analysis shows that interaction by members in the present-day community was extensive and involved people in all subgroups in proportion to the group's size in the overall CIT membership. This additional evidence and analysis supports and strengthens the evaluation of actual social interaction among the petitioner's members made in the proposed finding. BIA researchers performed a quantitative analysis on the data available for the final determination, and it demonstrated that a predominant proportion of members of CIT are documented as either actually participating in CIT affairs or closely related as a parent, child or sibling to an individual who actually participated in CIT affairs, including taking part in the council or executive committee, social events, committees, information and food sharing, welfare activities, and so forth. Because a predominant proportion of the membership actually participates in formal and informal tribal activities, the proposed finding that actual interaction occurs at a significant level is confirmed. Subgroup activities discussed in the proposed finding reinforce the interactions occurring at the tribal level.

The CIT meets the requirements of 83.7(c) as modified by 83.8(d) to demonstrate that political influence or authority is exercised at present. The proposed finding listed a sequence of leaders of CIT and one form of other evidence under 83.7(c) from the point of last Federal acknowledgment (1855) to find that they met this criteria as modified by 83.8(d)(3). Because this determination now finds that CIT was acknowledged until 1878–1880, the sequence of leaders must now be shown only from that point, when Atwin Stockum was appointed chief of the Cowlitz tribe by an Indian agent, through an uneventful shift from traditional chiefs to an elected executive council in 1910–1912, until the current CIT chairman John Barnett. From 1912 to 1938, the Cowlitz leaders came from both the Upper and Lower Cowlitz Bands, including several of the Lower Cowlitz metis families.

Quinault's response to these findings fall under two main categories: (1) The named leaders were only leaders of separate tribes or subgroups and not of a unified tribal entity, and (2) the named leaders were only officials of a claims organization not a tribe. In respect to issue (1), evidence of political activity and named leaders within the separate bands prior to their amalgamation is sufficient under 83.8(d)(3). Significant data indicates that the Upper and Lower Cowlitz and their leaders cooperated in filing claims in 1910–12 and in litigating fishing rights in 1927–34. The subsequent leaders in the unified Cowlitz alternated between the Upper and Lower Cowlitz Bands. Concerning issue (2), non-claims issues, such as fishing rights discussed above, were of immediate and significant interest to Cowlitz members during the claims period. Further, the CIT's predecessor group did not form in response to claims activities and operated independently of claims groups. Quinault's response is factually incorrect and does not require a change in the proposed finding.

As a consequence of the nature of the historical development of the Cowlitz entity, the interaction among the Cowlitz subgroups at the tribal level is primarily political in nature. The subgroups no longer have separate formal leadership or decision making processes; however, the active communication and interaction among members of subgroups promotes informal leaders and political activity within each group and supports participation of individuals from each subgroup in the larger political arena of the tribe. New field work by the BIA added to the information utilized for the proposed finding and confirms that arguments, issues and behind the scenes coalition building were widespread and information about such topics was widely dispersed throughout the membership. Members held strong opinions, and they based their political positions on knowledge they gained not only from formal meetings and CIT publications but also from communications and rumors they heard during informal discussions in everyday social situations. News about tribal affairs is filtered through a lens of general knowledge which members have about each other gained through lifetimes of association.

The proposed finding found that CIT was not merely a claims organization, and that it operated independently of claims events originating outside the tribe. CIT existed before and after Northwestern Indian Federation efforts to form claims organizations, the push to enroll at Quinault and the compiling of the Roblin Roll. From 1912 through 1950, the existence of an externally named leadership, along with evidence for the continuation of structured political activity and influence under 83.8(d)(3), demonstrated that the Cowlitz leaders undertook activities in addition to claims which demonstrated a bilateral relationship between them and tribal members. At present, arguments concerning resources and land use, the direction of the tribe, priorities, the acknowledgment petition, the membership requirements and elections clearly illustrate that the tribe is involved in a number of activities. Politically active CIT members utilize this knowledge to advance their programs or points of view.

The CIT generally has made a smooth transition from one leader to another without even minor breaks. Clearly, through the changes from a hereditary chief, to an appointed chief, to a democratically elected council, the membership remained unchanged in its basic character. This clear identification of the Cowlitz entity and the consistency of its large core membership since 1870 contrasts significantly with some other western Washington petitioners whose histories show ten year and longer periods without leadership and whose memberships (and the related social and political character of the group) change radically from one leader to the next. In contrast, the Cowlitz petitioner can trace an unbroken line of leaders and a relatively unchanging membership.

This organization held meetings attended by a significant portion of the voting members of the tribe almost annually from 1912 through 1939, and from 1950 through the present. Quinault argued that the 12 year hiatus constituted a significant interruption of continuous tribal existence. Documents in the record show that activity during the war years was extremely low but individuals continued to communicate and leaders met at an individual's home. When regular meetings commenced again in 1950, the same general population attended as before the war and the same group of leaders presided. New analyses comparing lists of participants and of the leaders before the war with lists from after the war found that individuals and subgroups were basically of the same social and political character during both periods. This 12-year fluctuation in activity is not a cause for denial of acknowledgment. See, 83.6(e).

Outside events such as the introduction of residency requirements and dual enrollment prohibitions in Yakima enrollment procedures in the late 1940's, and changes in membership rules within the tribe to prohibit dual enrollment and to establish a 1/16th blood-degree requirement have defined more strictly the tribe's boundaries during the 20th century, but have not changed the distinct characteristics of

the Cowlitz core population. Quinault questioned an apparent discrepancy between the anthropologist's and historian's technical reports on the topic of the 1973–74 CIT enrollment changes and language is included in the final determination to clarify the proposed finding. Although a few active individuals were removed from the membership as a result of these changes in the membership rules, the general membership was knowledgeable about the effect the vote for these changes would have, and they were able to enforce them. The genealogical makeup of the tribe was not drastically altered by these changes; the membership still descended from the same historical groupings in roughly the same proportions.

The Quinault presented extensive specific arguments together with documentary and affidavit evidence to support their fundamental argument that CIT, and the predecessor organization called by other names, was only a voluntary organization formed solely for the purposes of pursuing land and other claims against the Government. A careful review of their comments and evidence found that Quinault's argument, based in part on the content of the council minutes, ignored other evidence concerning not only activities outside of council meetings but also the purpose and character of the minutes themselves, which were not transcripts of everything that went on at the meetings but were focused on actions taken. While the tribe was very involved in dealing with these claims activities, it also performed other welfare, economic, governmental and cultural functions that were significant to members. Quinault also cited descriptions of acculturated Cowlitz as ''negative'' evidence. Degree of cultural acculturation does not prohibit acknowledgment if other evidence demonstrates that the tribe continues to exist.

The annual General Council meeting continues to be the primary political event of each year. Supplementary meetings are sometimes held. There are political strains over the General Council's role vis-a-vis the Tribal Council and rivalries between the elected leadership of the General Council and that of the Tribal Council continue to display publicly the larger controversies within the tribe. The 1973/1974 decisions concerning enrollment qualifications have continued to have political impact to the present. Some family groups with Yakima-enrolled close relatives maintain that they remain active in the Tribal Council to protect their membership status. The 1/16 Cowlitz blood-quantum provision continues to provoke membership-eligibility disputes within the general membership and within the Tribal Council. As recently as 1999, individuals stepped down from the tribal council because of problems they had meeting the membership requirements. Quinault's arguments do not require a change in the proposed finding and additional information confirms that the petitioner meets criterion 83.7(c) as modified by criterion 83.8(d).

Quinault Nation's comments challenge the conclusion in the proposed finding that the CIT membership is descended from the historical Cowlitz bands which amalgamated and therefore met the requirements of criterion § 83.7(e). Their analysis mixed previous acknowledgment with their discussion of § 83.7(e). Their comment, based on a misinterpretation of the proposed finding, questioned the inclusion of m°tis descendants in the tribe. Quinault interpreted the proposed finding as treating the Cowlitz metis as a separate Indian entity which amalgamated with the Lower Cowlitz and the Upper Cowlitz. However, the proposed finding explained that the Cowlitz metis were descendants of Lower Cowlitz Indians and French Canadians, such ''half bloods'' being often referred to in documents as ''metis.'' The ''Cowlitz metis'' included the mixed-blood descendants of individual Indian women from other tribes, who had been accepted into the tribe before treaty times. These women and their children functioned as members of the Cowlitz tribe prior to the latest date of previous unambiguous Federal acknowledgment. The proposed finding did not state that there was a metis entity which had amalgamated with the Lower Cowlitz. Rather the Cowlitz metis or metis descendants were always part of the Cowlitz tribe. Because Quinault misstated the Proposed Finding's treatment of the Cowlitz metis, their conclusions based on their misunderstanding are also not valid, and CIT meets 83.7(e).

The CIT met criteria 83.7(d), (f), and (g) for the proposed finding. Quinault argues that CIT did not actually follow their constitution or that some provisions within the document indicated that its tribal existence had not been continuous. Criticisms of statements in constitutions have not been viewed as significant in past determinations and are not weighed as significant here. The requirement for 83.7(d) is to submit the group's governing document including its membership criteria. The document submitted reflects the CIT governing and membership practices. The CIT satisfied 83.7(d). Significant comment or evidence was not submitted to refute the finding concerning criteria § 83.7(f) and (g). Consequently, this final determination confirms that CIT meets these criteria.

In concluding that the CIT is a tribe within the meaning of 25 CFR part 83, the Department is not rendering any conclusions concerning treaty rights or matters pertaining to rights in, or the governance of, the Quinault Reservation. The Federal acknowledgment process does not require a decision on such issues.

This determination is final and will become effective 90 days from the date of publication, unless a request for reconsideration is filed pursuant to 83.11. The petitioner or any interested party may file a request for reconsideration of this determination with the Interior Board of Appeals (83.11(a)(1)). The petitioner's or interested party's request must be received no later than 90 days after publication of the Assistant Secretary's determination in the **Federal Register** (83.11(a)(2)).

Dated: February 14, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–4012 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–320–1990–02 24 1A]

Extension of Currently Approved Information Collection, OMB Approval Number 1004–0025

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request extension of approval to collect certain information from all owners of unpatented mining claims or mill sites who desire to apply for a mineral patent to their mining claim or mill site. Also included in this extension request are collections of information from any rival claimant with overlapping claims to the land applied for, or from anyone challenging the issuance of the patent upon alleged failure to follow law or

regulations. BLM uses this information to determine the right to a mineral patent and to secure a settlement of all disputes concerning the property in order to issue the patent to the rightful owner.

DATES: Comments on the proposed information collection must be received by April 18, 2000, to be assured of consideration.

ADDRESSES: You may: (1) Mail comments to: Regulatory Management Team (630), Bureau of Land Management, 1849 C Street, NW, Room 401LS, Washington, D.C. 20240; (2) Send comments via Internet to: *WOComment@blm.gov.;* or (3) hand-deliver comments to: Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW, Washington, D.C. If you send comments via the Internet, please include ''ATTN: 1004–0114'' and your name and return address in your message.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Roger A. Haskins, Solid Minerals Group, (202) 452–0355.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in current rules to solicit comments on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will analyze any comments sent in response to this notice and include them with its request for extension of approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Under the General Mining Law (30 U.S.C. 29, 30, and 39), those who explore for and locate valuable mineral deposits on the public domain are rewarded for their efforts by the opportunity to obtain legal title (patent) to the land. The patent process is implemented by BLM's regulations at 43 CFR Part 3860, which were revised into their current form in 1970 (35 FR 9754, June 13, 1970) and amended in 1973 (38 FR 30001. October 31, 1973). The implementing regulations require a patent applicant to provide the following information:

Mineral survey application. Under 43 CFR Subpart 3861, the holder of a claim who desires to obtain a patent must submit to BLM a mineral survey for all lode claims, most mill sites, and placer claims located upon unsurveyed public lands, as a requisite to applying for patent. BLM uses Bureau Form 3860–5 to collect the mining claim or site recording, chain-of-title, and geographic location information so that BLM can authorize a Deputy United States Mineral Surveyor to survey the claims or sites.

Mineral patent application. Under 43 CFR Subparts 3862, 3863 and 3864, a mineral patent applicant must file certain proofs of ownership demonstrating clear title to the claim(s) or millsite(s), bonafides of development, and the existence of a commercial mineral deposit subject to the General Mining Law of 1872, as amended. BLM uses Bureau Form 3860–2 for title companies issuing a title opinion on mining claims so that BLM will have a standardized reporting process.

Under 30 U.S.C. 29 and 30 and 43 CFR Part 3870, any rival claimant with overlapping claims to the land applied for, or anyone challenging the issuance of the patent upon alleged failure to follow law or regulation, must file with BLM certain required statements and evidence supporting their challenge, or the challenge is statutorily dismissed.

BLM uses the information collected under these two Parts (43 CFR Parts 3860 and 3870) to determine if an applicant qualifies for a mineral patent to the claims or sites applied for under the Mining Law, to process legal challenges to such application by rival mining claimants, and to adjudicate protests and appeals files against BLM actions concerning mineral patent applications.

The Mining Law specifies the information required of an applicant for mineral patent, a party filing an adverse claim, or a party filing a protest against a mineral patent application. If BLM did not collect this information, it could not adjudicate mineral patents and it could not recommend to the Secretary of the Interior an application for either patent issuance or initiation of mineral contest proceedings.

Any interested member of the public may request and obtain, without charge, a copy of Bureau Forms 3860–2 and 3860–5 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

Based on its experience administering the General Mining Law, BLM estimates the public reporting burden for completing the information collections described above as follows: mineral survey application—one hour, mineral patent application—80 hours, and adverse claim or protest—two hours. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; 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 respondents are owners of unpatented mining claims and mill sites located upon the public lands, reserved mineral lands of the United States, National Forests, and National Parks. The frequency of response is once for each mineral survey, each application for patent, and each filing of a protest or adverse claim. Since October 1, 1994 and each fiscal year thereafter, Congress has imposed a budget moratorium on the BLM such that no new mineral patent applications may be filed and any application existing on October 1, 1994 that was not grandfathered under the initial legislation may not be further adjudicated by BLM. This moratorium does not affect mineral surveys, contests, or protests to existing mineral patent applications. It is unlikely that Congress will remove the annual moratorium until the revised General Mining Law is enacted at some future date.

In the absence of the moratorium, BLM estimates that it would receive 150 mineral patent applications, two adverse claims and three protests each year. The total annual burden is 30 hours for mineral survey applications, 12,000 for mineral patent applications, 20 hours for adverse claims, and six hours for protests. In the absence of the moratorium, the total annual burden for this consolidated information collection is 12,056 hours. If the moratorium remains in place, BLM estimates that it would receive no mineral patent applications, no adverse claims and ten protests each year. The total annual burden is then 30 hours for mineral survey applications, zero for mineral

patent applications, zero hours for adverse claims, and 20 hours for protests. In the absence of the moratorium, the total annual burden for this consolidated information collection is 50 hours.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: February 1, 2000.

Carole Smith,

BLM Information Collection Information Officer.

[FR Doc. 00–3955 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–01; IDI–011668 01]

Public Land Order No. 7429; Partial Revocation of Public Land Order No. 3398; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a public land order insofar as it affects 958.98 acres of public lands withdrawn for the Bureau of Land Management for use as a stock driveway. The lands are no longer needed for this purpose, and the revocation is needed to permit disposal of lands through exchange. This action will open the lands to surface entry under the public land laws. The lands have been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: March 20, 2000.

FOR FURTHER INFORMATION CONTACT: Jackie Simmons, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3867.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 3398 dated May 18, 1964, which withdrew public lands for the Bureau of Land Management for use as a stock driveway, is hereby revoked insofar as it affects the following described lands:

Boise Meridian

T. 7 N., R. 3 W.,
Sec. 4, lots 1 to 4, inclusive, S½N½, and E½SE¼;
Sec. 5, lot 1, and SE¼NE¼.
T. 8 N., R. 3 W.,
Sec. 31, NE¼SE¼;
Sec. 32, N½S½, SE¼SW¼, and S½SE¼;
Sec. 33, S½S½.

The areas described aggregate 958.98 acres in Gem and Payette Counties.

2. At 9:00 a.m. on March 20, 2000. The lands described above will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on March 20, 2000, shall be considered as simultaneously filed at that time.

Dated: January 18, 2000.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 00–3954 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–940–01–5410–10–B119; CACA 41159]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private land described in this notice, aggregating 27.35 acres, is segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine its suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976. The mineral interests will be conveyed in whole or in part upon favorable mineral examination. The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Kathy Gary, California State Office, Federal Office Building, 2800 Cottage Way, Room W–1928, Sacramento, California 95825, (916) 978–4677.

T. 26 S., R. 37 E., Mount Diablo Meridian
Sec. 7, N½S½SE¼NW¼, S½S½SE¼NW¼, N½S½SE¼NW¼
County—Kern.
Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

David Mcilnay,

Chief, Branch of Lands.

[FR Doc. 00–3957 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[CO–13000–1220–PA; CO–15000–1220–PA]

Recreation Management; Visitor Use Restrictions for the Lower Gunnison River, Colorado

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of supplementary visitor use restrictions.

SUMMARY: This order, issued under the authority of 43 CFR 8364.1(d), prohibits any campfire except when contained in stoves, grills, or firepans, and it requires visitors to pack out their trash and human waste along a river corridor in Western Colorado.

The identified public lands are in Colorado, Mesa and Delta Counties, under the management jurisdiction of the Bureau of Land Management, Grand Junction Field Office, and Uncompahgre Field Office. The river corridor includes all public lands within one-fourth of a mile on either side of the Lower Gunnison River from Delta to Grand Junction. The area is located in T. 15 S., R. 97 W., Sections 7, 8, 9, 14, 15, 16, 17, 18, 22, 23 and 24; T. 4 S., R. 3 E., Sections 19, 29, 30, 31, 32, 33 and 34; T. 14 S., R. 98 W., Sections 7, 8, 16, 17, 20, 21, 22, and 26; 6th P.M.; T. 3 S., R. 2 E., Sections 29, 30 and 33; T. 13 S., R 99 W., Sections 4, 15, 22, 26, 27 and 35; T. 2 S., R. 1 E., Sections 6, 7, 8, 16, 23, 26, 35 and 36; T. 12 S., R. 99 W. Sections 19, 29, 30 and 33; T. 12 S., R. 100 W., Sections 2, 11, 12 and 24; and T. 1 S., R. 1 W., Sections 35 and 36.

EFFECTIVE DATES: The restrictions shall be in effect year round beginning February 15, 2000 and shall remain in

effect until rescinded or modified by the Authorized Officers.

SUPPLEMENTARY INFORMATION: This order implements down-river visitor use restrictions outlined in Environmental Assessment Record number CO–076–9–111, signed on September 7, 1999. The restrictions consist of:

1. Contain wood and charcoal fires within grills or firepans or use stoves. Dead and down wood or driftwood only may be gathered for campfires.

2. All overnight camping groups must possess and use a washable, reusable toilet system that allows for the carry-out and disposal of solid human body waste via an authorized sewer system that is adequate for the size of group and length of trip. All solid human body waste must be carried out of the river area. Dumping or depositing solid human body waste on Public Lands is prohibited. Vault toilets or trash receptacles at BLM administered facilities are not considered appropriate flushing sites for portable toilets. Notice of these regulations will be posted on-the-ground at the Delta, Escalante, Bridgeport, and Whitewater Launch Sites, at the Grand Junction and Uncompahgre Field Offices, and in the Lower Gunnison River brochure. Persons who may be exempted from the restrictions include federal, state, or local officers engaged in fire and emergency law enforcement activities.

PENALTIES: Violations of this restriction order are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Catherine Robertson, Field Manager, Grand Junction Field Office, 2815 H Road Grand Junction, Colorado 81506; (970) 244-3010; or Alan Belt, Field Manager, Uncompahgre Field Office, 2505 South Townsend, Montrose, CO 81401; (970)240–5300.

Catherine Robertson,

Grand Junction Field Manager.

Alan Belt,

Uncompahgre Field Manager.

[FR Doc. 00–3959 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–BJ]

Idaho: Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of the following described lands were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., on the dates specified:

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 13, T. 8 S., R. 1 E, Boise Meridian, Idaho, Group 1041, was accepted October 18, 1999. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

The plat representing the dependent resurvey of a portion of the subdivisional lines and of the subdivision of section 24, and a metes-and-bounds survey within section 24, T. 12 S., R. 20 E., Boise Meridian, Idaho, Group 1037, was accepted October 18, 1999. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

The field notes representing the remonumentation of a mineral survey corner for mineral survey numbers 257 and 258, T. 3 N., R. 15 E., Boise Meridian, Idaho, Group 1000, was accepted November 18, 1999. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 16, T. 31 N., R. 4 E., Boise Meridian, Idaho, Group 1031, was accepted December 17, 1999. This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs, Northern Idaho Agency.

The plat representing the dependent resurvey of a portion of the First Standard Parallel North (south boundary, Township 6 North, Range 6 East) and a portion of the subdivisional lines, and the subdivision of sections 4 and 10, T. 5 N., R. 6 E., Boise Meridian, Idaho, Group 927, was accepted on December 17, 1999. The plat was prepared to meet certain administrative needs of the USDA, Forest Service, Payette National Forest.

FOR FURTHER INFORMATION CONTACT: Duane Olsen, Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657, 208–373–3980.

Dated: February 7, 2000.

Duane E. Olsen,

Chief, Cadastral Surveyor for Idaho.

[FR Doc. 00–3960 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–00–1420–BJ]

Notice of Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, (30) thirty calendar days from the date of this publication.

Mew Mexico Principal Meridian, New Mexico

T. 29 N., R. 12 W., approved February 4, 2000, for Group 954 NM.

T. 12 N., R. 15 W., approved February 4, 2000, for Group 958 NM.

T. 20 N., R. 10 W., approved February 4, 2000, Supplemental Plat.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed. The above-listed plats represent dependent resurveys, surveys, and subdivisions.

These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: February 9, 2000.

John P. Bennett,

Chief Cadastral Surveyor for New Mexico.

[FR Doc. 00–3958 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(CO–935–4214-ET; COC–30130)

Notice of Proposed Extension of Withdrawal; Opportunity for Public Meeting; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to extend Public Land Order No. 5736 for a 20-year period. This order withdrew public land from operation of the public land laws, including location and entry under the U. S. mining laws, to protect an administrative site. The land has been and remains open to mineral leasing. This notice also gives an opportunity to comment on the proposed action and to request a public meeting.

DATE: Comments and requests for a public meeting must be received by May 18, 2000.

ADDRESSES: Comments and meeting requests should be sent to the Colorado State Director, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius at 303–239–3706.

SUPPLEMENTARY INFORMATION: On November 30, 1999, the Bureau of Land Management, Southwest Center, requested that Public Land Order No. 5736 be extended for an additional 20-year period. This withdrawal was made to protect constructed improvements at a Bureau of Land Management administrative site. This withdrawal will expire July 23, 2000.

The withdrawal comprises approximately 7.6 acres of public land in Montrose County. It is located in Section 4, T. 48 N., R. 9 W., New Mexico Principal Meridian and is described in Public Land Order 5736. A complete description of the lands can be provided by the Colorado State Office at the address shown above or the Southwest Center, 2465 S. Townsend Avenue, Montrose, Colorado, 970–240–5300.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed extension may present their views in writing to the Colorado State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with this proposed extension. Any interested persons who desire a public meeting for the purpose of being heard on the proposed extension should submit a written request to the Colorado State Director within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days prior to the scheduled date of the meeting.

This extension will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 00–3956 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

RIN 1010–AC24

Establishing Oil Value for Royalty Due on Indian Leases

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice; request for comments.

SUMMARY: To comply with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), we are notifying you that a second information collection request (ICR) associated with a supplementary proposed rulemaking was forwarded to the Office of Management and Budget (OMB) for review and approval. We are now soliciting your comments on this second ICR, its expected costs and burdens, and how the data will be collected.

We published the supplementary proposed rulemaking, Establishing Oil Value for Royalty Due on Indian Leases, in the **Federal Register** on January 5, 2000 (65 FR 403). The first ICR, associated with this same rulemaking, was submitted to OMB on December 27, 1999, and is titled Indian Crude Oil Valuation Report, Form MMS–4416, OMB Control Number 1010–0113.

The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Written comments should be received on or before March 20, 2000.

ADDRESSES: You must submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Interior Department (OMB Control Number 1010–NEW), 725 17th Street, NW, Washington, DC 20503. You should also send copies of these comments to us.

Our mailing address for written comments regarding this information collection is David S. Guzy, Chief, Rules and Publications Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3021, Denver, CO 80225. Courier or overnight delivery address is Building 85, Room A–613, Denver Federal Center, Denver, CO 80225. Email address is *RMP.comments@mms.gov.*

Public Comment Procedure: Your comments and copies of your comments may be submitted to the addresses listed above. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include Attn: Supplementary Proposed Rulemaking—Establishing Oil Value for Royalty Due on Indian Leases, OMB Control Number 1010–NEW, and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, please contact David S. Guzy directly at (303) 231–3432.

We will post public comments after the comment period closes on the Internet at *http://www.rmp.mms.gov.* You may arrange to view paper copies of the comments by contacting David S. Guzy, Chief, Rules and Publications Staff, telephone (303) 231–3432, FAX (303) 231–3385. Our practice is to make comments, including names and addresses of respondents, available for public review on the Internet and during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Dennis C. Jones, Rules and Publications Staff, phone (303) 231–3046, FAX (303) 231–3385, email *Dennis.C.Jones@mms.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Supplementary Proposed Rulemaking—

Establishing Oil Value for Royalty Due on Indian Leases.

OMB Control Number: 1010–NEW.

Abstract: The Secretary of the Interior is responsible for collecting royalties from leases producing minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage the production of mineral resources on Indian lands and Federal onshore and offshore leases, to collect the royalties due, and to distribute the funds in accordance with those laws; we perform these royalty management functions for the Secretary.

Two additional information collection requirements have been identified in the supplementary proposed rule published on January 5, 2000 (65 FR 403) as follows:

• Section 206.52 explains how Indian lessees must determine the value of oil produced from Indian leases. For royalty purposes, the value of oil produced from leases subject to 30 CFR part 206 Subpart B—Indian Oil is the value calculated under this section with applicable adjustments determined under this subpart. The lessee must report the higher of either their gross proceeds from an arm's-length transaction, or an applicable adjusted spot price. The lessee may be required to revise its initial report and remit additional consideration if the MMS-calculated major portion price is above the initially reported value.

• Section 206.61(c)(3) states that if an MMS-calculated differential under paragraph (c)(1)(ii) of this section does not apply to an Indian lessee's oil, either due to location or quality differences, the Indian lessee must file a written request for MMS to calculate an Indian lessee-specific differential. This request must demonstrate why the published differential does not adequately address an Indian lessee's specific circumstances.

Another information collection requirement was also identified in the proposed rule published on February 12, 1998 (63 FR 7089) as follows:

• Section 206.54 allows lessees to ask MMS for valuation guidance. The lessee may develop and propose a value method to MMS. The lessee would submit all available data related to their proposal and any additional information MMS deems necessary. MMS would promptly review the proposal and provide the requested guidance.

We will review and carefully consider any comments received specific to these additional information collection requirements, including any comments received from a public meeting which was held on February 8, 2000, in Denver, Colorado. We will summarize and address all comments in the final rule.

Respondents/Affected Entities: Companies that pay royalties on oil produced from tribal and allotted Indian leases.

Frequency of Response: Annually and monthly.

Estimated Number of Respondents: 225.

Estimated Annual Reporting and Recordkeeping Burden: 6,680 hours.

Estimated Annual Reporting and Recordkeeping Non-Hour Cost Burden: We have identified no cost burdens for this collection over those included in the hour burden.

Comments: Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Send your comments directly to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by March 20, 2000.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach (202) 208–7744.

Dated: February 14, 2000.

Walt Rosenbusch,

Director for Mineral, Management Service.

[FR Doc. 00–3888 Filed 2–17–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The ATM Forum

Notice is hereby given that, on July 14, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The ATM Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Carrier Access Corporation, Boulder, CO has been added as a party to this venture. The following member has changed its name: Wandel & Goltermann to Wavetek Wandel Goltermann, Eningen, GERMANY.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and The ATM Forum intends to file additional written notification disclosing all changes in membership.

On April 19, 1993, The ATM Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 2, 1993 (58 FR 31415).

The last notification was filed with the Department on April 15, 1999. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–3965 Filed 2–17–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Bethlehem Steel Corporation and U.S. Steel Group, a Unit of USX Corporation

Notice is hereby given that, on July 21, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Bethlehem Steel Corporation and U.S. Steel Group, A Unit of USX Corporation, filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its project status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the venture has been extended for an additional year.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Bethlehem Steel Corporation and U.S. Steel Group intends to file additional written notification disclosing all changes in membership.

On July 15, 1994, Bethlehem Steel Corporation and U.S. Steel Group filed their original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 31, 1994 (59 FR 45009).

The last notification was filed with the Department on March 24, 1998. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 30, 1998 (63 FR 52291).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–3963 Filed 2–17–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium, Inc.

Notice is hereby given that, on August 16, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CommerceNet Consortium, Inc. (the ''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, First Consulting Group, Denver, CO; Checkpoint Software Technologies, Redwood City, CA; and Netfish Technologies, Inc., Santa Clara, CA have joined the Consortium as Core members. Also, Fujitsu Limited-USA, Santa Clara, CA; Isadra, Inc., Palo Alto, CA; and TRADE'ex, Tampa, FL have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on July 20, 1999. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–3967 Filed 2–17–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium, Inc.

Notice is hereby given that, on July 20, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CommerceNet Consortium, Inc. (the ''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ernst & Young, LLP, San Francisco, CA; Nike, Inc., Beaverton, OR; Utility.com, Albany, CA; Trilogy Software, Austin, TX; Proactive Networks, Inc., Santa Clara, CA; Norton Healthcare, Louisville, KY; NaviSite, Inc., Andover, MA; and IECIA, Oslo, NORWAY have joined the Consortium as Core members. Also, VitalSigns Software, Inc., Santa Clara, CA; Tesserae Information Systems, Redwood Shores, CA; JazzIt, Inc., Austin, TX; Calico Technology, San Jose, CA; and Lucent Technologies, Middletown, NJ have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on June 15, 1999. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–3968 Filed 2–17–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Consortium for Integrated Intelligent Manufacturing, Planning and Execution (''CIIMPLEX'')

Notice is hereby given that, on August 13, 1999, pursuant to section 6(a) of the National Cooperative Research and production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''),Consortium for Integrated Intelligent Manufacturing, Planning and Execution (''CIIMPLEX'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, TRW, Inc., Herndon, VA has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Consortium for Integrated Intelligent Manufacturing, Planning and Execution (''CIIMPLEX'') intends to file additional written notification disclosing all changes in membership.

On April 24, 1996, Consortium for Integrated Intelligent Manufacturing, Planning and Execution (''CIIMPLEX'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 15, 1996 (61 FR 24514).

The last notification was filed with the Department on January 19, 1999. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on March 19, 1999 (64 FR 13602).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–3966 Filed 2–17–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Multiservice Switching Forum (''MSF'')

Notice is hereby given that, on July 1, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Multiservice Switching Forum (''MSF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Convergent Communications, Englewood, CO; ETRI, Taejon, KOREA; GTE, Waltham, MA; Hewlett Packard, Palo Alto, CA; LG Information & Comm., Kyunggi-Do, KOREA; Orange PCS Ltd, Almondsbury Park, Bristol, UNITED KINGDOM; SK Telecom, Seoul, KOREA; Sprint, Overland Park, KS; and Westwave Communications, Santa Rosa, CA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Multiservice Switching Forum (''MSF'') intends to file additional written notification disclosing all changes in membership.

On January 22, 1999, Multiservice Switching Forum (''MSF'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28519).

The last notification was filed with the Department on April 20, 1999. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–3964 Filed 2–17–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences: Rapid Reliability Assessment Program (RRAP)

Notice is hereby given that, on July 2, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Center for Manufacturing Sciences: Rapid Reliability Assessment Program (RRAP) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Computer-Aided Life Cycle Engineering, College Park, MD; Celestica, Inc., Fort Collins, CO; General Dynamics Information Systems, Inc., Bloomington, MN; Hewlett-Packard Company, Palo Alto, CA Interconnection Technology Research Institute, Austin, TX; National Center for Manufacturing Sciences, Inc., Ann Arbor, MI; QualMark Corporation, Denver, CO; Visteon Automotive Systems, Dearborn, MI; and Wayne State University, Detroit, MI. The nature and objectives of the venture are to develop and demonstrate a new methodology to assist the U.S. high-reliability electronics industry by accelerating its product qualification process.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–3962 Filed 2–17–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute (''SwRI''): Advanced Reciprocal Engine Systems (''ARES'')

Notice is hereby given that, on August 25, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute (''SwRI''): Advanced Reciprocal Engine Systems (''ARES'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cummins Engine Company, Inc., Columbus, IN has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Southwest Research Institute (''SwRI''): Advanced Reciprocal Engine Systems (''ARES'') intends to file additional written notification disclosing all changes in membership.

On February 9, 1999, Southwest Research Institute (''SwRI''): Advanced Reciprocal Engine Systems (''ARES'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28521).

The last notification was filed with the Department on June 30, 1999. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–3961 Filed 2–17–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Asymmetric Supercapacitor Based Upon Nanostructured Active Materials

Notice is hereby given that, on April 5, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), US Nanocorp, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b)

of the Act, the identities of the parties are US Nanocorp, Inc., North Haven, CT; Eveready Battery Co., Westlake, OH; JME, Inc., Shaker Heights, OH; and Florida Atlantic Research Corp., Boca Raton, FL. The nature and objectives of the venture are to develop and commercialize a novel type of supercapacitor that has high energy density (like a battery) and is able to operate at very high power (like a conventional capacitor).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–3969 Filed 2–17–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—''Managing Long Term Aging Offenders and Offenders With Chronic and Terminal Illnesses''

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds in FY 2000 for a cooperative agreement to fund the project ''Managing Long Term Aging Offenders and Offenders with Chronic and Terminal Illnesses.'' NIC will award a one year cooperative agreement to: develop a handbook or manual that will provide information to state correctional agencies identifying current practices, policies, and procedures and their impact on long term aging offenders with chronic and terminal illnesses. A cooperative agreement is a form of assistance relationship where the National Institute of Corrections is substantially involved during the performance of the award. An award is made to an organization that will, in concert with the institute, identify the ''effective practices and intervention'' regarding the case and management of aging offenders with chronic or terminal health problems.

Background

According to recent studies, the national percentage of inmates 50 years of age and older and, inmates who have significant health problems requiring intermittent or specialized long-term care, has increased significantly. Research further indicates a lack of knowledge among correctional practitioners regarding issues such as, economic, programmatic approaches, and changing characteristics systems must address in meeting the needs of this population. The prevalence of aging offenders and offenders with chronic and long-term illnesses presents enormous challenges to correctional personnel. Longer prison sentences, the rise of infectious diseases, limited availability of in prison programs, coupled with the lack of resources, enhance the likelihood that this specific population may be forgotten, deteriorate to a worst condition and become a financial burden to society. Also, information about what other correctional jurisdictions are doing to cope with this increasing population is lacking, this frequently means that correctional practitioners have no common frame of reference.

Purpose

To document and make available to correctional practitioners and correctional health care providers current and innovative programs designed to address the needs of incarcerated long-term aging offenders and offenders with chronic and terminal illnesses.

Objectives

1. To develop a publication that addresses the effective management and care, treatment modalities, their effectiveness, and innovative approaches for long-term aging offenders and offenders with chronic and terminal illnesses; and

2. To provide technical assistance to five agencies which are beginning or improving programs and services for these offenders.

NIC considers it important for the applicant to discuss how the following questions or other criteria identified by the applicant would be employed for documenting effective prison mental health services and interventions:

- Are there explicit models or research evidence of how the health services or interventions for this specific population are supposed to work within prisons?
- Are there information or substantiations that health services and interventions employ methods which have been consistently effective with aging, chronic, and terminally ill offenders in prison?
- Are the services or interventions delivered in ways which engage these offenders in active participation—e.g., responsivity?
- Are the services or interventions rigorously managed and designed?
- Do the health services support the principle of a continuum of care—e.g., screening, assessments for diagnosis and risk, treatment planning, range of interventions, transitional care from prison to the community, and linkages to appropriate community health and other support services?
- What evidence or information is available that services or interventions are delivered and overseen by qualified professionals consistent with generally accepted protocols—i.e., valid assessment and screening tools, treatment interventions matched to the level of the offender need, case management strategies, treatment providers who are licensed and meet specific standards, etc?
- What research efforts have been conducted to assess the effectiveness of the intervention being reviewed by the project?

Project Scope

The project's strategy or design should address the following areas:

—Screening and assessment
—Intervention techniques
—Community and aftercare linkages
—Treatment approaches
—Case management
—Classification
—Planning
—Transitional services
—Staff Training
—Peer Support
—Instruments to assess, develop or identify treatment programs
—Individualized treatment approaches
—Cultural competency
—Gender-based treatment
—Monitoring, evaluating program integrity

The successful applicant would be required to: 1—use some portion of the funds to collaborate with other correctional and health professionals (experts) to review the current state of health programs for the aging, chronic and terminally ill offender in corrections; 2—Identify existing programs through a survey, addressing relevant standards and legal issues; 3—Develop a document for practitioners that presents guidelines and criteria for successful health programs for this specific incarcerated population. 4—Fully discuss classification, special care, work opportunities, and special release provisions; and; 5—Provide an instrument to be used to assess effective in-prison health programs; and 6—Provide technical assistance to five agencies which are beginning or improving programs and services for the aging, chronic, and terminally ill offender.

In consultation with NIC prepare and edit a final camera-ready copy of the

document for NIC publication in accordance with the NIC Preparation of Printed Materials for Publication. All products from this funding effort will be in the public domain and available to interested parties through the National Institute of Corrections.

Application Requirement

The applicant must provide goals, objectives, and methods of implementation for the project that are consistent with the announcement. Objectives should be clear, measurable, attainable, and focused on the methods used to conduct the project. Applicants should provide an implementation plan for the project and include a schedule which will demonstrate milestones for significant task in chart form. The project initiated early, 2000 will be completed in early, 2001.

Authority: Public Law 93–415.

Funds Available

The award will be limited to a maximum of $165,000 (direct and indirect costs). Funds may only be used for the activities that are linked to the desired outcome of the project. No funds are transferred to state or local governments. This project will be collaborative venture with the NIC Prisons Division.

Deadline for Receipt of Applications

Applications must be received by 4:00 pm Eastern Time on Wednesday March 29, 2000.

ADDRESSES AND FURTHER INFORMATION: Requests for the application kit should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, D.C. 20534 or by calling (800) 995–6423, extension 159 or (202) 307–3106, extension 159. She can also be contacted by E-mail via jevens@bop.gov. All technical and or programmatic questions concerning this announcement should be directed to Madeline M. Ortiz at the above address or by calling (800) 995–6423, extension 141 or (202) 307–1300, extension 141, or by E-mail via mmortiz@bop.gov. A copy of this announcement and application forms may also be obtained through the NIC web site: http://www.nicic.org (click on ''What's New'' and ''Cooperative Agreements'').

Applications mailed or express delivery should be sent to: National Institute of Corrections, 320 First Street, NW, 5007, Washington, D.C. 20534, Attn: Director. Hand delivered applications can be brought to 500 First Street, NW, Washington, D.C. 20534. The front desk will call Bobbi Tinsley (307–3106 and press 0) to come to the desk for pickup.

Eligible Applicants: An eligible applicant is any state or general unit of local government, private agency, educational institution, organization, individuals or team with expertise in correctional mental health services.

Review Considerations: Applications received under this announcement will be subjected to a NIC 3 to 5 member Peer Review Process.

Number of Awards: One (1).

NIC Application Number: 00P11. This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424.

Executive Order 12372: This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which is included in the application Kit, along with further instructions on proposed projects serving more than one State.

The Catalog of Federal Domestic Assistance number is: 16.603

Dated: February 14, 2000.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 00–3881 Filed 2–17–00; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 15, 2000.

The Department of Labor (DOL) has submitted the following public information collection requests (ICS) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PEBA, and OASAM contact Karin Kurz ((202) 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OSHA, and VETS contact Darrin King ((202) 219–509 ext. 151 or by e-mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment Standards Administration (ESA).

Title: Notice of Final Payment or Suspension of Compensation Benefits.

OMB Number: 1215–0024.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 500.

Total Responses: 19,350.

Average Time Per Response: 15 minutes.

Estimated Total Burden Hours: 4,838.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $10,070.

Description: The report is used by insurance carriers and self-insured employers to report the payment of benefits under the Longshore and Harbors Workforce Compensation Act.

Agency: Employment Standards Administration (ESA).

Title: Work Experience and Career Exploration Programs (WECEP).

OMB Number: 1215–0121.

Frequency: Biennial Reporting.

Affected Public: State, Local, or Tribal Governments; Individual or households.

Number of Respondents: 14,014.

Total Responses: 14,014.

Average Time Per Response: Reporting, WECEP Application—2 hours

Reporting, Written Training Agreement—1 hour
Recordkeeping, WECEP Program Information—1 hour
Recordkeeping, Filing of WECEP record and Training Agreement—½ minute
Estimated Total Burden Hours: 7,145.
Total Annualized Capital/Startup Costs: $0.
Total Annual Costs (operating/maintaining systems or purchasing services): $2.52.
Description: State educational agencies are required to file applications for approval of Work Experience and Career Exploration Programs (WECEP) which provide exceptions to the child labor regulations issued under the Fair Labor Standards Act (FLSA). State educational agencies are also required to maintain certain records with respect to approved WECEP programs.

Ira L. Mills,
Departmental Clearance Officer.
[FR Doc. 00–3933 Filed 2–17–00; 8:45 am]
BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed collection of the ETA 539, Weekly Claims and Extended Benefits Trigger Data and the ETA 538, Advance Weekly Initial and Continued Claims Report; Comment Request

AGENCY: Employment and Training Administration; Department of Labor.
ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration, Office of Workforce Security is soliciting comments concerning the proposed extension of the collection of the ETA 538, Advance Weekly Initial and Continued Claims Report and the ETA 539, Weekly Claims and Extended Benefits Trigger. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before April 18, 2000.

ADDRESSES: Cynthia L. Ambler, U.S. Department of Labor, Employment and Training Administration, Room S–4231, 200 Constitution Avenue, N.W., Washington, DC 20210, Phone: 202–219–6209 x129, Fax: 202–2198506, E-mail: cambler@doleta.gov

SUPPLEMENTARY INFORMATION:

I. Background

The ETA 538 and ETA 539 reports contain information on initial claims and continued weeks claimed. These figures are important economic indicators. The ETA 538 is a quick look that allows US figures to be released to the public five days after the close of the period. The ETA 539 contains more refined economic indicators that are publishable on a State level as well as information on the Extended Benefits trigger level and the background data supporting it.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The ETA 538 and ETA 539 continue to be needed as they provide both timely economic indicators as well as the information needed to track the data that triggers states onto and off of the Extended Benefits program.

Type of Review: Extension without change.
Title: ETA 539, Weekly Claims and Extended Benefits Trigger Data and the ETA 538, Advance Weekly Initial and Continued Claims Report.
OMB Number: 1205–0028.
Agency Number: ETA 538 and ETA 539.
Recordkeeping: Respondent is expected to maintain data which supports the reported data for three years.
Affected Public: State governments.
Estimated Total Burden Hours:

ETA 538 53 States × 52 reports × 30 min.	=	1378 hrs.
ETA 539 53 States × 52 reports × 50 min.	=	2297 hrs.
Total Burden	.....	3675 hrs.

Total Burden Cost: (operating/maintaining): $91,875.
Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 11, 2000.
Grace A. Kilbane,
Director, Office of Workforce Security.
[FR Doc. 00–3932 Filed 2–17–00; 8:45 am]
BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal

statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or in the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Rhode Island
RI000001 (Feb. 11, 2000)
RI000002 (Feb. 11, 2000)

Volume II:

Delaware
DE000002 (Feb. 11, 2000)
DE000005 (Feb. 11, 2000)
Virginia
VA000030 (Feb. 11, 2000)
VA000035 (Feb. 11, 2000)

Volume III:

Georgia
GA000093 (Feb. 11, 2000)
Kentucky
KY000002 (Feb. 11, 2000)
KY000004 (Feb. 11, 2000)
KY000007 (Feb. 11, 2000)
KY000025 (Feb. 11, 2000)
KY000027 (Feb. 11, 2000)
KY000029 (Feb. 11, 2000)

Volume IV:

Michigan
MI000049 (Feb. 11, 2000)
Ohio
OH000001 (Feb. 11, 2000)
OH000002 (Feb. 11, 2000)
OH000003 (Feb. 11, 2000)
OH000023 (Feb. 11, 2000)
OH000028 (Feb. 11, 2000)
OH000029 (Feb. 11, 2000)
OH000034 (Feb. 11, 2000)

Volume V:

Nebraska
NE000001 (Feb. 11, 2000)
NE000019 (Feb. 11, 2000)
Texas
TX000003 (Feb. 11, 2000)
TX000033 (Feb. 11, 2000)
TX000034 (Feb. 11, 2000)
TX000037 (Feb. 11, 2000)
TX000053 (Feb. 11, 2000)
TX000059 (Feb. 11, 2000)
TX000060 (Feb. 11, 2000)
TX000061 (Feb. 11, 2000)
TX000069 (Feb. 11, 2000)
TX000081 (Feb. 11, 2000)

Volume VI:

Alaska
AK000001 (Feb. 11, 2000)
AK000002 (Feb. 11, 2000)
AK000003 (Feb. 11, 2000)
AK000006 (Feb. 11, 2000)
Idaho
ID000002 (Feb. 11, 2000)
Oregon
OR000001 (Feb. 11, 2000)
Washington
WA000002 (Feb. 11, 2000)
WA000003 (Feb. 11, 2000)
WA000007 (Feb. 11, 2000)
WA000008 (Feb. 11, 2000)
WA000011 (Feb. 11, 2000)
WA000013 (Feb. 11, 2000)

Volume VII:

Hawaii
HI000001 (Feb. 11, 2000)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 412–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 10th day of February 2000.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–3665 Filed 2–17–00; 8:45 am]

BILLING CODE 4510–27–M

LEGAL SERVICES CORPORATION

Notice of Availability of FY 2000 Competitive Grant Funds for Chautauqua County, New York (Service Area NY–5)

AGENCY: Legal Services Corporation.

ACTION: Solicitation of Proposals for the Provision of Civil Legal Services for Chautauqua County, New York (NY–5).

SUMMARY: The Legal Services Corporation (LSC or Corporation) is the national organization charged with administering federal funds provided for civil legal services to the poor. Congress has adopted legislation requiring LSC to utilize a system of competitive bidding for the award of grants and contracts.

The Corporation hereby announces that it is reopening competition for FY 2000 competitive grant funds and is soliciting grant proposals from interested parties who are qualified to provide effective, efficient and high quality civil legal services to the eligible client population in service area NY–5 in New York. Two grant terms will be funded. The tentative date of the first grant term is July 1, 2000 through December 31, 2000 (six months). The tentative grant amount for the first grant term is $76,760. The second grant term is for calendar year 2001 (twelve months). The exact amount of congressionally appropriated funds and the date and terms of availability for calendar year 2001 are not known, although it is anticipated that the funding amount will be similar to calendar year 2000 funding, which is $153,518.

DATES: The Request for Proposals (RFP) will be available after February 18, 2000. A Notice of Intent to Compete is due by April 3, 2000. Grant proposals must be received at LSC offices by 5 p.m. EDT, April 28, 2000.

ADDRESSES: Legal Services Corporation—Competitive Grants, 750 First Street NE., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Reginald Haley, Office of Program Performance, (202) 336–8827.

SUPPLEMENTARY INFORMATION: LSC is seeking proposals from non-profit organizations that have as a purpose the furnishing of legal assistance to eligible clients, and from private attorneys, groups of private attorneys or law firms, state or local governments, and substate regional planning and coordination agencies which are composed of substate areas and whose governing boards are controlled by locally elected officials.

The solicitation package, containing the grant application, guidelines, proposal content requirements and specific selection criteria, is available by contacting the Corporation by e-mail at speights@.lsc.gov, by phone at 202–336–8906; or by FAX at 202 336–7272. LSC will not FAX the solicitation package to interested parties.

Issue Date: February 9, 2000.

Michael A. Genz,

Director, Office of Program Performance.

[FR Doc. 00–3520 Filed 2–17–00; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Meeting of the National Museum Service Board

AGENCY: Institute of Museum and Library Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the function of the board. Notice of this meeting is required under the Government through the Sunshine Act (Public Law 94–409) and regulations of the Institute of Museum and Library Services, 45 CFR 1180.84.

TIME/DATE: 9:00–12:00 pm on Friday, March 3, 2000.

STATUS: Open.

ADDRESS: The Polaris Room, The Ronald Reagan Building, 1300 Pennsylvania Avenue, NW, Washington, DC 20004, (202) 312–1300.

FOR FURTHER INFORMATION CONTACT: Elizabeth Lyons, Special Assistant to the Director, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Room 510, Washington, DC 20506, (202) 606–4649.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under the Museum Services Act.

The meeting on Friday, March 3, 2000 will be open to the public. If you need special accommodations due to a disability, please contact: Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Washington, DC 20506—(202) 606–8536—TDD (202) 606–8636 at least seven (7) days prior to the meeting date.

Agenda

77th Meeting of the National Museum Services Board

(In The Polaris Room at The Ronald Reagan Building, 1300 Pennsylvania Avenue, NW, Washington, DC 20004 on Friday, March 3, 2000)

9:00 am–12:00 pm

I. Chairperson's Welcome and Minutes of the 76th NMSB Meeting—November 5, 1999
II. Director's Report
III. Policy, Planning and Budget Report
IV. Legislative/Public Affairs Report
V. Office of Research and Technology Report
VI. Office of Museum Services Program Report
VII. Office of Library Services Program Report

Dated: February 10, 2000.

Linda Bell,

Director of Policy, Planning and Budget, National Foundation on the Arts and Humanities, Institute of Museum and Library Services.

[FR Doc. 00–4018 Filed 2–15–00; 4:37 pm]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.
2. *The title of the information collection:* Billing Instructions for NRC Cost Type Contracts.
3. *The form number if applicable:* N/A.
4. *How often the collection is required:* Monthly.
5. *Who will be required or asked to report:* NRC Contractors.
6. *An estimate of the number of responses:* 3,952.
7. *The estimated number of annual respondents:* 80.
8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,851 hours (Billing Instructions—1123 + 728 License Fee Recovery Cost Summary).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.

10. *Abstract:* The Division of Contracts and Property Management in administering its contracts provides Billing Instructions for its contractors to follow in preparation of invoices. These instructions stipulate the level of detail in which supporting cost data must be submitted for NRC review. The review of this information ensures that all payments made by NRC for valid and reasonable costs in accordance with the contract terms and conditions.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by March 20, 2000. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Erik Godwin, Office of Information and Regulatory Affairs (3150–0109), NEOB–10202, Office of Management and Budget, Washington, DC 20503

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 14th day of February 2000.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–3892 Filed 2–17–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–336]

Northeast Nuclear Energy Company, et al.; Millstone Nuclear Power Station, Unit No. 2; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Northeast Nuclear Energy Company, *et al.* (NNECO) to withdraw its November 13, 1998, application, as supplemented by letter dated September 16, 1999, for proposed amendment to Facility Operating License No. DPR–65 for the Millstone Nuclear Power Station, Unit 2, located in New London County, Connecticut.

The proposed amendment would have authorized the licensee to revise the Final Safety Analysis Report by changing the High Pressure Safety Injection pump runout flowrate, Auxiliary Feedwater pump flowrate, the iodine partition factor for the air ejector, inclusion of the potential of flashing of the primary-to-secondary leakage, and a change in the atmospheric release point assumed following the actuation of the Enclosure Building Filtration Actuation Signal.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 27, 1999 (64 FR 4158). However, by letter dated January 25, 2000, NNECO withdrew the proposed change request.

For further details with respect to this action, see the application for amendment dated November 13, 1998, as supplemented by letter dated September 16, 1999, and NNECO's letter dated January 25, 2000, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 14th day of February 2000.

For the Nuclear Regulatory Commission.

Jacob I. Zimmerman,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–3894 Filed 2–17–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278]

PECO Energy Company Public Service Electric and Gas Company, Delmarva Power and Light Company, Atlantic City Electric Company, Peach Bottom Atomic Power Station, Units 2 and 3; Notice of Consideration of Approval of Transfer of Facility Operating Licenses and Conforming Amendments, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of Facility Operating License No. DPR–44 for the Peach Bottom Atomic Power Station, Unit 2, and Facility Operating License No. DPR–56 for the Peach Bottom Atomic Power Station, Unit 3, to the extent currently held by the Delmarva Power & Light Company (DP&L) and the Atlantic City Electric Company (ACE) in connection with each of their 7.51 percent undivided ownership interests in each of the Peach Bottom units. The transfer would be to the PECO Energy Company (PECO) and PSEG Nuclear LLC (PSEG Nuclear). The Commission is also considering amending the licenses for administrative purposes to reflect the proposed transfer.

According to an application for approval filed by PECO, Public Service Electric and Gas Company (PSE&G), PSEG Nuclear, DP&L, and ACE, both PECO and PSEG Nuclear would acquire DP&L's and ACE's ownership interests in the facility following approval of the proposed transfer of the licenses. Depending upon the timing of a planned restructuring of PSE&G, as an interim step the interests of DP&L and ACE to be ultimately acquired by PSEG Nuclear may be transferred first to PSE&G or to PSEG Power LLC, the parent of PSEG Nuclear, and then to PSEG Nuclear. PECO, which presently owns a 42.49 percent interest in both units, and is the licensed operator of the facility, would continue to be responsible for the operation, maintenance, and eventual decommissioning of the Peach Bottom station. No physical changes to the Peach Bottom facility or operational changes are being proposed in the application.

The proposed amendment would remove references in the licenses to ACE and DP&L, and add references to PSEG Nuclear, as appropriate, to reflect the proposed transfer. Since PECO is already shown as a licensee in the licenses, it will not need to be added to the licenses.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the

Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By March 9, 2000, any person whose interest may be affected by the Commission's action on the application may request a hearing, and, if not the applicants, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon counsel for PECO Energy Company, Paul J. Zaffuts, Esquire, Morgan, Lewis & Brockius, LLP, 1800 M Street, NW, Washington, DC 20036–5869 (tel: 202–467–7537 and e-mail: pjzaffuts@mlb.com); counsel for Public Service Electric & Gas Company and PSEG Nuclear LLC, David A. Repka, Esquire, Winston & Strawn, 1400 L Street, NW, Washington, DC 20005–3502 (tel: 202–371–5726 and e-mail: drepka@winston.com); counsel for Atlantic City Electric Company and Delmarva Power & Light Company, John H. O'Neill, Jr., Esquire, and Matias F. Travieso-Diaz, Esquire, Shaw Pittman, 2300 N. Street, NW, Washington, DC 20037–1128 (tel: 202–663–8148 email: john.o'neill@shawpittman.com); the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: ogclt@nrc.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by March 20, 2000, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated December 21, 1999, and supplement dated February 11, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site: http://www.nrc.gov.

Dated at Rockville, Maryland this 14th day of February 2000.

For the Nuclear Regulatory Commission.

Bartholomew C. Buckley,

Senior Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–3890 Filed 2–17–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272 and 50–311]

Public Service Electric & Gas Company, Salem Nuclear Generating Station, Unit Nos. 1 and 2; Notice of Consideration of Approval of Transfer of Facility Operating Licenses and Conforming Amendments, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of Facility Operating License No. DPR–70 for the Salem Nuclear Generating Station, Unit No. 1, and Facility Operating License No. DPR–75 for the Salem Nuclear Generating Station, Unit No. 2, to the extent currently held by Delmarva Power and Light Company (DP&L), and Atlantic City Electric Company (ACE). The transfer would be to PSEG Nuclear LLC. The Commission is also considering amending the licenses for administrative purposes to reflect the proposed transfer.

According to an application for approval filed by Public Service Electric and Gas Company (PSE&G), PSEG Nuclear LLC, DP&L, and ACE, PSEG Nuclear would purchase DP&L's and ACE's collective 14.82-percent ownership interests in both units of the facility following approval of the proposed transfer of the licenses. Depending upon the timing of regulatory approvals being sought by PSEG Nuclear concerning other transfer matters not involving DP&L and ACE, as an interim step the interests of DP&L and ACE to be purchased by PSEG Nuclear may be transferred first to PSEG Power LLC, the parent of PSEG Nuclear, or to PSE&G, and then to PSEG Nuclear. No physical changes to the Salem facility or operational changes are being proposed in the application.

The proposed amendments would remove references in the licenses to DP&L and ACE, and add references to PSEG Nuclear, as appropriate, to reflect the proposed transfer.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and

orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By March 9, 2000, any person whose interest may be affected by the Commission's action on the application may request a hearing, and, if not the applicants, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon counsel for PSEG Nuclear, LLC, Jeffrie J. Keenan, Esquire, Public Service Electric and Gas Company, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038 (tel: 856–339–5429, fax: 856–339–1234, and e-mail: jeffrie.keenan@pseg.com); the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: ogclt@nrc.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by March 20, 2000, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated December 20, 1999, and supplement dated February 11, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland this 14th day of February 2000.

For the Nuclear Regulatory Commission.

William C. Gleaves,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–3891 Filed 2–17–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–354]

Public Service Electric & Gas Company, Hope Creek Generating Station; Notice of Consideration of Approval of Transfer of Facility Operating License and Conforming Amendment, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of Facility Operating License NPF–57 for the Hope Creek Generating Station, to the extent currently held by the Atlantic City Electric Company (ACE), to PSEG Nuclear LLC. The Commission is also considering amending the license for administrative purposes to reflect the proposed transfer.

According to an application for approval filed by Public Service Electric and Gas Company (PSE&G), PSEG Nuclear LLC, and ACE, PSEG Nuclear would purchase ACE's interest in the facility following approval of the proposed transfer of the license. Depending upon the timing of regulatory approvals being sought by PSEG Nuclear concerning other transfer matters not involving ACE, as an interim step the interest of ACE to be purchased by PSEG Nuclear may be transferred to PSEG Power LLC, the parent of PSEG Nuclear, or to PSE&G, and then to PSEG Nuclear. No physical changes to the Hope Creek facility or operational changes are being proposed in the application.

The proposed amendment would remove references in the license to ACE, and add references to PSEG Nuclear, as appropriate, to reflect the proposed transfer.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendment, the Commission will have made findings required by the Atomic Energy Act of

1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By March 9, 2000, any person whose interest may be affected by the Commission's action on the application may request a hearing, and, if not the applicants, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon counsel for PSEG Nuclear, LLC, Jeffrie J. Keenan, Esquire, Public Service Electric and Gas Company, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038 (tel: 856–339–5429, fax: 856–339–1234, and e-mail: jeffrie.keenan@pseg.com); the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: ogclt@nrc.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by March 20, 2000, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated December 20, 1999, and supplemented dated February 11, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland this 14th day of February 2000.

For the Nuclear Regulatory Commission.

Richard B. Ennis,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–3893 Filed 2–17–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review, Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, NW., Washington, DC 20549.

Extension: Rule 34b–1.

File No. 270–305.

OMB Control No. 3235–0346.

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'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 34b–1 Under the Investment Company Act of 1940, Sales Literature Deemed To Be Misleading

Rule 34b–1 under the Investment Company Act of 1940 (''Investment Company Act'') [17 CFR § 270.34b–1] governs sales material that accompanies or follows the delivery of a statutory prospectus (''sales literature''). Rule 34b–1 deems to be materially misleading any investment company sales literature, required to be filed with the Commission by section 24(b) of the Investment Company Act,[1] that includes any information that purports to show the investment performance of the investment company unless it also includes performance data calculated in a manner prescribed by rule 482 under the Securities Act of 1933. Requiring the inclusion of such standardized performance data in sales literature is designed to prevent misleading performance claims by funds and to enable investors to make meaningful comparisons among fund performance claims.

It is estimated that there are approximately 545 respondents that file with the Commission approximately five responses annually, which include the information required by rule 34b–1. The burden from rule 34b–1 requires approximately 2.4 hours per response resulting from creating the information required under rule 34b–1. The total burden hours for rule 34b–1 would be 6,540 hours per respondent. The estimated annual burden of 6,540 hours represents an increase of 3,096 hours over the prior estimate of 3,444 hours. The increase in burden hours is attributable to an increase in the number of respondents from 287 to 545.

The estimates of average burden Hours are made solely for the purposes of the Act and are not derived from a comprehensive or even representative

[1] Sales literature addressed to or intended for distribution to prospective investors shall be deemed filed with the Commission for purposes of Section 24(b) of the Investment Company Act upon filing with a national securities association registered under Section 15A of the Securities Exchange Act of 1934 that has adopted rules providing standards for the investment company advertising practices of its members and has established and implemented procedures to review that advertising. See Rule 24b–3 under the Investment Company Act [17 CFR 270.24b–3].

survey or study of the cost of Commission rules and forms.

The collection of information under rule 34b–1 is mandatory. The information provided by rule 34b–1 is not kept confidential. The Commission may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 14, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–3937 Filed 1–17–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24286; File No. 812–11506]

Hartford Life Insurance Company, *et al.*

February 11, 2000.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to Section 11(a) of the Investment Company Act of 1940 (the ''Act'') approving the terms of an offer of exchange and for an order pursuant to Section 6(c) of the Act granting exemptions from Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder for the recapture of certain bonus credits.

APPLICANTS: Hartford Life Insurance Company (''Hartford Life''), Hartford Life Insurance Company Separate Account Two (''HL Account''), Putnam Capital Manager Trust Separate Account (''HL Putnam Account''), Hartford Life and Annuity Insurance Company (''Hartford Life and Annuity''), Hartford Life and Annuity Insurance Company Separate Account One (''HLA Account''), Putnam Capital Manager Trust Separate Account Two (''HLA Putnam Account'', collectively with the HL Account, HL Putnam Account and HLA Account, the ''Accounts'') and Hartford Securities Distribution Company, Inc. (''HSD'').

SUMMARY OF APPLICATION: Applicants seek an order approving the terms of a proposed offer of exchange of new variable annuity contracts issued by Hartford Life and Hartford Life and Annuity (collectively ''Hartford'') and made available through the Accounts (the ''New Contracts'') for certain outstanding annuity contracts issued by Hartford and made available through the Accounts (the ''Old Contracts'', collectively with the New Contracts, the ''Contracts''). Applicants also seek an order to permit the recapture, from any New Contract canceled during the right to cancel period, a 2% bonus payment credited on amounts transferred to the New Contracts under the proposed offer of exchange.

FILING DATE: The application was filed on February 12, 1999, and amended on October 15, 1999, November 12, 1999, and December 10, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on March 7, 2000, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, Marianne O'Doherty, Esq., Hartford Life Inc., P.O. Box 2999, Hartford, Connecticut 06140–2999.

FOR FURTHER INFORMATION CONTACT: Lorna MacLeod, Senior Counsel, or Susan Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

Applicants

1. Hartford Life is a stock life insurance company engaged in the business of writing life insurance and annuities, both individual and group, in all states of the United States and the District of Columbia. Hartford Life is ultimately controlled by the Hartford Financial Services Group, Inc. (''Hartford Financial Services''), a financial services provider in the United States.

2. The HL Account is the separate account in which Hartford sets aside and invests assets attributable to Hartford Life's Director variable annuity contracts (''HL Director Contracts''). The HL Account is organized and registered under the Act as a unit investment trust (File No. 811–4732).

3. The HL Putnam Account is the separate account in which Hartford sets aside and invests the assets attributable to the Hartford Life's Putnam Hartford Capital Manager Variable Annuity (''HL Putnam Contracts''). The HL Putnam Account is organized and registered under the Act as a unit investment trust (File No. 811–6285).

4. Hartford Life and Annuity is a stock life insurance company engaged in the business of writing life insurance and annuities, both individual and group, in all states of the United States and the District of Columbia, except New York. Hartford Life and Annuity is ultimately controlled by Hartford Financial Services.

5. The HLA Account is the separate account in which Hartford Life and Annuity sets aside and invests assets attributable to Hartford Life and Annuity's Director variable annuity contracts (''HLA Director Contracts,'' collectively with the HL Director Contracts, the ''Director Contracts''). The HLA Account is organized and registered under the Act as a unit investment trust (File No. 811–07426).

6. The HLA Putnam Account is the separate account in which Hartford Life and Annuity sets aside and invests the assets attributable to the HLA Putnam Hartford Capital Manager Variable Annuity (''HLA Putnam Contracts,'' collectively with the HL Putnam Contracts, the ''Putnam Contracts''). The HLA Putnam Account is organized and registered under the Act as a unit investment trust (File No. 811–07622).

7. HSD is registered with the Commission as a broker-dealer and is a member of the National Association of Securities Dealers, Inc. HSD is the principal underwriter for the Contracts and for other Hartford variable insurance products. HSD is an affiliate of Hartford Life and Hartford Life and Annuity. Hartford Life's and Hartford Life and Annuity's parent company indirectly owns 100% of HSD.

8. Both Hartford Life and Hartford Life and Annuity offer Director Contracts and Putnam Contracts. The HL and HLA Director Contracts are identical to each other and the HL and HLA Putnam Contracts are identical to each other in all respects, except that the Hartford Life Contracts are issued through Hartford Life's separate accounts and the Hartford Life and Annuity Contracts are issued through Hartford Life and Annuity's separate accounts.

Reasons for Exchange Offer

9. Applicants assert that during the later part of this decade, the variable annuity marketplace has become increasingly competitive. Many of the purchases of variable annuity contracts in the 1980s and early 1900s are at, or close to, the expiration of their deferred sales charge period, and the contract values of many contracts are no longer subject to a deferred sales charge. Holders of such contracts have become prime targets for competitors' variable annuity sales efforts. One feature offered to variable annuity purchasers by several of Hartford's competitors is a ''bonus'' or ''credit'' funded from the insurer's general account, generally ranging from 1–4% of contract value. Hartford has experienced the effects of these ''bonus offers'' through the loss of a substantial portion of its Director and Putnam Contract business.

10. Hartford states that its competitors are permitted to make bonus offers to Hartford's Director and Putnam Contract owners because offers of exchange to contract owners of unaffiliated insurance companies are not prohibited by Section 11 of the Act by virtue of a no-action position granted to Alexander Hamilton Funds (pub. avail. July 20, 1994) (''Alexander Hamilton''). Applicants state that Alexander Hamilton stands for the proposition that, except for limited exceptions, exchange offers between unaffiliated investment companies are not prohibited under Section 11. Consistent with Section 11(a), therefore, a fund may impose a contingent deferred sales charge (''CDSC'') on shares purchased by investors with proceeds of shares exchanged from an unaffiliated fund.

11. Applicants assert that, but for the existence of the affiliated nature of the exchange, Hartford would be able to offer a bonus program to its existing Director and Putnam Contract owners that is similar to its competitors' programs. However, unlike its competitors who may make bonus offers to Director and Putnam Contract owners, Hartford is constrained from making the similar offer without first obtaining Commission approval of the terms of the exchange.

12. Applicants state that in response to this competitive dilemma, Hartford has developed and exchange offer (''Exchange Offer'') that would give eligible owners of Director and Putnam Contracts the opportunity to exchange their existing Contracts for an enhanced Contract. On the day the exchange is effected (the ''Exchange Date''), eligible owners would also receive a 2% bonus based on the Contract value of each Old Contract surrendered in exchange for an enhanced New Contract (''2% Bonus''). Withdrawals made after the right to cancel period under the New Contract has expired would be governed by the terms of the New Contract, including application of the CDSC. If a Contract owner exercises his or her right to cancel the New Contract, the 2% Bonus will be returned to Hartford and the Old Contract will be reinstated with Contract values that reflect the investment experience while the New Contract was held. Applicants state that the terms of the Exchange Offer are designed to respond to Hartford's competitive dilemma and to assure that persisting Contract owners who accept the Exchange Offer receive an immediate and enduring economic benefit.

The Contracts

13. Certain New Director Contracts (''Director VI'') are offered pursuant to registration statements under the Securities Act of 1933 (the ''1933 Act'') filed on December 23, 1993, and amended on September 28, 1998 (HL File No. 33–73570; HLA File No. 33–73568). When available, other New Director Contracts (''Director VII'') will be offered pursuant to registration statements under the 1933 Act filed on December 22, 1998 (HL File No. 333–69485; HLA File No. 333–69487).

14. Applicants state that the New Director Contracts, which represent either the sixth (or, when available, the seventh) version of Hartford's Director Contract, were designed to enhance the Old Director Contracts. Hartford has sold Director VI since June 27, 1994, and is in the process of obtaining state approvals to sell Director VII. The New Director Contracts are offered as individual and group tax-deferred flexible premium variable annuity contracts. They permit Contract values to be accumulated on a variable, fixed, or combination of variable and fixed basis. They require a minimum initial premium payment of $1,000.

15. Contract values of the New Director Contracts currently may be allocated to sub-accounts of the HL Account (with respect to Hartford Life Director Contracts) or the HLA Account (with respect to HLA Director Contracts) that each invest in 15 different investment company portfolios (''Underlying Funds'')—15 mutual funds sponsored by Hartford. Under four ''propriety'' versions of the HL Director VI Contract and one ''proprietary'' version of the HLA Director VI Contract, Contract values also maybe allocated to various additional Underlying Funds available under those Contracts.

16. Values may also be accumulated on a guaranteed basis by allocation to Hartford's general account (the ''Fixed Account''). Fixed Account interest is currently guaranteed to be credited at a rate of at least 3% on an annual basis.

17. Contract values may be transferred among the sub-accounts of the Hartford Accounts without charge, although Hartford reserves the right to limit the number of transfers to 12 in a Contract year. Transfers to and from the Fixed Account are permitted, subject to certain restrictions described in the prospectus for the New Director Contracts.

18. New Director Contract owners may enroll in a special pre-authorized transfer program known as Hartford's Dollar Cost Averaging Bonus Program (the ''DCA Bonus Program''). Contract owners who enroll under the DCA Bonus Program may allocate a minimum of $5,000 of their premium payment into the DCA Bonus Program and pre-authorize transfers to any of the sub-accounts.

19. Contract values under the New Director Contracts may be accessed at any time prior to the annuity commencement date by means of partial surrenders or full surrender. The New Director Contracts permit withdrawal of up to 10% (15% in the case of Director VII) of premium payments per Contract year during the initial CDSC period and, after the seventh Contract year, 100% of Contract value less premium payments made during the seven years prior to surrender, and 10% (15% in the case of Director VII) of premium payments invested for less than seven years. The annual withdrawal amount, which is not subject to the CDSC, is also referred to herein as the ''free withdrawal amount.''

20. The New Director Contracts provide an enhanced guaranteed death benefit in the event of the death of the annuitant or Contract owner before annuity payments have commenced. The death benefit will be calculated upon receipt of due proof of death at Hartford's Administrative Office and will equal the greatest of: (a) The

Contract value; (b) 100% of all premium payments made under the Contract reduced by the dollar amount of any partial surrenders since the date of issue; or (c) the maximum anniversary value preceding the date of death.

21. The Director VII Contract also provides for an optional death benefit which must be applied for at the time of application or exchange. For an additional charge at an annual rate of 15% of the average daily sub-account value, the optional death benefit is equal to the greatest of: (a) The Contract value; (b) 100% of all premium payments made under the Contract, reduced by the dollar amount of any partial surrenders since the Contract issue date; (c) the maximum anniversary value; or (d) the interest accumulation value, which is equal to total premium payments, adjusted for partial surrenders, compounded daily at an annual interest rate of 5.0%.

22. The New Director Contracts contain either five (Director VI) or seven (Director VII) annuity payment options, including the five payment options available under the Old Director Contracts. Annuity options are available on a fixed or variable basis, or a combination thereof.

23. The New Director Contracts assess a CDSC against partial or full surrenders in excess of the free withdrawal amount. The length of time from receipt of a premium payment to the time of surrender determines the percentage of the CDSC. During the first seven years from each premium payment, a CDSC will be assessed against the surrender of premium payments that is a percentage of the amount surrendered (not to exceed the aggregate amount of the premium payments made). For Director VI, the CDSC ranges from 6% in year 1 to 0% in years 8 and after. For Director VII, the CDSC ranges from 7% in year 1 to 0% in years 8 and after.

24. The New Director Contracts provide for a waiver of the CDSC if the annuitant is confined, at the recommendation of a physician for medically necessary reasons, for at least 180 days, to a hospital or a nursing facility. Additionally, no CDSC is assessed in the event of death of the annuitant, death of the Contract Owner or if payments are made under an annuity option.

25. During the life of the New Director Contracts, Hartford deducts a mortality and expense risk charge from Contract value at an annual rate of 1.25% of the average daily sub-account value.

26. A charge for administrative expenses is deducted annually on each New Director Contract from the Contract value. The annual maintenance fee is $30 per Contract year, and is waived on Contracts with a $50,000 or greater Contract value.

27. Charges are deducted under the New Director Contracts for premium tax, if applicable. Certain states impose a premium tax, currently ranging up to 3.5%. Hartford pays premium taxes at the time imposed and recovers premium taxes upon full surrender, when a death benefit is paid or at annuitization.

28. Certain New Putnam Contracts (''Putnam V'') are offered pursuant to registration statements under the 1933 Act filed on December 23, 1993, and amended on April 15, 1998 (HL File No. 33–73566; HLA File No. 333–73572). When available, other New Putnam Contracts (''Putnam VI'') will be offered pursuant to registration statements under the 1933 Act filed on December 22, 1998 (HL File No. 333–69439; HLA File No. 333–69429).

29. The New Putnam Contracts, which are either the fifth (or, when available, the sixth) version of Hartford's Putnam Capital Manager Contract, are identical to the New Director Contracts except for differences in the Underlying Funds and the administration charge discussed below. Hartford has sold Putnam V since June 27, 1994, and is in the process of obtaining state approvals to sell Putnam VI.

30. There are currently 20 sub-accounts available under the New Putnam Contract, each of which invests in an Underlying Fund sponsored by Putnam.

31. Charges under the New Putnam Contracts are identical to charges under the New Director Contracts, except that Hartford makes a daily charge for administration at the annual rate of .15% against all new Putnam Contract values held in the Putnam Account during both the accumulation and annuity phases of the Contract.

32. The Old Director Contracts (four contracts also referred to respectively as ''Director II'' through ''Director V'') are offered pursuant to registration statements under the 1933 Act (HL Director II through Director V: File No. 33–06952; HLA Director II through V: File No. 33–56790).

33. The Old Director Contracts represent the second through fifth versions of Hartford's Director Contract. They are offered as flexible premium group and individual tax-deferred variable annuity contracts. They permit Contract values to be accumulated only on a variable basis (Director II) or on a variable, fixed or combination variable and fixed bases (Director III through V).

34. Contract values of the Old Director Contracts currently may be allocated to the same 15 sub-accounts of the Hartford Account available under the New Director Contract, each of which invests in Underlying Funds sponsored by Hartford.

35. Contract values of an Old Director Contract may be accessed by means of partial surrenders or full surrender. Old Director Contracts permit an annual 10% free withdrawal amount also available under the Director VI Contract.

36. The Old Director Contracts offer a minimum (no step-up) death benefit in the case of Director II and a periodic step-up death benefit in the cases of Director III through Director V. In particular, the death benefit provided under the Old Director Contracts may be calculated based on the Contract value on a specified Contract anniversary rather than the maximum anniversary value preceding the date of death.

37. The Old Director Contract has a CDSC. Additionally, a $25 charge is deducted from Contract value annually for Contract maintenance, and a mortality and expense risks charge is deducted from Contract value at an annual rate of 1.25% of daily sub-account value. Charges for premium taxes, if any, are deducted from premium payments under the New Director Contracts. Certain states impose a premium tax, currently ranging up to 3.5%. Hartford pays premium taxes at the time imposed and recovers the premium taxes upon full surrender, death or annuitization.

38. The Old Putnam Contracts (four contracts referred to respectively as ''Putnam I'' through ''Putnam IV'') are offered pursuant to registration statements under the 1933 Act (HL Putnam I through Putnam III: File No. 33–17207; HL Putnam IV: File No. 33–73566; HLA Putnam I through V: File No. 33–60702).

39. The Old Putnam Contracts represent the first through fourth versions of Hartford's Putnam Contract. They are identical to the Old Director II through V Contracts except for offering different Underlying Funds and assessing an administration charge in the manner described below.

40. Contract values of the Old Putnam Contracts currently may be allowed to the same 20 sub-accounts of the Putnam Account available under the New Putnam Contract, each of which invests in Underlying Funds sponsored by Putnam.

41. Charges under the Old Putnam Contracts are identical to the charges under the Old Director II through V Contracts, except that each Old Putnam Contract deducts administration fees at an annual rate of .15% of average daily Putnam sub-account value.

42. Applicants represent that the features and benefits of the New Contracts will be no less favorable than under the Old Contract, except for differences in the minimum guaranteed interest rates under the Fixed Account option and fixed annuity options. Applicants also represent that, with the exception of the CDSC and the annual maintenance fee, the fees and charges of the New Contracts will be no higher than those of the Old Contract.

Terms of the Exchange Offer

43. Applicants propose to offer eligible owners of Old Contracts the opportunity to exchange their Old Contracts for New Contracts by means of the Exchange Offer. Eligible Director II–V Contract owners will be permitted to exchange their Old Director Contract for any one of five versions of a Director VI Contract, and when available, a Director VII Contract. Similarly, eligible Putnam I–IV Contract owners will be permitted to exchange their Old Putnam Contract for a Putnam V Contract, and when available, a Putnam VI Contract. To be eligible for the Exchange Offer, Director and Putnam Contract owners must (a) have completed seven or more Contract years under their Old Contract; and either (b) have not made deposits of premium under the Contract in the prior 24 months; or (c) have remaining surrender charges of less than 2% of their current Contract value.

44. Hartford, from its general account, will provide a 2% Bonus to each owner of an Old Contract who accepts the offer, which is based on the Contract value of each Old Contract surrendered in exchange for a New Contract. The Exchange Offer will provide that, upon acceptance of the offer, a New Contract will be issued with a Contract value equal to 2% greater than the Contract value of the Old Contract surrendered in the exchange. The Contract value of an Old Contract (''Exchange Value''), together with the 2% Bonus and any additional premium payments submitted for the New Contract, will be applied to the New Contract as of the Exchange Date. No CDSC will be deducted upon the surrender of an Old Contract in connection with an exchange.

45. If a Contract owner exercises his or her right to cancel the New Contract values that reflect the investment experience while the New Contract was held. After expiration of the New Contract's right to cancel period, withdrawals will be governed by the terms of the New Contract for purposes of calculating any CDSC. The Exchange Date will be the issue date of the New Contract for purposes of determining Contract years and anniversaries after the Exchange Date.

46. After an initial notification of the Exchange Offer in quarterly reports or other communications to Director and Putnam Contract owners and contacts made by Hartford's registered representatives, the Exchange Offer will be made by providing eligible owners of Old Contracts who express an interest in learning the details of the offer a prospectus for the New Contracts, accompanied by a letter explaining the offer (''Offering Letter'') and sales literature that compares the Old and New Contracts.

47. The Offering Letter will advise owners of an Old Contract that the Exchange Offer is specifically designed for those Contract owners who intend to continue to hold their Contracts as long-term investment vehicles. The letter will state that the offer is not intended for all Contract owners, and that it is especially not appropriate for any Contract owner who anticipates surrendering all or a significant part (*i.e.*, more than the 10 or 15% on an annual basis) or his or her Contract before five to seven years. In this regard, the letter will encourage Contract owners to carefully evaluate their personal financial situation when deciding whether to accept or reject the Exchange Offer. In addition, the Offering Letter will explain how an owner of an Old Contract contemplating an exchange may avoid the application CDSC on the New Contract if no more than the annual ''free withdrawal amount'' is surrendered and any subsequent deposits are held until expiration of the CDSC period. In this regard, the Offering Letter will state in clear plain English that if the New Contract is surrendered during the initial CDSC period: (a) the 2% Bonus may be more than offset by the CDSC; and (b) a Contract owner may be worse off than if he or she had rejected the Exchange Offer.

48. To accept the Exchange Offer, an owner of an Old Contract must complete an internal exchange form. Applicants state that no adverse tax consequences will be incurred by those Contract owners who accept the Exchange Offer and that the exchanges will constitute tax-free exchanges pursuant to Section 1035 of the Internal Revenue Code.

49. The Exchange Offer is meant to encourage existing Contract owners to remain with Hartford rather than surrender their Contracts in exchange for a competitor's product offering a similar bonus. If the New Contract (CDSC) is not permitted on the Exchange Value, Applicants believe that some Contract owners might exchange their New Contracts with the intent to take advantage of the 2% Bonus and then surrender the New Contract without a CDSC. Without the CDSC, Hartford would have no assurance that a Contract owner who accepted the Exchange Offer would persist long enough for the 2% Bonus and payments to register representatives to be recouped through standard fees from the ongoing operation of the New Contracts. Applicants state that registered representatives will be paid commissions for soliciting exchanges that are less than they normally are paid for soliciting sales of New Contracts. Applicants assert that compensating HSD's registered representatives for these exchanges is necessary in order to provide sufficient incentive for them to compete with competitors' registered representatives.

Applicant's Conditions

Applicants agree to the following conditions:

1. The Offering Letter will contain concise, plain English statements that: (a) The Exchange Offer is suitable only for Contract owners who expect to hold their Contracts as long term investments; and (b) if the New Contract is surrendered during the initial CDSC period, the 2% bonus may be more than offset by the CDSC and a Contract owner may be worse off than if he or she had rejected the Exchanger Offer.

2. The Offering Letter will disclose in concise, plain English each aspect of the New Contracts that will be less favorable than the Old Contracts.

3. Hartford will send the Offering Letter directly to eligible Contract owners. A Contract owner choosing to exchange will than complete and sign an internal exchange form, which will prominently restate in concise, plain English the statements required in Condition No. 1, and return it to Hartford. If the internal exchange form is more than two pages long, Hartford will us a separate document to obtain Contract owner acknowledgement of the statements required in Condition No. 1.

4. Hartford will maintain the following separately identifiable records in an easily accessible place for the time periods specified below in this Condition No. 4 for review by the Commission upon request: (a) Records showing the level of exchange activity and how it relates to the total number of Contract owners eligible to exchange (quarterly as a percentage of the number eligible); (b) copies of any form of Offering Letter and other written materials or scripts for presentations by representatives regarding the Exchange Offer that Hartford either prepares or

approves, including the dates that such materials were used; (c) records containing information about each exchange transaction that occurs, including the name of the Contract owner; Old and New Contract numbers; the amount of CDSC waived on surrender of the Old Contract; Bonus paid; the name and CRD number of the registered representative soliciting the exchange, firm affiliation, branch office address, telephone number and the name of the registered representative's broker-dealer; commission paid; the internal exchange form (and separate document, if any, used to obtain the Contract owner's acknowledgment of the statements required in Condition No. 1) showing the name, date of birth, address and telephone number of the Contract owner and the date the internal exchange form (or separate document) was signed; amount of Contract value exchanged; and persistency information relating to the New Contract, including the date of any subsequent surrender and the amount of CDSC paid on the surrender; and (d) logs showing a record of any Contract owner complaint about the exchange; state insurance department inquiries about the exchange; or litigation, arbitration, or other proceeding regarding any exchange. The logs will include the date of the complaint or commencement of the proceeding, name and address of the person making the complaint or commencing the proceeding, nature of the complaint or proceeding, and the persons named or involved in the complaint or proceeding. Applicants will retain records specified in (a) and (d) for a period of six years after the date the records are created, records specified in (b) for a period of six years after the date of last use, and records specified in (c) for a period of two years after the date that the initial CDSC period of the New Contract ends.

Applicants' Legal Analysis

Section 11

1. Section 11(a) of the Act makes it unlawful for any registered open-end company, or any principal underwriter for such a company, to make or cause to be made an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with Commission rules adopted under Section 11.

2. Section 11(c) of the Act, in pertinent part, requires, in effect, that any offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company be approved by the Commission or satisfy applicable rules adopted under Section 11, regardless of the basis of the exchange.

3. The purpose of Section 11 of the Act is to prevent ''switching,'' the practice of inducing security holders of one investment company to exchange their securities for those of a different investment company solely for the purpose of exacting additional selling charges. That type of practice was found by Congress to be widespread in the 1930s prior to adoption of the Act.

4. Section 11(c) of the Act requires Commission approval (by order or by rule) of any exchange, regardless of its basis, involving securities issued by a unit investment trust, because investors in unit investment trusts were found by Congress to be particularly vulnerable to switching operations.

5. Applicants assert that the potential for harm to investors perceived in switching was its use to extract additional sales charges from those investors.

6. Applicants assert that the terms of the proposed Exchange Offer do not present the abuses against which Section 11 was intended to protect. The Exchange Offer was designed to allow Hartford to compete on a level playing field with its competitors who are making bonus offers to its current Director and Putnam Contract owners. No additional sales load or other fee will be imposed at the time of exercise of the exchange Offer.

7. Rule 11a–2, by its express terms, provides Commission approval of certain types of offers of exchange of one variable annuity contract for another. Applicants assert that other than the relative net asset value requirement (which is not satisfied because exchanging Contract owners will be given a 2% Bonus), the only part of Rule 11a–2 that would not be satisfied by the proposed Exchange Offer is the requirement that payments under the Old Contracts be treated as if they had been made under the New Contracts on the dates actually made. This provision of Rule 11a–2 is often referred to as a ''tacking'' requirement because it has the effect of ''tacking together'' the CDSC expiration periods of the exchanged and acquired contracts.

8. Applicants assert that the absence of tacking does not mean that an exchange offer cannot be attractive and beneficial to investors. Applicants state that the proposed Exchange Offer would assure an immediate and enduring economic benefit to investors. The 2% Bonus would be applied immediately and the fact that asset-based charges would not be increased by the exchange would assure that the benefit would ensure. An owner of an Old Contract who intends to continue to hold the Contract as a long-term retirement planning vehicle will be significantly advantaged by the Exchange Offer because this 2% Bonus will automatically be added to his or her Contract value upon receipt of an enhanced New Contract. No sales charge will ever be paid on the amount rolled over in the exchange unless the New Contract is surrendered before expiration of the New Contract's CDSC period.

9. Applicants assert that tacking should be viewed as a useful way to avoid the need to scrutinize the terms of an offer of exchange to make sure that there is no abuse. Tacking is not a requirement of Section 11. Rather, it is a creation of a rule designed to approve the terms of offers of exchange ''sight unseen.'' Tacking focuses on the closest thing to multiple deduction of sales loads that is possible in a CDSC context—multiple exposure to sales loads upon surrender or redemption. If tacking and other safeguards of Rule 11a–2 are present, there is no need for the Commission or its staff to evaluate the terms of the offer. The absence of tacking in this fully scrutinized Section 11 application will have no impact on offers made pursuant to the rule on a ''sight unseen'' basis.

10. Applicants assert that the terms of Hartford's Exchange Offer are better than those of its competitors. No tacking is required when Hartford's competitors offer their variable annuity contracts to owners of Old Contracts or when Hartford makes such an offer to competitors' contract owners. In those exchanges, unlike the Exchange Offer proposed by Hartford, exchanging Contract owners must pay any remaining CDSC on the exchanged Contract at the time of the exchange.

11. To the extent there are differences in the Contracts, those differences relate to enhanced contractual features and charges that are fully described in the prospectuses for the New Contracts. Furthermore, the Offering Letter will contain concise, plain English statements that: (a) the Exchange Offer is suitable only for Contract owners who expect to hold their Contracts as long-term investments; and (b) if the New Contract is surrendered during the initial CDSC period, the 2% bonus may be more than offset by the CDSC and a

Contract owner may be worse off than if he or she had rejected the Exchange Offer. Applicants assert that Contract owners should have the opportunity to decide, on the basis of full and fair disclosure, whether the enhancements of the New Contracts and the 2% Bonus justify accepting the offer.

Sections 2(a)(32), 22(c), 27(i)(2)(A) and Rule 22c–1

12. Section 6(c) of the 1940 Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the 1940 Act and the rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants seek exemption pursuant to Section 6(c) from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and rule 22c–1 thereunder to the extent deemed necessary to permit Hartford to issue New Contracts that provide for a 2% Bonus upon exchange, and to recapture the 2% Bonus when a Contract owner returns a New Contract to Hartford for a refund during the right to cancel period.

13. Applicants assert that with respect to refunds paid upon the return of the New Contracts within the right to cancel period, the amount payable by Hartford must be reduced by the 2% Bonus amount. Otherwise, purchasers could apply for New Contracts for the sole purpose of exercising the right to cancel provision and making a quick profit. Applicants represent that it is not administratively feasible to track the 2% Bonus amount in any of the Accounts after the 2% Bonus is applied. Accordingly, the asset-based charges applicable to the Accounts will be assessed against the entire amounts held in the respective Accounts, including the 2% Bonus amount, during the right to cancel period. As a result, during such period, the aggregate asset-based charges assessed against a Contract owner's account value will be higher than those that would be charged if the owner's account value did not include the 2% Bonus.

14. Subsection (i) of Section 27 of the Act provides that Section 27 does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of the subsection. Paragraph (2) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless, among other things, such contract is a redeemable security. Section 2(a)(32) defines ''redeemable security'' as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

15. Applicants submit that the recapture of the 2% Bonus amount if an owner returns the Contract during the right to cancel period would not deprive an owner of his or her proportionate share of the issuer's current net assets. Applicants assert that an owner's interest in the 2% Bonus amount allocated to his or her account value upon exchange is not vested until the applicable right to cancel period has expired without return of the Contract. Until the right to recapture has expired and the 2% Bonus amount is vested, Applicants assert that Hartford retains the right and interest in the 2% Bonus amount, although not in the earnings attributable to that amount. Applicants assert that when Hartford recaptures the 2% Bonus, it is merely retrieving its own assets, and the Contract owner has not been deprived of a proportionate share of the applicable Account's assets.

16. In addition, Applicants assert that permitting a Contract owner to retain the 2% Bonus amount under a New Contract upon exercising the right to cancel would be unfair and would encourage individuals to exchange into a New Contract with no intention of keeping it but of retaining it for a quick profit. The amounts recaptured equal the 2% Bonus provided by Hartford from its general account assets, and any gain would remain a part of the Contract owner's Contract value. In addition, the amount the Contract owner receives in the circumstances where the 2% Bonus is recaptured will always equal or exceed the surrender value of the New Contract.

17. Applicants submit that the provisions for recapture of the 2% Bonus under the New Contracts do not violate Sections 2(a)(32) and 27(i)(2)(A) of the Act. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from those sections, to the extent deemed necessary, to permit the recapture of the 2% Bonus if an owner returns the New Contract during the right to cancel period without the loss of the relief from Section 27 provided by Section 27(i).

18. Section 22(c) of the 1940 Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same purposes as contemplated by Section 22(a). Rule 22c–1 thereunder prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security; which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

19. Hartford's recapture of the 2% Bonus might arguably be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the Accounts. Applicants assert, however, that recapture of the 2% Bonus does not violate Section 22(c) and Rule 22c–1. Applicants argue that the recapture does not involve either of the evils that Rule 22c–1 was intended to eliminate or reduce, namely: (i) The dilution of the value of the outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or their redemption or repurchase at a price above it; and (ii) other unfair results, including speculative trading practices. The proposed recapture of the 2% Bonus does not pose a threat of dilution. To effect a recapture of the 2% Bonus, Hartford will redeem interests in a Contract owner's account at a price determined on the basis of the current net asset value of the Account. The amount recaptured will equal the amount of the 2% Bonus that Hartford paid out of its general account assets. Although the Contract owner will be entitled to retain any investment gain attributable to the 2% Bonus, the amount of the gain will be determined on the basis of the current net asset value of the Account. Thus, Applicants state that no dilution will occur upon the 2% Bonus recapture. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely, speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture.

20. Applicants argue that Section 22(c) and Rule 22c–1 should not apply because neither of the harms that Rule 22c–1 was meant to address are found

in the recapture. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from the provisions of Section 22(c) and rule 22c–1 to the extent deemed necessary to permit them to recapture the 2% Bonus under the New Contracts.

Conclusion

For the reasons summarized above, Applicants submit that the Exchange Offer is consistent with the protections provided by Section 11 of the Act, and that approval of the Exchange Offer is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants further submit that their request for exemptions from Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder meet the standards set out in Section 6(c) of the Act. Applicants submit that the requested order should therefore be granted.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–3872 Filed 2–17–00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27136]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

February 11, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 7, 2000, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After March 7, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Yankee Atomic Electric Company (70–9561)

Yankee Atomic Electric Company (''Yankee''), located at Suite 200, 19 Midstate Drive, Auburn, Massachusetts, 01501, a subsidiary of New England Electric System and Northeast Utilities, both registered holding companies, has filed a declaration under section 12(c) of the Act and rule 42 under the Act.

Yankee proposes to repurchase, on a *pro rata* basis, from its ten stockholders (''Sponsors''), 95%, or 145,730 shares, of its presently outstanding common stock at a purchase price of $100 per share.[1] The purchase price is equal to the book value per share of the common stock on June 30, 1999. The repurchase is subject to the condition that all Sponsors tender their allotment of shares. Yankee intends to accomplish this repurchase in one or more steps over the next one to two years. The funds for the repurchase will be obtained by liquidating short-term investments held by Yankee at June 30, 1999. After the proposed repurchase, Yankee will maintain minimal equity until it ultimately prepares to liquidate and wrap up its affairs.

Yankee is a single purpose electric utility which formerly operated a nuclear powered electric generation facility (''Rowe Plant''), the output of which was sold to Yankee's ten Sponsors. The Rowe Plant was permanently taken out of service in February 1992 and Yankee is in the process of decommissioning the facility. Under power contracts between Yankee and each Sponsor, which have been approved by the Federal Energy Regulatory Commission, the Sponsors are continuing to make payments to Yankee to cover funds for decommissioning the Rowe Plant and waste disposal, amortization of plant investment and return on equity. As these obligations are reduced or provided for, Yankee believes its minimum equity requirements will also significantly decline. Therefore, Yankee contemplates this initial repurchase of common stock to reduce its equity.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–3938 Filed 2–17–00; 8:45 am]

BILLING CODE 8010–01–M

[1] The ten Sponsors, each of which is an affiliate of Yankee, are: New England Power Company; The Connecticut Light & Power Company; Public Service Company of New Hampshire; Western Massachusetts Electric Company; Boston Edison Company; Central Maine Power Company; Montaup Electric Company; Commonwealth Electric Company; Cambridge Electric Light Company; and Central Vermont Public Service Corp. The Sponsors currently hold all the outstanding shares of common stock of Yankee.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42418; File No. SR–NASD–00–03]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Amend NASD Rule 2520 Relating to Margin Requirements for Day-Trading Customers

February 11, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 13, 1999, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly-owned subsidiary, the National Association of Securities Dealers Regulation (''NASD Regulation''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation proposes to amend NASD Rule 2520 to impose overall more stringent margin requirements for day-trading customers. The text of the proposal is below. Deletions are in brackets, and additions are in italics.

NASD RULE 2520. Margin Requirements

(a) Definitions No change.

(b) Initial Margin

For the purpose of effecting new securities transactions and commitments, the customer shall be required to deposit margin in cash and/

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

or securities in the account which shall be at least the greater of:

(1) through (3) No change.

(4) equity of at least $2,000 except that cash need not be deposited in excess of the cost of any security purchased (this equity and cost of purchase provision shall not apply to ''when distributed'' securities in a cash account). *The minimum equity requirement for a ''pattern day trader'' is $25,000 pursuant to paragraph (f)(8)(B)(iv)a. of this Rule.*

Withdrawals of cash or securities may be made from any account which has a debit balance, ''short'' position or commitments, provided it is in compliance with Regulation T of the Board of Governors of the Federal Reserve System and after such withdrawal the equity in the account is at least the greater of $2,000 *($25,000 in the case of a ''pattern day trader'')* or an amount sufficient to meet the maintenance margin requirements of this [paragraph] *Rule*.

(c) through (f)(8)(A)(iii) No change.

(f)(8)(B) Day[-]Trading

(i) The term ''day[-]trading'' means the purchasing and selling *or the selling and purchasing* of the same security on the same day *in a margin account except for:*

a. a long security position held overnight and sold the next day prior to any new purchase of the same security, or

b. a short security position held overnight and purchased the next day prior to any new sale of the same security.

(ii) [A ''day-trader'' is any customer whose trading shows a pattern of day-trading.] *The term ''pattern day trader'' means any customer who executes four or more day trades within five business days. However, if the number of day trades is 6% or less of total trades for the five business day period, the customer will not be considered a pattern day trader and the special requirements under paragraph (f)(8)(B)(iv) of this Rule will not apply. In the event that the originization at which a customer seeks to open an account knows or has a reasonable basis to believe that the customer will engage in pattern day trading, then the special requirements under paragraph (f)(8)(B)(iv) of this Rule will apply. If a pattern day trader does not day trade for a 90 day period, the customer will no longer be considered a pattern day trader.*

(iii) The term ''day-trading buying power'' means the equity in a customer's account at the close of business of the previous day, less any maintenance margin requirement as prescribed in paragraph (c) of this Rule, multiplied by four for equity securities.

Whenever day[-]trading occurs in a customer's margin account the *special maintenance* margin *required for the day trades in equity securities* [to be maintained] shall be [the margin on the ''long or short'' transaction, whichever occurred first, as required pursuant to the other provisions of this Rule. When day-trading occurs in the account of a ''day-trader'' the margin to be maintained shall be the margin on the ''long'' or ''short'' transaction, whichever occurred first, as required by Regulation T of the Board of Governors of the Federal Reserve System or as required pursuant to the other provisions of this Rule, whichever amount is greater.] *25% of the cost of all day trades made during the day. For non-equity securities, the special maintenance margin shall be as required pursuant to the other provisions of this Rule. Alternatively, when two or more day trades occur on the same day in the same customer's account, the margin required may be computed utilizing the highest (dollar amount) open position during that day. To utilize the highest open position computation method, a record showing the ''time and tick'' of each trade must be maintained to document the sequence in which each day trade was completed.*

(iv) *Special Requirements for Pattern Day Traders*

a. Minimum Equity Requirement for Pattern Day Traders—The minimum equity required for the accounts of customers deemed to be pattern day traders shall be $25,000. This minimum equity must be deposited in the account before such customer may continue day trading and must be maintained in the customer's account at all times.

b. Pattern day traders cannot trade in excess of their day-trading buying power as defined in paragraph (f)(8)(B)(iii) above. In the event a pattern day trader exceeds its day-trading buying power, which creates a special maintenance margin deficiency, the following actions will be taken by the member:

1. The account will be margined based on the cost of all the day trades made during the day,

2. The customer's day-trading buying power will be limited to the equity in the customer's account at the close of business of the previous day, less the maintenance margin required in paragraph (c) of this Rule, multiplied by two for equity securities, and

3. ''Time and tick'' (i.e., calculating margin using each trade in the sequence that it is executed, using the highest open position during the day) may not be used.

c. Pattern day traders who fail to meet their special maintenance margin calls as required within five business days from the date the margin deficiency occurs will be permitted to execute transactions only on a cash available basis for 90 days or until the special maintenance margin call is met.

d. Pattern day traders are restricted from using the guaranteed account provision pursuant to paragraph (f)(4) of this Rule for meeting the requirements of paragraph (f)(8)(B).

e. Funds deposited into a day trader's account to meet the minimum equity or maintenance margin requirements of paragraph (f)(8)(B) of this Rule cannot be withdrawn for a minimum of two business days following the close of business of the day of deposit.

(C) When the equity in a customer's account, after giving consideration to the other provisions of this [paragraph (c)] *Rule,* is not sufficient to meet the requirements of [subparagraph (i) or (ii) hereof] *paragraph (f)(8)(A) or (B),* additional cash or securities must be received into the account to meet any deficiency within [seven] *five* business days of the trade date.

In addition, on the sixth business day only, members are required to deduct from Net Capital the amount of unmet maintenance margin calls pursuant to SEC Rule 15c3–1.

(f)(9) and (f)(10) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Day-trading margin requirements have come under close scrutiny as day-trading activities have become more prevalent. Over the past few months, the

431 Committee [3] has been meeting frequently to consider responses to various problems that it identified. The proposed rule change is based on the Committee's recommendations. The NASD believes that the proposal will more appropriately protect the safety and soundness of member firms and ensure the overall financial well-being of the securities markets.

Because Regulation T initial margin requirements and NASD/NYSE standard maintenance margin requirements [4] are calculated only at the end of each day, a day trader who has no positions, including losses, in his or her account at the end of the day would not incur a Regulation T initial margin or a standard maintenance margin requirement. However, current NASD/NYSE initial margin provisions generally require a customer to deposit margin of at least $2,000, except that cash need not be deposited in excess of the cost of any security purchased.

Although a day trader may end the day with no position, the day trader and the firm, if credit is extended, are at risk during the day. To address this risk, the NASD and NYSE require day traders to demonstrate that they have the ability to meet the initial margin requirements for at least their largest open position during the day. Specifically, a customer who meets the definition of ''day trader'' under the rule must deposit in his or her account the margin that would have been required under Regulation T (*i.e.*, the 50 percent initial margin requirement) if the customer had not liquidated the position during the trading day. If the customer day trades but is not considered a ''day trader,'' the customer is still required to post 25% of the largest open position during the day.

Currently, if a customer's day trading results in a day-trading margin call, the customer has seven days to meet the call by depositing additional cash or securities. Because day traders typically end the day flat and this day-trading ''margin'' deposit is not securing a margin loan, the customer is not required to leave the margin deposit in the account and may withdraw the deposit the day after the deposit is made. Additionally, if a customer fails to meet a day-trading margin call, the firm is not required to take specific action against the customer's account. Because day traders typically end the day flat, there are no securities to liquidate, as there would be for an existing position.

NASD Regulation believes that the proposed rule change would address the following deficiencies in the existing rules relating to day-trading margin activities.

First, the proposed rule change would amend the definition of ''pattern day trader'' to cover only true day traders. Day-trading margin requirements should be imposed only on true day traders, not just incidental or occasional day traders. NASD Regulation believes that the current definition is too broad because it includes customers, such as institutions and other large individual accounts, that have a high volume of trading activity and that occasionally day trade, not as a strategy, but in response to a specific investment decision or in reaction to events. Accordingly, under the proposal day traders would be defined as those customers who day trade four or more times in five business days, unless their day-trading activities do not exceed 6% of their total trading activity for that period.

Additionally, the proposal requires a firm that knows or has a reasonable basis to believe that the customer is a pattern day trader, to designate the customer as a pattern day trader immediately, instead of delaying such determination for five business days. A firm would have a reasonable basis for believing that a customer is a pattern day trader if, for example, the firm provided training to the customer on day trading in anticipation of the customer opening an account. If a pattern day trader does not day trade for a 90-day period, he or she will no longer be considered a pattern day trader.

Second, the proposed rule change would revise the minimum equity requirement. NASD Regulation believes that the current minimum equity requirement of $2,000 does not sufficiently prevent day traders from continuing to generate losses in their accounts, without any additional deposit of funds. Accordingly, the proposed rule change would require a day trader to have $25,000 of minimum equity in his or her account on any day in which the customer day trades. This minimum equity must remain in the account for at least two subsequent business days following the close of business on any day the deposit was required. NASD Regulation believes that a minimum requirement of $25,000 would more appropriately address the additional risks inherent in leveraged day-trading activities and would better ensure that customers cover any loss incurred in the account from the previous day prior to day trading.

Third, the proposed rule change would permit day-trading buying power of up to four times the day trader's maintenance margin excess. NASD Regulation believes that current day-trading margin calls represent illusory liabilities because the funds used to meet a call are deposited after the day-trading risk has already been incurred and need only remain in the account overnight. Accordingly, the proposal would not permit day-trading buying power to exceed four times the day trader's maintenance margin excess. This calculation would be based on equity maintained in the account prior to each day's trading and, at the firm's option, could be based either on the largest open position at any time during the day or the customer's total trading commitment during the day. By limiting a customer's day-trading buying power to four times maintenance margin excess and requiring that amount to be in the account prior to day trading, NASD Regulation believes that the intra-day risks to firms caused by customer day trading would be more appropriately addressed.

Fourth, the proposed rule change would impose a day-trading margin call if day-trading buying power was exceeded. Under the proposal, if a day-trading customer exceeded his or her day-trading buying power limitations, additional restrictions would be imposed on the day trader to protect the firm from the additional risk and help prevent the recurrence of such prohibited conduct. The proposal requires member firms to issue a day-trading margin call to day traders that exceed their day-trading buying power. Customers would have five business days to deposit funds to meet this day-trading margin call. Funds used to meet a day-trading margin call would be required to remain in the account for two business days. Until the call is met, the day-trading account would be restricted to day-trading buying power of two times the maintenance margin excess based on the customer's daily total trading commitment. If the day-trading margin call is not met by the fifth business day, the account would be further restricted to trading only on a cash available basis for 90 days or until the call is met.

[3] After the Board of Governors of the Federal Reserve System extensively amended Regulation T, an informal ad hoc committee (the ''431 Committee'') was formed to consider changes to the NYSE's and NASD's margin rules (NYSE Rule 431 and NASD Rule 2520, respectively). The 431 Committee also was formed to ensure that the NYSE's and NASD's margin rules were consistent in order to prevent confusion and to avoid conferring advantages on members that are required to comply with one rule and not the other. The 431 Committee is composed of NYSE staff, attorneys from the NYSE's outside counsel, NASD staff, Federal Reserve staff, and representatives from several clearing firms and broker/dealers.

[4] NASD Rule 2520 and NYSE Rule 431, the margin provisions for the NASD and the NYSE, respectively, are substantially similar.

Fifth, the proposed rule change would prohibit cross-guaranteeing of day-trading accounts. The proposal would prohibit day traders from meeting the day-trading margin requirements through the use of cross-guarantees. Each day-trading account would be required to meet the applicable requirements independently, using only the financial resources available in the account. Accordingly, day traders would be prohibited from using cross-guarantees to meet the minimum equity requirements or to meet day-trading margin calls.

Finally, the proposal would revise the current requirement that the sale and repurchase on the same day of a position held from the previous day must be treated as a day trade. Under the proposed rule change, the sale of an existing position would be treated as a liquidation and a subsequent repurchase viewed as the establishment of a new position and therefore not subject to the rules affecting day trades. Similarly under the proposal, if a short position was carried overnight, the purchase to close the short position and subsequent new sale would not be considered a day trade.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[5] which requires, among other things, that the NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the proposed rule change will more appropriately address the deficiencies in the existing day trading margin rules, promote the safety and soundness of member firms, and further investor protection.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The NASD did not solicit written comments. However, the NASD received a petition to the NASD Board of Directors dated December 2, 1999, from Steven H. Levine, Special Credit Counselor to the Electronic Traders Association (''ETA''). The petition requested that the NASD make certain modifications to its proposed rule change. In general, the petition supported the increase in the minimum equity requirement from $2,000 to $25,000 and the increase in day-trading buying power from two times to four times maintenance margin excess. It also supported the use of ''time and tick'' as part of the proposed rule and raised no objection to the five business day requirement for day traders to meet the day-trading margin call.

The petition opposed the proposed definition of a pattern day trader and indicated that for almost 65 years, a general standard of three day trades in a twelve-month period resulting in a person being deemed a day trader has worked. It also noted that many of the NYSE's largest carrying clearing firms only allow one or two day trades as an indication of a day trading pattern.

The petition disagreed with the proposed requirement that funds deposited to meet day-trading margin calls must remain in the account for two full business days. It noted that such a rule will increase the day trader's ability to further day trade with the deposited funds for additional days, will expose the lender to needless risk, and will needlessly penalize the customer for the use of funds, including the use of their own funds.

In addition, the petition opposed the restriction on the use of cross guarantees to meet day-trading margin requirements on the basis that it constituted discrimination against the day trader margin investor and violates his or her constitutional right to trade and to enter into agreements with others.

The NASD believes that the proposed rule change is appropriate to address the additional risks inherent in leveraged day-trading activities. The NASD also believes that the proposed rule change will provide greater financial stability to a day trader's account and will provide a more accurate indicator of the financial means and resources of each individual day-trading customer than is provided under current rules.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the NASD consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. In particular, commenters are invited to address the following issues: (1) Is the requirement that a firm ''knows or has a reasonable basis to believe'' that a customer will engage in pattern day trading too difficult to apply in practice? (2) Does the 6% minimum requirement within the definition of a ''pattern day trader'' appropriately address trading by institutional accounts or would a different standard, including a possible blanket exemption for institutional accounts, be more appropriate? (3) Is the requirement that funds remain in the account for two business days appropriate? (4) Should a customer be provided an opportunity (*e.g.*, one business day) to meet a day-trading margin call prior to imposing the two times maintenance margin excess requirement based on the customer's daily total trading commitment? (5) Would it be more appropriate to immediately require a day trader that exceeds his or her day-trading buying power to trade on a cash available basis only until the day-trading margin call is met? (6) Should customers be permitted to use cross-guarantees to meet day-trading margin requirements? Would it be more appropriate to limit the use of cross-guarantees up to a certain multiple of the assets in an account or based on the funds available in an account? (7) Is 90 days the appropriate period for a customer to no longer be considered a pattern day trader, if the customer does no day trading during that period?[6]

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submissions, 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

[5] 15 U.S.C. 78o–3(b)(6).

[6] *Cf.*, Securities Exchange Act Release No. 42343, 65 FR 4005 (January 25, 2000) (SR–NYSE–99–47). A copy of this proposed rule change is also available on the Commission's web-site (www.sec.gov).

Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–00–03 and should be submitted by March 10, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. [7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–3873 Filed 2–17–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42417; File No. SR–NYSE–99–46]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend Exchange Rule 104 (''Dealings by Specialists'')

February 11, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 16, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 9, 1999, the NYSE submitted Amendment No. 1 to the proposed rule change.[3] 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 seeks approval of proposed Rules 104.21 and 104.22 which would, respectively: (1) Increase capital requirements for specialist entities exceeding certain concentration-based criteria; and (2) prescribe additional capital requirements for specialist entities resulting from merger, acquisition, consolidation, or other combinations of specialist assets. In addition, the filing seeks approval of proposed Rule 104.23, which would permit the Exchange to provide a ''grace period,'' not to exceed 5 business days, during which specialist entities may operate despite noncompliance with the provisions of Rules 104.21 and 104.22.

Further, the filing seeks approval of amendments to existing Rule 104.20, which would clarify the definition of ''net liquid assets'' and allow the Exchange to determine the capital requirements for securities not specifically addressed by the Rule. Proposed new language is italicized; proposed deletions are in brackets.

Rule 104 (Dealings by Specialists)

. Supplementary Material:

Capital Requirements of Specialists (effective June 1, 1971.)

.20 Regular specialists.—

(1) A member registered as a regular specialist at an active post must be able to assume a position of 150 trading units in each common stock in which he is registered.

(2) A member registered as a regular specialist at an active post must be able to assume a position of 30 trading units in each convertible preferred stock, of 1200 shares in each of the 100 share trading unit non-convertible preferred stocks and of 300 shares in each of the 10 share unit non-convertible preferred stocks in which he is registered.

(3) The position which a member registered as a regular specialist at an active post must be able to assume, for each stock in which he is registered that is not included in (1) or (2) above, shall be determined by The Exchange. Such determinations shall be based upon the structure and characteristics of the security and shall be the amount prescribed in (1) or (2) above for the type of stock with the most similar structure and characteristics.

(4)[(3)] A member registered as a regular specialist at the inactive Post must have, at all times, net liquid assets of at least $150,000.

(5)[(4)] Notwithstanding .30 of this Rule, each member registered as a regular specialist at an active post must be able to establish that he can meet, with his own net liquid assets, a minimum capital requirement which shall be the greater of $1,000,000 or 25% of the position requirements as set forth in Paragraphs (1), [and] (2) *and (3)* above, except as determined by the Exchange in unusual circumstances.

The [Market Surveillance and Evaluation] Division *of Member Firm Regulation* must be informed immediately by a specialist, in each instance, of his inability to comply with the provisions set forth in the above Paragraphs.

[The term ''net liquid assets'' is defined as the excess of cash or readily marketable securities over liabilities for a specialist who neither carries nor services customers' accounts and who does no business with others than members and member organizations. The term for all other specialists refers to excess net capital computed in accordance with the provisions of Rule 325 except that capital accounts of partners, accounts of partners which are covered by agreements approved by The Exchange providing for the inclusion of equities therein as partnership property and borrowings covered by subordination agreements approved by The Exchange under Rule 326.13 may be considered ''proprietary accounts'' and as such included in the computation of such excess net capital for purposes of this Rule, with ''haircuts'' restored in respect of long or excess short positions of securities for which he is registered as a specialist and for long positions of securities which he shall have deposited or pledged with a bank or member organization as collateral for funds borrowed to finance transactions or positions in such specialist securities.]

(6) For those members registered as a regular specialist subject to the Net Capital Rule (SEA Rule 15c3–1), the term ''net liquid assets'' refers to excess net capital computed in accordance with the provisions of Rule 325 (''Capital Requirements'') with the following adjustments:

(i) Additions for haircuts and undue concentration charges on specialty securities in dealer accounts;

(ii) Additions for any other haircuts on long positions which are deposited or pledged as collateral for funds borrowed to finance dealer transactions or positions in specialist securities;

(iii) Deductions for floor brokerage and/or commissions receivable;

(iv) Deductions for clearing organization deposits; and

(v) Deductions for any cash surrender value of life insurance policies allowable under the net capital rule.

(7) For members registered as a regular specialist not subject to the Net Capital Rule, ''net liquid assets'' is defined as the excess of cash, net credit balances at clearing broker(s), and

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Jack Drogin, Senior Special Counsel, Division of Market Regulation, Commission, dated November 24, 1999. In Amendment No. 1, the Exchange changed the implementation date of the proposed rule change (''Amendment No. 1'').

readily marketable securities over all liabilities.

In the event that two or more specialists are associated with each other and deal for the same specialist account, the above requirements shall apply to such specialists as one unit, rather than to each specialist individually.

[Specialists must be able to meet the above requirements without taking into consideration the capital required to carry or finance investment accounts.]

.21 Concentration Measure Requirements

Notwithstanding the provisions of (1) through (5) in rule 104.20 above, if a regular specialist entity's market share exceeds 5% of any of the following concentration measures:

(1) All listed common stock (current):

(2) The 250 most active listed common stocks (over the previous 12 months);

(3) The total share volume of stock trading on the Exchange (over the previous 12 months); or

(4) The total dollar value of stock trading on the Exchange (over the previous 12 months)

such entity shall maintain net liquid assets equivalent to the following applicable requirements:

(i) $4 million for each specialist security contained in the DJIA

(ii) $2 million for each specialist security contained in the S&P 100, not contained in (i)

(iii) $1 million for each specialist security contained in the S&P 500, not contained in (i) or (ii)

(iv) $500 thousand for each specialist common stock, excluding bond funds, not contained in (i), (ii) or (iii)

(v) $100 thousand for each specialist security not included in (i) through (iv), excluding warrants.

.22 Combinations of Specialist Entities

A specialist entity resulting from the merger, consolidation, acquisition, or other combination of specialist assets:

(i) subject to the concentration measure requirements of Rule 104.21, shall maintain net liquid assets in accordance with those provisions, or equivalent to the aggregate net liquid assets of the specialist entities prior to their combination, whichever is greater;

(ii) not subject to the concentration measure requirements of Rule 104.21, shall maintain net liquid assets according to the provisions of Rule 104.20, or equivalent to the aggregate net liquid assets of the specialist entities prior to their combination, whichever is greater.

.23 Maintaining a Fair and Orderly Market

Solely for the purpose of maintaining a fair and orderly market, the Exchange may, for a period not to exceed 5 business days, allow a specialist entity to continue to operate despite such specialist entity's non-compliance with the provisions of Rules 104.21 and 104.22.

[.23] *.24* Relief Specialists.—

no change

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

During the last decade, there has been a significant decline in the number of specialist units operating on the Floor of the Exchange. For example, at the end of 1957 there were 136 specialist units with 348 individual specialists registered in a total 1,077 common stocks. In contrast, by year-end 1986, there were 54 specialist units with 410 individual specialists registered in 1,560 common stocks. Currently, there are 27 specialist units, with 491 specialists registered in 2,871 common stocks.

The trend in specialist consolidations has raised concerns over the number of stocks assigned to any one specialist entity and the impact that market volatility can have on special entities and the overall operation of the market. The adequate capitalization of the significantly larger specialist units is critical in dealing with volatile markets and in meeting specialist market maintenance obligations. Accordingly, new Rule 104.21 is being proposed to increase the minimum capital requirements of any specialist or specialist unit which exceeds certain concentration criteria.

The new provision would require that any specialist or specialist unit, whose market share is greater than 5% of any of *the following concentration measures,* be subject to a revised method of calculating its ''net liquid asset'' requirement:

(1) All listed common stock (current);

(2) The 250 most active listed common stocks (over the previous 12 months);

(3) The total share volume of stock trading on the Exchange (over the previous 12 months);

(4) The total dollar value of stock trading on the Exchange (over the previous 12 months).

If the 5% threshold is exceeded, the specialist entity shall maintain, at minimum, net liquid assets equivalent to the following applicable requirements:

(1) $4 million for each specialist security contained in the DJIA;

(2) $2 million for each specialist security contained in the S&P 100, *not* contained in 1;

(3) $1 million for each specialist security contained in the S&P 500, *not* contained in 1 or 2;

(4) $500 thousand for each specialist common stock, excluding bond funds, *not* contained in 1, 2, or 3;

(5) $100 thousand for each specialist security *not* included in 1 through 4, excluding warrants.

In addition, proposed Rule 104.22 would require any new specialist entities resulting from merger, acquisition, consolidation, or other combination of specialist assets, to maintain net liquid assets equivalent to the greater of either:

(1) The aggregate net liquid assets of the specialist entities prior to their combination, or

(2) The capital requirements otherwise prescribed by Rule 104.

The purpose of this requirement is to prevent specialist units from withdrawing capital, prior to or upon combination of their assets, resulting in the combined entity having less capital than its component parts.

Given that proposed rules 104.21 and 104.22 may subject specialist entities to sudden and substantially increased capital requirements, Rule 104.23 is proposed to authorize the Exchange to allow a specialist entity to operate, for a period not to exceed 5 business days, despite such specialist entity's non-compliance with the provisions of Rules 104.21 and 104.22. This limited discretionary authority would, under appropriate circumstances, permit the Exchange to determine a reasonable time period for the infusion of additional specialist capital without disrupting the maintenance of a fair and orderly market, particularly in volatile market situations. In addition, the time period would allow for the orderly reallocation of specialist securities in the event a specialist entity is unable to comply with the prescribed

requirements. It is important to note that this authority extends only to compliance with the heightened concentration/combination standards proposed in this filing; it does not apply to the Commission's net capital requirements [4] or the net capital requirements prescribed by NYSE Rule 104.20.

These heightened requirements are in keeping with the Exchange's resolve to maintain high quality market performance in its listed securities. By minimizing the potential risk of financial problems that would have a significant adverse impact on the functioning of its markets, the overall effectiveness of the specialist system is strengthened.

It is further proposed that the capital requirements for specialist securities not specifically addressed in the Rule (*i.e.,* certain derivatives and structured products) be determined by the Exchange according to a comparison of the products' structure and characteristics relative to the existing standardized securities whose capital requirements are currently prescribed in the Rule. This provision is necessary given the potentially limitless variety of derivative and structured products, which are not easily categorized.

In addition, it is proposed that Rule 104.20 be amended to clarify the definition of ''net liquid assets'' and distinguish its application to specialist units subject to the Commission's net capital rule from specialist units which are not.

The effective date of the rule amendments will be no later than ninety (90) days from the date of Commission approval, but it may be earlier, *i.e.,* thirty (30) days following written notice to the membership if the NYSE determines that specialist entities are ready to comply with the new requirements.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) [5] of the Act in that it promotes just and equitable principles of trade, removes impediments to, and perfects the mechanism of a free and open market and, in general, protects investors and the public interest. These interests are served when the capitalization of specialist entities is adequate to maintain a fair and orderly market.

[4] 17 CFR 240.15c3–1.

[5] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such data if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–99–46 and should be submitted by March 10, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–3939 Filed 2–17–00; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9G67]

State of New York (and a Contiguous County in the State of New Jersey)

Bronx County and the contiguous counties of New York, Queens, and Westchester in the State of New York, and Bergen County, New Jersey constitute an economic injury disaster loan area as a result of a fire that occurred on October 20, 1999 in the Castle Hill section of the Bronx. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on November 9, 2000 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd, South, 3rd Floor, Niagara Falls, NY 14303.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number for the State of New Jersey is 9G68.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: February 9, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00–4013 Filed 2–17–00; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9G69]

State of Oregon

Lane and Lincoln Counties and the contiguous counties of Benton, Deschutes, Douglas, Klamath, Linn, Polk, and Tillamook in the State of Oregon constitute an economic injury disaster loan area as a result of flooding, landslides, debris flows, and resulting road closures beginning on November 24, 1999. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file

applications for economic injury assistance as a result of this disaster until the close of business on November 13, 2000 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: February 10, 2000.

Fred P. Hochberg,

Acting Administrator.

[FR Doc. 00–4015 Filed 2–17–00; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9G20, Amdt. #1]

State of Washington

The above numbered declaration is hereby amended to include San Juan County in the State of Washington as an economic injury disaster loan area due to the effects of the warm water current known as El Nino beginning in 1997. All counties contiguous to the above-named county have been previously declared.

All other information remains the same, *i.e.,* applications for economic injury may be filed until September 22, 2000 at the previously designated location.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: February 7, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00–4014 Filed 2–17–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 3220]

Secretary of State's Advisory Committee on Private International Law: Study Group on Jurisdiction and Judgments; Meeting Notice

There will be a public meeting of a study group of the Secretary of State's Advisory Committee on Private International Law on Friday, March 10, 2000, to discuss intellectual property issues related to the draft Hague convention on jurisdiction and the recognition and enforcement of foreign civil judgments. The meeting will be held from 9:30 am to 3: pm in room 1107 of the Department of State building, 2201 C St., NW, Washington DC 20520.

The purpose of the Study Group meeting is to assist the Department of State consider the position of the United States in negotiations at the Hague Conference on Private International Law for the development of a convention that would regulate jurisdiction in international cases and provide for the recognition and enforcement of certain resulting judgments. The meeting will consider the preliminary draft text of the convention, completed at the last round of intergovernmental negotiations in October 1999. The Department expects the Hague Conference to convene an international experts meeting to consider intellectual property aspects of the text possibly by mid-summer 2000.

Persons interested in the work of the study group or in attending the March 10 meeting in Washington may find a copy of the preliminary draft convention on the Department of State website: <*www.state.gov*>. The text may be found by clicking on ''index,'' ''legal,'' ''private international law,'' then ''what's new.'' Copies may also be requested from Ms. Rosie Gonzales by fax at 202–776–8482, by telephone at 202–776–8420 (you may leave your request, name, telephone number and mailing address on the answering machine), or by email at <pildb@his.com>.

The study group meeting is open to the public up to the capacity of the meeting room. As entry to the Department of State is controlled for security reasons, persons who wish to attend the meeting must notify Ms. Gonzales no later than Wednesday March 8 with their name, date of birth, and social security number. They should also provide their company or organization affiliation, mailing and email addresses, and fax and telephone numbers. Persons registered to attend must arrive by 9:30 am at the main entrance to the Department of State at 2201 C St., NW, unless they have made separate arrangements with Ms. Gonzales.

Any person who is unable to attend, but wishes to have his or her views considered, may send comments to Ms. Gonzales at the above fax number or email address, or may address them to the Assistant Legal Adviser for Private International Law (L/PIL), Suite 203, South Building, 2430 E Street, NW Washington, DC, 20037–2851.

Dated: February 14, 2000.

Jeffrey D. Kovar,

Assistant Legal Adviser for Private International Law.

[FR Doc. 00–3984 Filed 2–17–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice No. 3221]

Secretary of State's Advisory Committee on Private International Law: Study Group on Arbitration and Other Forms of ADR: Meeting Notice

There will be a public meeting of a study group of the Secretary of State's Advisory Committee on Private International Law on Monday, March 13, 2000, to discuss issues arising at the upcoming session of the UNCITRAL Working Group on Arbitration. The meeting will be held from 1:00pm to 5:00pm in room 1107 of the Department of State building, 2201 C St., NW, Washington DC 20520.

The purpose of the Study Group meeting is to assist the Department of State prepare the position of the United States for the inaugural session of the Working Group on Arbitration of the United Nations Commission on International Trade Law (UNCITRAL). The UNCITRAL Working Group is meeting March 20–31 in Vienna, and will consider as priority topics: the possible preparation of an international Model Law on Conciliation (mediation); whether new rules or guidelines should be developed addressing the enforceability of interim measures orders in international commercial arbitration; and problems some countries have experienced implementing the writing requirement in Article 2 of the 1958 New York Convention on the Enforcement of Foreign Arbitral Awards.

The study group meeting will consider three documents prepared by the UNCITRAL Secretariat for the Working Group session: an agenda (A/CN.9/WG.II/WP.107), and two notes covering the substantive work (A/CN.9/WG.II/WP.108 and WP.108/Add.1). Persons interested in the work of the study group or in attending the March 10 meeting in Washington may find copies of the documents to be considered on the UNCITRAL website: <*www.uncitral.org*>. The documents may be found by clicking on ''english,'' ''sessions,'' and then ''working group on arbitration.'' Copies may also be requested from Ms. Rosie Gonzales by fax at 202–776–8482, by telephone at 202–776–8420 (you may leave your request, name, telephone number and

mailing address on the answering machine), or by email at <*pildb@his.com*>.

The study group meeting is open to the public up to the capacity of the meeting room. As entry to the Department of State is controlled for security reasons, persons who wish to attend the meeting must notify Ms. Gonzales no later than Wednesday March 8 with their name, date of birth, and social security number. They should also provide their company or organization affiliation, mailing and email addresses, and fax and telephone numbers. Persons registered to attend must arrive by 1:00pm at the main entrance to the Department of State at 2201 C St., NW, unless they have made special arrangements with Ms. Gonzales.

Any person who is unable to attend, but wishes to have his or her views considered, may send comments to Ms. Gonzales at the above fax number or email address, or may address them to the Assistant Legal Adviser for Private International Law (L/PIL), Suite 203, South Building, 2430 E Street, NW Washington, DC, 20037–2851.

Dated: February 14, 2000.

Jeffrey D. Kovar,

Assistant Legal Adviser for Private International Law.

[FR Doc. 00–3985 Filed 2–17–00; 8:45 am]

BILLING CODE 4710–08–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Notice; Meeting No. 1516

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1516).

TIME AND DATE: 2 p.m. (EST), February 22, 2000.

PLACE: TVA Chattanooga Office Complex Auditorium, 1101 Market Street, Chattanooga, Tennessee.

STATUS: Open.

Agenda: Approval of minutes of meeting held on January 27, 2000.

New Business

C—Energy

C1. Term coal contract with Cumberland River Energies, Inc., for coal supply to Bull Run Fossil Plant.

C2. Term coal contract to RAG American Coal Sales Company for coal supply to Johnsonville Fossil Plant.

C3. Delegation of authority to the Vice President, Fuel Supply and Engineering Services, to award term contracts to American Commercial Barge Line Company and Ingram Barge Line Company for barging services to Cumberland Fossil Plant.

C4. Delegation of authority to the Vice President, Fuel Supply and Engineering Services, to award contracts to Hanson Aggregates Midwest, Inc., and Mid-South Stone, Inc., for supply of limestone to Paradise and Shawnee Fossil Plants.

C5. Supplement to Contract No. P95N8A–118891–000 with the United States Enrichment Corporation for uranium enrichment services with the purchase of enriched uranium product for 50 percent of TVA's Fiscal Year 2001 requirements.

E—Real Property

E1. Grant of a permanent easement for a sewerline to the City of Decatur, Alabama, affecting approximately 0.41 acre of land on Wheeler Reservoir in Limestone County, Alabama (Tract No. XTWR–112S).

E2. Sales of a permanent easement for an access road to Ronald G. Bonnett affecting approximately 0.5 acre of TVA land on Cherokee Reservoir in Hawkins County, Tennessee (Tract No. XCK–583AR).

E3. Sale of a permanent easement for a fiber optic cable to Williams Communications, Inc., affecting approximately 3.3 acres of land on Nickajack Reservoir in Marion County, Tennessee (Tract No. XNJR–25UC).

E4. Nineteen-year commercial recreation lease to Michael and Lisa Hughes, operators of Fall Creek Dock and Campground, affecting approximately 5.5 acres of land on Cherokee Reservoir in Hamblen County, Tennessee (Tract No. XCK–582L).

E5. Abandonment of approximately 20 acres of the Watts Bar-Alco Transmission Line easement located in Blount County, Tennessee, a portion of Tract No. WBA–169 and all of Tract Nos. WBA–170 through –176.

E6. Abandonment of approximately 0.93 acre of transmission line easement identified as a portion of Tract Nos. MMAR–1, MMAR–2, MUM–6, and MUM–7 in Cherokee County, North Carolina.

E7. Abandonment of approximately 10 acres of transmission line easement identified as a portion of Tract Nos. JB–84 and –90 and all of Tract Nos. JB–84A through –89 in Hardeman County, Tennessee.

Information Items

1. Recommendations resulting from the 64th Annual Wage Conference, 1999—Construction Project Agreement (Hourly) Wage Rates and Annual Teamster Wage Rates.

2. Recommendations resulting from the 64th Annual Wage Conference, 1999—Annual Trades and Labor Agreement Wage Rates.

3. Amendment to the Rules and Regulations of the TVA Retirement System to permit certain rehired employees to participate in the cash balance structure of the retirement system.

For more information: Please call TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: February 15, 2000.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 00–4062 Filed 2–16–00; 11:45 am]

BILLING CODE 8120–08–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Membership of the Performance Review Board (PRB)

February 14, 2000.

AGENCY: Office of the United States Trade Representative.

SUMMARY: The following staff members are designated to serve on the Performance Review Board:

Performance Review Board (PRB)

Chair: Peter Allgeier.

Alternate Chair: Joseph Papovich.

Members: Rosa Whitaker, Emily Beizer, David Walters.

Executive Secretary: Lorraine Green.

EFFECTIVE DATE: January 24, 2000.

FOR FURTHER INFORMATION CONTACT: Lorraine Green, Director, Human Resources, (202) 395–7360.

John Hopkins,

Assistant United States Trade Representative for Administration.

[FR Doc. 00–3882 Filed 2–17–00; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; St. Louis County, MN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an

environmental impact statement (EIS) will be prepared for proposed highway improvements to Trunk Highway 53 (TH 53) in St. Louis County, Minnesota.

FOR FURTHER INFORMATION CONTACT: Cheryl Martin, Federal Highway Administration, Galtier Plaza, Box 75, 175 East Fifth Street, Suite 500, St. Paul, Minnesota 55101–2904, Telephone (651) 291–6120; or Brian Larson, Project Manager, Minnesota Department of Transportation—District 1, 1123 Mesaba Avenue, Duluth, Minnesota 55811, Telephone (218) 723–4960 ext. 3322; (651) 296–9930 TTY.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Minnesota Department of Transportation, will prepare an EIS on a proposal to improve TH 53 between County Road 307 north of Virginia to the south city limit of Cook in St. Louis County, Minnesota, a distance of approximately 30.7 kilometers.

The proposed action is being considered to address future transportation demand, safety problems, access management, international and interregional trade corridor status, and pavement condition. Alternatives under consideration include (1) No build; and (2) four variations of ''Build'' alternatives involving reconstruction and/or realignment and new construction of TH 53 into a four-lane divided expressway. All four-lane alternatives utilize the existing TH 53 alignment from the Rice River (approximately 0.8 kilometer north of County Road 688) to the northern terminus of the project area (the south city limits of Cook). The southern portion (County Road 307 to the Rice River) contains three alternatives for realignment and one alternative which utilizes the existing TH 53 alignment. The ''Trunk Highway 53 Scoping Document/Draft Scoping Decision Document'' will be published in February or March 2000. A press release will be published to inform the public of the document's availability. Copies of the scoping document will be distributed to agencies, interested persons and libraries for review to aid in identifying issues and analyses to be contained in the EIS. A 30-day comment period for review of the document will be provided to afford an opportunity for all interested persons, agencies and groups to comment on the proposed action. A public scoping meeting will also be held during the comment period. Public notice will be given for the time and place of the meeting. Coordination has been initiated and will continue with appropriate Federal, State and local agencies and private organizations and citizens who have previously expressed or are known to have an interest in the proposed action. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 9, 2000.

Stanley M. Graczyk,

Project Development Engineer, Federal Highway Administration, St. Paul, Minnesota.

[FR Doc. 00–3971 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement Withdrawal: Wexford, Grand Traverse, and Kalkaska Counties: MI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent withdrawal.

SUMMARY: On April 14, 1995, the Federal Highway Administration issued a Notice of Intent to prepare an Environmental Impact Statement (EIS) for the proposed construction of a new US–131 freeway from north of Manton to north of Kalkaska in Kalkaska County. The proposed project involved study of corridors for a new freeway to replace the existing roadway. The Federal Highway Administration is issuing this Notice to withdraw it's original Notice Of Intent dated April 14, 1995.

SUPPLEMENTARY INFORMATION: Preliminary scoping studies were undertaken which resulted in several alternative alignments. Public meetings were held to garner information and help shape the alternatives. An economic study was prepared. This study concluded that while the region could benefit from the proposed new highway, the state as a whole would not. It was, therefore, determined that the proposed highway project would not be an efficient statewide economic expenditure. This study in conjunction with the Michigan Department of Transportation's increased emphasis on system preservation rather than expansion had caused a change in priorities. As a result, the Federal Highway Administration has determined that an environmental impact statement is no longer needed. In lieu of an EIS, the Federal Highway Administration and the Michigan Department of Transportation are undertaking preservation projects coupled with spot improvements to existing roadways in the area. Should it be determined during this process that an EIS is needed for a proposed project, one will be prepared following a new Notice Of Intent.

Issued on: February 1, 2000.

Norman R. Stoner,

Asst. Division Administrator Lansing, Michigan.

[FR Doc. 00–3970 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Intent To Prepare Environmental Impact Statement on Transportation Improvements Within the Blue Line Extension Corridor in Suburban Cleveland, Ohio

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA) is issuing this notice to advise interested agencies and the public that an environmental impact statement is being prepared for transportation improvements in the Blue Line Extension Corridor in suburban Cleveland, Ohio.

DATES: *Comment Due Date:* Written comments on the scope of the alternatives and impacts to be considered should be sent to Richard Enty, Team Leader, by April 10, 2000.

Scoping Meetings: A public scoping meeting will be held on Thursday, March 9, 2000, from 7 p.m. to 9 p.m., and an interagency scoping meeting will be held on Wednesday, March 1, 2000, from 9:30 a.m. to 11:30 a.m. See **ADDRESSES** below.

ADDRESSES: Written comments on the scope should be sent to Richard Enty, Team Leader, Greater Cleveland Regional Transit Authority (RTA), 1240 West 6th Street, Cleveland, Ohio 44113–1331. Phone: (216) 566–5260. Fax (216) 781–4726. Scoping meetings will be held at the following locations:

Public Scoping: Thursday, March 9, 2000, from 7 p.m. to 9 p.m.,

Beachwood City Hall, 2700 Richmond Road, Beachwood, Ohio 44122

Interagency Scoping: Wednesday, March 1, 2000, from 9:30 a.m. to 11:30 a.m., Greater Cleveland Regional Transit Authority, 1240 West 6th Street, Cleveland, Ohio 44113–1331

For additional information about the scoping meetings, contact Richard Enty whose address and phone number are given above.

FOR FURTHER INFORMATION CONTACT: Mr. Carlos Pena , Federal Transit Administration Region 5, 200 West Adams Street, Suite 2410, Chicago, Illinois 60606; Telephone: (312) 353–2865.

SUPPLEMENTARY INFORMATION: The Federal Transit Administration (FTA), the federal lead agency, in cooperation with the Greater Cleveland Regional Transit Authority (RTA), the local lead agency, is preparing an environmental impact statement (EIS) for proposed transportation improvements in the Blue Line Extension Corridor and adjacent areas. The transportation improvements are being defined through a Major Investment Study (MIS) conducted in conjunction with the development of the environmental impact statement. Issues and alternatives will be identified through a scoping process in accordance with the regulations implementing the National Environmental Policy Act (NEPA) of 1969, as amended. The scoping process will include the identification and evaluation of alternative design concepts and scopes, and provide the basis for the selection of a preferred design concept and scope for inclusion in the metropolitan transportation plan. Subsequently, alternative alignments and designs that are consistent with the selected concept and scope will be addressed in the EIS. It is important to note that a final decision to prepare an EIS has not been made at this time. This decision will be made at the end of the major investment study, and will depend upon the nature of the selected concept and its expected impacts.

I. Scoping

RTA will hold a public scoping meeting on Thursday, March 9, 2000, between 7:00 p.m. and 9:00 p.m. at Beachwood City Hall, 2700 Richmond Road, Beachwood, Ohio 44122. FTA and RTA invite interested individuals, organizations, and public agencies to attend the scoping meeting and participate in establishing the purpose, alternatives, schedule, and analysis approach, as well as an active public involvement program. The public is invited to comment on the alternatives to be addressed, the modes and technologies to be evaluated, the alignments and termination points to be considered, the environmental, social, and economic impacts to be analyzed, and the evaluation approach to be used to select a locally preferred alternative. The scoping meeting location is accessible and will include interpretive services for the hearing impaired.

An interagency scoping meeting will be held on Wednesday, March 1, 2000, from 9:30 a.m. to 11:30 a.m. at the Greater Cleveland Regional Transit Authority, 1240 West 6th Street, Cleveland, Ohio 44113–1331. Interested federal, state, and local public agencies, municipal officials and members of the Blue Line Study Project Scoping Committee are invited.

To ensure that a full range of issues is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions should be directed to the RTA at the address provided above.

II. Description of Study Area and Its Transportation Needs

The Blue Line Extension Corridor is located in southeastern suburbs of Cleveland, extending eastward approximately three miles from the existing terminus of the Blue Line at Van Aken and Warrensville Road in Shaker Heights, to the vicinity of I–271. The Corridor is approximately two miles wide, from Chagrin Blvd. on the north to Emery Road on the south. It includes portions of eight municipalities: City of Shaker Heights, City of Beachwood, City of Pepper Pike, City of Warrensville Heights, City of North Randall, Village of Highland Hills, Village of Orange, and Village of Woodmere. Two municipalities (Orange and Pepper Pike) are primarily residential, while the others are a mix of residential, office and retail. A more extensive ''study area'' is being considered for purposes of examining impacts of alternatives.

The largest single landowner in the corridor is the City of Cleveland. The City is developing one property itself: Cleveland Enterprise Park (recently renamed Mill Creek Enterprise Park), a 113 acre office park within the Village of Highland Hills. The City's other property, about 600 acres called Chagrin Highlands, is being developed by the Richard E. Jacobs Group under a master development agreement that provides for corporate headquarters and office park with supporting hotel and retail development. Additionally, the City of Cleveland has joint economic development agreements with three of the four communities in which Cleveland's property is located: Beachwood, Warrensville Heights, and Orange. There are a number of other public and private development sites in the corridor.

The corridor has a diverse mix of major institutions on relatively large sites, including Cuyahoga Community College, major medical institutions and facilities, a regional shopping mall and a number of large shopping centers, major office developments, a thoroughbred racetrack, a public golf course, cemeteries, and a variety of small businesses.

The area is served by a number of bus lines, two Interstate highways (I–271 and I–480), a U.S. highway, state highways, and county roads. These existing transportation facilities are under the jurisdiction of the Greater Cleveland Regional Transit Authority, the Ohio Department of Transportation and Cuyahoga County.

For central city residents, the corridor development creates new employment opportunities, but these jobs are difficult, if not impossible, to reach by transit. Several RTA bus routes serve the area and connect with the Blue Line at Van Aken, but access to the Van Aken station is relatively poor.

The study area already suffers from traffic congestion. The complicated six-legged Warrensville/Van Aken/Chagrin intersection, just east of the Blue Line terminus, is one of the most heavily used in Cuyahoga County, and one of the most congested. Chagrin Boulevard and other roadways in the study area also experience congestion during the morning and evening peak periods and at mid-day.

It is likely that without additional transportation investments, new development will add to traffic congestion. There is concern that the additional traffic will hurt the area's quality of life and future development potential. Some large planned development projects have no provisions for transit. There may be an opportunity to modify the planned development to maximize transit and land use efficiencies and to incorporate transit into the development plans at an early stage.

III. Alternatives

It is expected that the scoping meeting, stakeholder interviews, and written comments will be a major source of candidate alternatives for consideration in the study. The following describes the No-Build, Enhanced Bus/Transportation Systems Management (TSM), and Light Rail Transit Alternative that are suggested

for consideration in the Blue Line Extension MIS:

1. *No-Build Alternative*—Existing and planned transit service and programmed new transportation facilities to the year 2020;

2. *TSM Alternative*—Changes in existing bus routes or new bus routes to provide better service and lower-cost transportation, roadway, and other improvements, such as bus prioritization at signalized intersections, and special bus lanes that would enhance the operation of the existing street and bus networks to help buses move faster.

3. *Light Rail Alternative*—Extension of the rail rapid transit Blue Line eastward from the existing Van Aken terminal station to the vicinity of I–271 via several alternative alignments using Chagrin Road or Northfield Road.

Based on public and agency input received during scoping, variations of the above alternatives and other transportation-related improvement options, both transit and non-transit, will be considered for the Blue Line Extension Corridor.

IV. Probable Effects

Issues and impacts to be considered during the study include potential changes to: the physical environment (air quality, noise, water quality, aesthetics, etc.); the social environment (land use, development, neighborhoods, etc.); parkland, cemeteries, and historic resources; transportation system performance; capital operating and maintenance costs; financial resources available and financial impact on the RTA. The entire Corridor is undergoing rapid development. The potential for Transit Oriented Development and the effect on existing public and private development agreements will be important. Vehicular/pedestrian circulation, parking and in-street operation of buses and streetcars are key considerations.

Evaluation criteria will include consideration of the local goals and objectives established for the study, measures of effectiveness identified during scoping, and criteria established by FTA for ''New Start'' transit projects.

Issued on: February 11, 2000.

Don Gismondi,

Deputy Regional Administrator.

[FR Doc. 00–3897 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–6857]

Intac Automotive Products, Inc., Receipt of Application for Decision of Inconsequential Noncompliance

Intac Automotive Products, Inc., (Intac) has determined that certain brake fluid containers manufactured by its supplier, Gold Eagle, are not in full compliance with 49 CFR 571.116, Federal Motor Vehicle Safety Standard (FMVSS) No. 116, ''Motor vehicle brake fluids'', and has filed appropriate reports pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' Intac has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

Paragraph S5.2.2.2 of FMVSS No. 116 states that certain information, including a serial number identifying the packaged lot and date of packaging, shall be clearly marked on each brake fluid container or label permanently affixed to the container. Paragraph S5.2.2.2 further states that the information required on the container or container label, including the serial number identifying the packaged lot and date specified in S5.2.2.2(d), shall be legible after being subjected to the test procedures in S6.14, Container information. Paragraph S6.14 requires that each container be immersed in the same brake fluid contained therein for 15 minutes and dried within 5 minutes of removal of the container from the brake fluid.

Intac informed the agency that, on November 4, 1997, it manufactured approximately 9,000 containers of brake fluid which it shipped to Petrochemical, Inc., for Mazda. On April 6, 1999, Intac manufactured approximately 30,500 containers of brake fluid which it shipped to Nissan and, on August 12, 1999, it manufactured approximately 16,800 containers of brake fluid which it shipped to Petrochemical, Inc., for Subaru. Certain of these brake fluid containers were not in compliance with the requirements of S5.2.2.2(d) of FMVSS No. 116. That is, after removal from the brake fluid and drying when tested according to S6.14, the packaged lot and date code information required in S5.2.2.2(d) was not visible on some of the labels. Intac believes this condition to be inconsequential as it relates to motor vehicle safety.

Intac supports its application for inconsequential noncompliance by stating that all the substantive safety warnings on the subject brake fluid container labels were legible after testing in accordance with S6.14. Intac stated that the purpose of the serial number identifying packaged lot and date of packaging is to facilitate determination of the extent of defective brake fluid should such be discovered. According to Intac, there is no serious risk to motor vehicle safety if the lot and date information is lost. If packaged lot and packaging date information were not visible on containers, the manufacturer would have to recall all such containers in addition to targeted containers with legible packaged lot and date information, if defective brake fluid were to be discovered or suspected.

Intac also stated that the brake fluid containers in question were distributed to motor vehicle dealerships and authorized repair facilities and it is unlikely that private consumers obtained these products through retail for personal use.

According to Intac, the dealerships and authorized repair facilities that received the brake fluid tend to consume the product quickly once the containers are opened. Therefore, there is little likelihood that the packaged lot and date information on the container label would become illegible through contact with brake fluid before the contents of a container is used. Intac claims that brake fluid containers from the noncompliant runs with legible packaged lot and date of packaging information would be available for reference if a defect in the brake fluid from these production runs were discovered or suspected.

Intac further stated that it was able to secure most of the noncompliant inventory after contacting Nissan and Petrochemical, so that a large quantity of the noncompliant brake fluid containers will be returned to Intac and the noncompliance can be remedied.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC, 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date

indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 20, 2000.P='02'≤

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: February 14, 2000.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 00–3896 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–6161; Notice 2]

Mercedes-Benz U.S.A., Inc.; Grant of Application for Decision of Inconsequential Noncompliance

Mercedes-Benz U.S.A., Inc. (MBUSA) has determined that 1,482 of its 1999 model year vehicles were equipped with convex passenger-side mirrors that did not meet certain labeling requirements contained in Federal Motor Vehicle Safety Standard (FMVSS) No. 111, ''Rearview Mirrors,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' MBUSA has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

A notice of receipt of the application was published in the **Federal Register** (64 FR 48892) on September 8, 1999. Opportunity was afforded for public comment until October 8, 1999. One comment was received from JCW Consulting (JCW) in favor of granting the application.

If a vehicle has a convex passenger-side mirror, paragraph S5.4.2 of FMVSS No. 111 requires that it have the words ''Objects in Mirror Are Closer Than They Appear'' permanently and indelibly marked at the lower edge of the mirror's reflective surface.

From April 5 through April 9, 1999, MBUSA sold and/or distributed 1,482 C-Class, E-Class, and E-Class Wagons that contain a typographical error in the text of the warning label required in paragraph S5.4.2. The text on the subject vehicles' mirrors reads ''Objects in Mirror Closer Than They Appear.'' The word ''Are'' is not clearly printed or visible.

MBUSA supports its application for inconsequential noncompliance with the following statements:P='04'≤

MBUSA does not believe that the foregoing noncompliance will impact motor vehicle safety for the following reasons. FMVSS 111 sets forth requirements for the performance and location of rearview mirrors to reduce the number of deaths and injuries that occur when the driver of a motor vehicle does not have a clear and reasonably unobstructed view to the rear. Provisions regarding the use of a convex side view mirror were added by the National Highway Traffic Safety Administration (NHTSA or the Agency) in an 1982 rulemaking. 47 FR 38698 (1982). The final rule specifically allowed the use of convex passenger side outside mirrors. ''Convex mirrors'' are defined as ''a mirror having a curved reflective surface whose shape is the same as that of the exterior surface of a section of a sphere.'' See Id. at 38700, codified at 49 CFR 571.111 S4. NHTSA determined that allowing the installation of a convex mirror on the passenger side of vehicles could confer a substantial safety benefit in that such mirrors tend to provide a wider field of vision than ordinary flat or plane mirrors. Such a view could be highly desirable in maneuvers such as moving to the right into an adjacent lane. Id. at 38699.

NHTSA also recognized, however, that there were inherent drawbacks to the use of convex mirrors as well. One of the more significant drawbacks was that images of an object viewed in a convex mirror tend to be smaller than those of the same object viewed in a plane mirror. Consequently, drivers used to plane mirrors may erroneously assume that vehicles situated immediately behind the driver and to the right may be further away than anticipated. Such an erroneous perception may cause the drive to move to the right and change lanes before it is actually safe to do so. In order to address this concern, and at the suggestion of several automobile manufacturers, NHTSA required that a warning be permanently etched into all convex passenger side view mirrors.

In the case of MBUSA's affected vehicles, the etched warning provides that ''Objects in Mirror Closer Than They Appear.'' The missing word ''Are'' is contrary to the exact wording of the warning required by FMVSS 111. The cause of this error was traced to a defective stencil used in the laser printer which etches the warnings onto mirrors. MBUSA believes that the stencil defect, which caused the laser printer to inadvertently leave the word ''Are'' from the warning, was caused by dirt or some other cosmetic flaw in the stencil. This situation apparently was not immediately noticed by MBUSA's supplier's quality control department.P='04'≤

In effect, MBUSA argued that the grammatical error does not alter or obscure the required message. Hence, MBUSA urged that this noncompliance be found inconsequential.

In the one public comment that was received, JCW states that ''the buyer of a Mercedes vehicle tends to be a very informed and discerning automotive consumer'' and it would be unlikely that he or she would be confused by such an omission in the label's wording.

We have reviewed the application and agree with Mercedes that the noncompliance is inconsequential to motor vehicle safety. The label still conveys the message intended by the standard, and, although grammatically incorrect, it is still easily understood. For this reason, it is unlikely that a driver will be confused by the missing word in the label.

In consideration of the foregoing, we do not deem this noncompliance to be a serious safety problem warranting notification and remedy. Accordingly, we have decided that the applicant has met its burden of persuasion that the noncompliance described above is inconsequential to motor vehicle safety. Therefore, its application is granted and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118 and from remedying the noncompliance as required by 49 U.S.C. 30120.P='04'≤

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: February 14, 2000.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 00–3895 Filed 2–17–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Petroleum Refineries in Foreign Trade Subzones

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the U.S. Customs Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 18, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Petroleum Refineries in Foreign Trade Subzones.

OMB Number: 1515–0189.

Form Number: None.

Abstract: The Petroleum Refineries in Foreign Trade Subzones is a rule that amended the Customs Regulations by adding special procedures and requirements governing the operations of crude petroleum and refineries approved as foreign trade zones.

Current Actions: There are no changes to the information collection. This submission is to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 52.

Estimated Time Per Respondent: 6.035

Estimated Total Annual Burden Hours: 18,824

Estimated Total Annualized Cost on the Public: N/A

Dated: February 7, 2000

J. Edgar Nichols,

Information Services Group.

[FR Doc. 00–3972 Filed 2–17–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Exportation of Used Self-Propelled Vehicles

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the U.S. Customs Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 18, 2000.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Exportation of Used-Propelled Vehicles.

OMB Number: 1515–0157.

Form Number: None.

Abstract: The Exportation of Used-Propelled Vehicles requires the submission of documents verifying vehicle ownership of exporters for exportation of vehicles in the United States.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Individuals, Businesses.

Estimated Number of Respondents: 500,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 83,330.

Estimated Total Annualized Cost on the Public: N/A.

Dated: February 7, 2000.

J. Edgar Nichols,

Information Services Group.

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Part II

Department of Health and Human Services

Administration for Children and Families

45 CFR Parts 286 and 287

Tribal Temporary Assistance for Needy Families Program (Tribal TANF) and Native Employment Works (NEW) Program; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 286 and 287

RIN 0970–AB78

Tribal Temporary Assistance for Needy Families Program (Tribal TANF) and Native Employment Works (NEW) Program

AGENCY: Administration for Children and Families, HHS.

ACTION: Final rule.

SUMMARY: The Administration for Children and Families is issuing final regulations to implement key tribal provisions of the new welfare block grant program enacted in 1996—the Temporary Assistance for Needy Families, or TANF program and the new tribal work activities program—the Native Employment Works, or NEW Program. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193, established the Tribal TANF and NEW Programs. Subsequent technical changes were enacted by the Balanced Budget Act of 1997, Public Law 105–33. The TANF block grant program replaces the national welfare program known as Aid to Families with Dependent Children (AFDC) and the related programs known as the Job Opportunities and Basic Skills Training Program (JOBS) and the Emergency Assistance (EA) program.

These Final Rules reflect new Federal, Tribal, and State relationships in the administration of welfare programs; a new focus on moving TANF recipients into work; and a new emphasis on program information, measurement, and performance. They also reflect the Administration's commitment to regulatory reform.

EFFECTIVE DATE: These Final Rules are effective June 19, 2000.

FOR FURTHER INFORMATION CONTACT: John Bushman, Director, Division of Tribal Services, Office of Community Services, Administration for Children and Families (ACF), at 202–401–2418, Raymond Apodaca, Tribal TANF Team Leader, at 202–401–5020, or Ja-Na Oliver-Bordes, NEW Team Leader, at 202–401–5713.

Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. eastern time.

SUPPLEMENTARY INFORMATION: On July 22, 1998, ACF published in the **Federal Register** (63 FR 39365–39429) a Notice of Proposed Rulemaking (NPRM) that covered key Tribal TANF provisions of the new welfare block grant program, known as Temporary Assistance for Needy Families, or TANF. In addition, the NPRM covered key provisions of the Native Employment Works (NEW) program. We provided an extended 120-day comment period which ended on November 20, 1998. We offered commenters the opportunity to submit comments by mail or electronically via our web site. A number of commenters took advantage of this electronic access, but the majority of the comments we received were through the mail.

Comment Overview

We received an estimated 400 comments on the NPRM from 46 separate commenters. The largest number of comments came from tribal governments, followed by state agencies, and tribal organizations. For several reasons, we decided not to attempt precise numerical counts of the comments received. First, several comments had multiple signatories and others provided general endorsements of the comments of other parties. Also, commenters presented their views of overlapping and cross-cutting issues in many different ways; for example, some commented generically about major provisions of the proposed rule, while others provided specific suggestions about alternative approaches, words, and phrases. The diversity in the approach of commenters made precision in tallying comments impossible. Nevertheless, we are confident that this preamble accurately conveys the scope and nature of the comments received.

In the preamble to the proposed rule we discussed our general approach to some of the major cross-cutting issues up front, prior to the section-by-section analysis. Many of the commenters organized their comments in the same way, addressing the issues thematically instead of following the specific structure of the rule. This preamble follows that same basic format, presenting a separate discussion of cross-cutting issues apart from the separate section-by-section analysis (e.g., consultation, child support, plan format).

The discussion of data collection and reporting issues is presented in several places—the preambles for part 286 (Tribal TANF) and part 287 (NEW), and the preamble discussion entitled the ''Paperwork Reduction Act'' in the ''Regulatory Impact Analyses'' section of the preamble.

We believe that structuring the preamble this way enables us to provide a clearer framework for the specific regulatory provisions and to represent the commenters' concerns most accurately.

We appreciate the time and attention that commenters gave to reviewing the NPRM and preparing their comments, and we have reviewed and considered each. As a result of their efforts, we have been able to resolve certain technical and administrative issues, incorporate numerous substantive revisions to the proposed rule, make key clarifications of policy goals, and consider alternative regulatory approaches.

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I. Overview: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996

On August 22, 1996, President Clinton signed ''The Personal Responsibility and Work Opportunity Reconciliation Act of 1996'' (PRWORA)

into law. The first title of this new law (Pub. L. 104–193) establishes a comprehensive welfare reform program that is designed to change the nation's welfare system. The new program is called Temporary Assistance for Needy Families, or TANF, in recognition of its focus on moving recipients into work and time-limiting assistance.

PRWORA repeals the existing welfare program known as Aid to Families with Dependent Children (AFDC), which provided cash assistance to needy families on an entitlement basis. It also repeals the related programs known as the Job Opportunities and Basic Skills Training program (JOBS) and Emergency Assistance (EA).

The new law reflects widespread, bipartisan agreement on a number of key principles:

- Welfare programs should be designed to help move people from Welfare-to-Work.
- Welfare should be a short-term, transitional experience, not a way of life.
- Parents should receive the child care and the health care they need to protect their children as they move from Welfare-to-Work.
- Child support programs should become tougher and more effective in securing support from absent parents.
- Because many factors contribute to poverty and dependency, solutions to these problems should not be ''one size fits all.'' The system should allow States, Indian tribes, and localities to develop diverse and creative responses to their own problems.
- The Federal government should focus less attention on eligibility determinations and place more emphasis on program results.

After more than two years of discussion and negotiation, PRWORA emerged as a bipartisan vehicle for comprehensive welfare reform. As President Clinton stated in his remarks as he signed the bill, ''* * * legislation provides an historic opportunity to end welfare as we know it and transform our broken welfare system by promoting the fundamental values of work, responsibility, and family.'' Under the new statute, TANF funding and assistance for families comes with new expectations and responsibilities. Adults receiving assistance are expected to engage in work activities and develop the capability to support themselves and their families before their time-limited assistance runs out.

The new law provides federally-recognized Indian tribes, or consortia of such Tribes, the opportunity to apply for funding under section 412 of the Social Security Act (or the Act), as amended by PRWORA, to operate their own TANF programs beginning July 1, 1997.

The law gives States and federally recognized Indian tribes the authority to use Federal welfare funds ''in any manner that is reasonably calculated to accomplish the purposes'' of the new program. Those purposes are: (1) To provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; (2) to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) to prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and (4) to encourage the formation and maintenance of two-parent families.

Indian tribes that choose to administer a Tribal TANF program have been given broad flexibility to set TANF eligibility rules and to decide what benefits are most appropriate for their service areas and populations. Tribes who take on the responsibility for administering a TANF program will be expected to assist recipients making the transition to employment. Tribal TANF grantees also will be expected to meet work participation rates and other critical program requirements in order to avoid penalties and maintain their Federal funding. In meeting these expectations, Tribes need to examine the needs of their service areas and service populations, identify the causes of long-term underemployment and dependency, and work with families, communities, businesses, and other social service agencies in resolving employment barriers. TANF gives Tribes the flexibility they need to respond to such individual family needs. However, in return, it expects Tribes to move towards a strategy that provides appropriate services for needy families. PRWORA offers States and Tribes an opportunity to try new, far-reaching changes that can respond more effectively to the needs of families within their own unique environments. PRWORA also redefines the Federal role in administration of the nation's welfare system. It limits Federal regulatory and enforcement authority, but gives the Federal government new responsibilities for tracking the performance of States and Tribes.

In addition to establishing the Tribal TANF program, PRWORA authorizes funding, to the former Tribal JOBS grantees, for a tribal program ''to make work activities available.'' Based upon tribal recommendations, we have designated this tribal work activities program as the Native Employment Works (NEW) program. Tribes are encouraged to focus the NEW Program on work activities and on services which support participation in work activities. In addition, Tribes are encouraged to create and expand employment opportunities when possible.

This new welfare reform legislation not only gives Tribes new opportunities, as in the case of the TANF program, and continued responsibilities, as in the case of the NEW Program, but it also dramatically affects intergovernmental relationships. It challenges Federal, Tribal, State and local governments to foster positive changes in the culture of the welfare system. It transforms the way agencies do business, requiring that they engage in genuine partnerships with each other, community organizations, businesses, and needy families.

II. Regulatory Framework

A. Pre-NPRM Consultation Process

In the spirit of both regulatory reform and the government-to-government relationship between Tribes and the federal government, we implemented a broad consultation strategy prior to the drafting of the Notice of Proposed Rulemaking (NPRM). In the preamble to the NPRM we briefly discussed this consultation strategy. However, we received many comments from Tribes questioning whether we had engaged in effective or meaningful Tribal consultation in the drafting of the proposed regulations. We are therefore taking this opportunity to further explain our consultation strategy.

In May 1998 President Clinton signed Executive Order 13084, which provides for ''an effective process to permit elected officials and other representatives of Indian Tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' In recognizing the unique relationship which the federal government and Tribal governments share, this consultation process allows agencies to develop meaningful consultation opportunities with the Tribes in the development of regulatory policies which directly affect them.

Accordingly, when PRWORA was signed on August 22, 1996 we began internal discussions on how best to obtain input from Tribes on the content of the regulations. We decided to take a multi-pronged approach, which was designed to ensure that Tribes would be provided opportunities at various times

throughout the regulation-drafting process to comment and provide input into the proposed regulations.

In early 1997, ACF Regional Offices sent letters out to all eligible tribal governments seeking comments and input on the TANF and NEW regulations. These offices then began to conduct regional Pre-NPRM Tribal TANF/NEW consultation meetings. These Regional meetings were held to discuss the PRWORA law and its potential impact on the Tribes, and to obtain specific information on what should be in the proposed regulations. Representatives from many Tribes attended these on-site consultations, providing us with much useful information. Concurrent with those meetings, we mailed a questionnaire to all federally recognized Tribes in the lower forty-eight states, as well as all Alaska Native entities eligible to operate a TANF and/or NEW Program, asking them to respond to specific questions in the areas of TANF and/or NEW implementation, plan content, penalties, work participation requirements, time limits, data reporting, and special provisions. We received many letters back from Tribes that provided valuable information and insights to us as we began to draft the regulations.

As we drafted the regulations we continued to seek tribal input about potential tribal TANF operations. Several meetings were held in Washington, D.C. with advocates, tribal representatives, national tribal organizations, and other stakeholders. Although these meetings included agenda items in addition to TANF, we took every available opportunity to include separate sessions where individuals were specifically invited to discuss what should be in the proposed rule. Similarly, Regional Offices included TANF discussions in meetings and discussions which they held throughout their regions. Finally, Tribes, tribal organizations, and other stakeholders had the opportunity to provide specific written comments in response to the published NPRM. The comments received were both valuable and appreciated.

Although we were unable to meet individually with every Tribe and tribal organization, we believe that we made our best and concerted effort of consulting with and involving the Tribes in the development of these regulations. We provided an effective process for the provision of meaningful and timely input into both the development and revision of the regulations. As you review the final Tribal TANF regulation, you will see the fruits of that consultation—many of these comments have brought about substantive changes to the Final Rule, changes which we believe will have a positive effect on the provision of Tribal TANF services in Indian country.

B. Related Regulations

There is an important relationship between this rulemaking and the Final TANF Rule (64 FR 17720, April 12, 1999) generally applicable to State TANF programs. Tribal decisions on whether to elect to administer a Tribal TANF program will depend on a number of factors, including the nature of services and benefits that will be available to tribal members under the State TANF program. Thus, Tribes have a direct interest in the regulations governing State TANF programs.

Tribes also have an interest in these regulations because, while the statute allows Tribes to negotiate certain program requirements, such as work participation rates and time limits, it subjects tribal programs to the same data collection and reporting requirements as States. These requirements are found at part 265 of the Final TANF Rule (64 FR 17900) and appendices.

A number of States and Tribes have inquired whether a State can count contributions made to an Indian tribe with an approved Tribal Family Assistance Plan toward the State's MOE requirement. On June 2, 1997, the Office of Community Services and the Office of Family Assistance jointly issued a Policy Announcement, TANF–ACF–PA–2 in this regard. This policy announcement provides that State funds paid to an Indian tribe with an approved Tribal Family Assistance Plan may meet the definition of a qualified State expenditure for the purpose of a State's required MOE, if the funds are expended for: (1) ''Eligible families,'' families who meet the income and resource standards established by the State; and (2) cash assistance, child care assistance, certain educational activities, or any other use of funds allowable under section 404(a)(1) of the Act, i.e., any use that is reasonably calculated to accomplish the purpose of the TANF program. The requirements contained in TANF–ACF–PA–2 remain in effect and fit within the provisions of 45 CFR 263.2 relating to the kind of expenditures that count toward meeting a State's basic MOE requirement, and funds spent accordingly would be allowable to satisfy the MOE requirements. In addition, the definition of ''eligible families'' limits MOE expenditures to families that include a child living with a parent or other adult care relative or to pregnant women.

In order for welfare reform to succeed in Indian country, it is important for State and Tribal governments to work together on a number of key issues, including data exchange and coordination of services. We remind States that Tribes have a right under law to operate their own programs. States should cooperate in providing the information necessary for Tribes to do so. Likewise, Tribes should cooperate with States in identifying tribal members and tracking receipt of assistance.

PRWORA also changed other major programs administered by ACF, the Department, and other Federal agencies that may significantly affect a State or Tribe's success in implementing welfare reform. For example, title VI of PRWORA repealed the child care programs that were previously authorized under title IV–A of the Social Security Act. In their place, it provided two new sources of child care funding (which we refer to collectively as the Child Care and Development Fund). These funds go to the Lead Agency that administers the Child Care and Development Block Grant program. A major purpose of the increases in child care funding provided under PRWORA is to assist low-income families in their efforts toward self-sufficiency. We issued Final Rules covering the Child Care and Development Fund on July 24, 1998 (see 63 FR 39935).

In 1998, the Office of Child Support Enforcement (OCSE), Native American Program, conducted a series of six Nation-to-Nation consultations with Indian tribes, tribal organizations and other interested parties to obtain tribal input prior to drafting the regulations for direct funding to Tribes and tribal organizations as authorized by section 455(f) of the Social Security Act. OCSE is drafting those regulations and expects that the NPRM will be published in the **Federal Register** by late summer.

The Secretary of Labor issued interim Final Rules on section 5001(c) of Public Law 105–33, regarding Welfare-to-Work (WtW) grants for Tribes, on November 18, 1997. A copy of these rules is available on the Internet at http://www.wdsc.org/dinap/dinapw2w/ta.html. General information on the Department of Labor's Indian and Native American WtW program is available at *http://www.wdsc.org/dinap/dinapw2w/index.html.*

We encourage you to look in the **Federal Register** for actions on these related rules in order to understand the important relationships among these programs in developing a comprehensive strategy that can provide

support to all families that are working to maintain their family structure and become self-sufficient.

C. Statutory Context

These Final Rules reflect PRWORA, as enacted, and amended by Pub. L. 105–33 and Pub. L. 105–200. Pub. L. 105–33 created the new Welfare-to-Work (WtW) program, made a few substantive changes to the TANF program, and made numerous technical corrections to the TANF statute. Under section 403 of The Child Support Performance and Incentives Act of 1998, Pub. L. 105–200, Congress added a ''rule of interpretation'' to section 404(k)(3) of the Social Security Act, which indicates that the provision of transportation benefits under section 3037 of the Transportation Equity Act to an individual who is not otherwise receiving TANF assistance would not be considered assistance. We have made a conforming change to our definition of assistance at § 286.10 to reflect this policy.

D. Regulatory Reform

In its latest *Document Drafting Handbook,* the Office of the Federal Register supports the efforts of the National Partnership for Reinventing Government and encourages Federal agencies to produce more reader-friendly regulations. In drafting the proposed and Final Rules, we paid close attention to this guidance and worked to produce a more readable rule. Individuals who are familiar with our previous welfare regulations should notice that this package incorporates a distinctly different, more readable style. We also provided electronic access to the document and gave readers the option to submit their comments electronically. We received a number of positive comments about how the NPRM was written and the electronic access.

Based in part on the positive reaction to the proposed rule, and in the spirit of facilitating understanding, we decided to retain much of the NPRM preamble discussion. We believe it will be useful for some readers in providing the overall context for the final regulations. However, where we are changing our policy in the Final Rule, or the context has changed since we issued the NPRM, we have made appropriate changes to the preamble. We also exercised some editorial discretion to make the discussion more succinct or clearer in places. Wherever we made significant changes in policy, the preamble notes and explains those changes.

In the spirit of providing access to information, we included draft data collection and reporting forms as appendices to the proposed rules even though we did not intend to publish the forms as part of the Final Rule. We thought that the inclusion of the draft forms would expand public access to this information and make it easier to comment on our data collection and reporting plans.

E. Scope of This Rulemaking

Because there are no existing Tribal TANF or NEW regulations, this package is intended to cover the Final Rules as they relate to the provisions of the Tribal TANF and NEW Programs (including definitions of common and frequently used terms). While this decision has resulted in a large rule, we think it has enabled us to develop a more coherent regulatory framework and provide readers an opportunity to look at the many interconnected pieces at one time.

F. Federal Programs To Assist Families To Achieve Self-Sufficiency

Child Care

Federal Child Care and Development Fund (CCDF) grants enable Tribes to provide child care subsidies to low-income Indian families so they can work, attend training or return to school. The importance of providing Federal support for child care stems from increased emphasis on transitioning welfare recipients to work and enabling low-income working families to remain in the workforce. Obtaining affordable and safe child care is widely recognized as a major barrier that keeps families on welfare and out of the workforce. Parents are more likely to obtain work and remain in the workforce if child care is affordable, stable, conveniently located and of good quality. Child care helps parents reach and maintain economic self-sufficiency. Quality child care also plays an important role in children's healthy development and preparation for school.

The Child Care and Development Fund (CCDF), as authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), assists low-income families and those transitioning off welfare to obtain child care so they can work or attend training/education.

The CCDF brings together four Federal child care subsidy programs and allows States and Tribes to design a comprehensive, integrated service delivery system to meet the needs of low-income working families. The Child Care and Development Block Grant Act (CCDBG), as amended by PRWORA, now permits tribal grantees to directly administer child care funds related to the now repealed Title IV–A programs (At-Risk, Transitional and AFDC child care), in addition to operating CCDBG programs. The amended CCDBG Act also permits tribal grantees to use funds for construction and renovation purposes.

The Administration for Children and Families (ACF) Child Care Bureau is responsible for oversight of the CCDF. Two percent of CCDF funding is earmarked for tribal child care programs. In fiscal year (FY) 1999, Tribes received over $62 million from the CCDF, more than doubling previous Federal grant amounts made directly to Tribes for child care prior to PRWORA. (See *http://www.acf.dhhs.gov/programs/ccb* for more information.)

Programs Promoting Work

This Administration has repeatedly shown its commitment to promoting the work objectives of this new law. Before and since the legislation was passed, the President and the Administration have worked very hard to ensure that Congress passed strong work provisions and provided adequate child care funding and other program supports to help families making the transition from Welfare-to-Work. These include, the Welfare-to-Work program (WtW), administered by the Department of Labor, the Welfare-to-Work Tax Credit enacted in the Balanced Budget Act, Welfare-to-Work housing vouchers included in the Fiscal Year 1999 budget for the Department of Housing and Urban Development, and Job Access transportation grants.

WtW provides grants to Indian tribes, States, localities, and other grantees to help them move long-term welfare recipients and certain noncustodial parents into lasting, unsubsidized jobs. The Welfare-to-Work Tax Credit provides a credit equal to 35 percent of the first $10,000 in wages in the first year of employment, and 50 percent of the first $10,000 in wages in the second year, to encourage the hiring and retention of long-term recipients. (It complements the Work Opportunity Tax Credit, which provides a credit of up to $2,400 for the first year of wages to employers who hire long-term welfare recipients.)

The Welfare-to-Work Housing Voucher Program provides tenant-based Section 8 housing assistance to help eligible families make the transition from welfare to work. In FY 1999, HUD awarded 50,280 vouchers to communities, including two Tribes, that

created cooperative efforts among their housing, welfare and employment agencies. (Only Tribes with Section 8 housing programs were eligible to apply. You can find additional information on this initiative at *http://www.hud.gov/native.*)

The Transportation Equity Act for the 21st Century (TEA–21) authorizes $750 million over five years for competitive grants to communities to develop innovative transportation activities to help welfare recipients and other low-income workers (*i.e.,* those with income up to 150 percent of poverty) get to work. For FY 1999, the Department of Transportation awarded 171 grants totaling $71 million, including grants to several Tribes. You can find additional information at *http://www.fta.dot.gov/.* You can find more information about the Administration's initiatives at *http://www. whitehouse.gov/WH/Welfare.*

The President has also challenged America's businesses, its large nonprofit sector, and the executive branch of the Federal government to help welfare recipients go to work and succeed in the workplace.

In May 1997, the President helped to launch a new private-sector initiative to promote the hiring of welfare recipients by private-sector employers. The Welfare-to-Work Partnership, which started with 105 participating businesses, now includes over 12,000 businesses that have hired over 410,000 welfare recipients. This partnership has produced a variety of materials to support businesses in these efforts, including the ''Blueprint for Business'' hiring manual and ''The Road to Retention,'' a report of companies that have achieved higher retention rates for former welfare recipients. You can find information about the Welfare-to-Work Partnership at *http://www.welfaretowork.org.*

The Small Business Administration (SBA) is addressing the unique and vital role of small businesses, which account for over one-half of all private-sector employment. It is helping small businesses make connections to job training organizations and job-ready welfare recipients. SBA is also providing training and assistance to Tribal welfare recipients who wish to start their own businesses through its Tribal Business Information Centers. Businesses can receive assistance through SBA's 1–800–U–ASK–SBA and through its network of one-stop centers, one-stop capital shops, and district offices. Information on SBA's Welfare-to-Work initiative (WtW) and other activities are available through the SBA home page at *http://www.sba.gov.*

In addition, the Vice President has developed a coalition of national civic, service, and faith-based groups committed to helping former welfare recipients succeed in the workforce—by providing mentoring, job training, child care, and other supports. On March 8, 1997, the President directed all Federal agencies to submit plans describing the efforts they would make to respond to this challenge. Under the Vice President's leadership, Federal agencies committed to hiring at least 10,000 welfare recipients over the next four years. Agencies have already fulfilled this commitment—nearly two years ahead of schedule. (You can find additional information on this effort at *http://www.welfaretowork.fed.gov.*)

G. Applicability of the Rules

As we indicated in the NPRM, a Tribe may operate its TANF and/or NEW Program under a reasonable interpretation of the statute prior to publication of the Final Rules. Thus, in determining whether a Tribe is subject to a penalty under TANF or a disallowance under the NEW Program, we would not apply regulatory interpretations retroactively. We have retained this basic policy, but modify it to clarify that the ''reasonable interpretation'' standard applies until the effective date of these Final Rules. Tribes remain bound by any Policy Announcements issued by ACF, including those issued in advance of the final regulations, both prior to and after the effective date of these regulations. You can find additional discussion of this policy at Part IV.C below, as well as in § 286.215 of the preamble.

III. Principles Governing Regulatory Development

A. Tribal Flexibility

In the conference report to PRWORA, Congress stated that the best welfare solutions come from those closest to the problems, not from the Federal government. Thus, the legislation provides Tribes with the opportunity to reform welfare in ways that work best to serve the needs of their service areas and service populations. It gives Tribes the flexibility to design their own programs, define who will be eligible, establish what benefits and services will be available, and develop their own strategies for achieving program goals, including how to help recipients move into the work force.

To ensure that our rules support the legislative goals of PRWORA, we are also committed to gathering information on how Tribes are responding to the new opportunities available to them. We reserve the right to revisit some issues, either through proposed legislation or regulation, if we identify situations where these rules are not furthering the objectives of the Act.

B. Regulatory Authority

Early input from the consultations with Indian tribes suggested that, consistent with the intent of Congress to provide for program flexibility, we should limit the extent to which we regulate Tribal TANF and NEW Programs. However, Congress gave us more authority to regulate the Tribal TANF and NEW Programs than State TANF programs. Unlike the process for reviewing and accepting plans for State TANF, the statute requires us to approve Tribal TANF plans. While we propose maximum flexibility in program design and procedure, we believe it is important for us to set forth, in regulations, the process for the submission and approval of plans and other program requirements.

Tribal TANF programs must meet minimum work participation rates, and Tribal TANF recipients are subject to maximum time limits for the receipt of assistance as well as penalties for failure to meet program requirements. While these requirements are specified in PRWORA for State TANF programs, they are not specified for Tribal TANF programs, and we will negotiate these with each tribal program. Although the proposed rules suggested flexibility in how these requirements could be established, we believe that it is important for us to lay out, in regulations, the criteria that we will use.

Although Tribes that operate TANF programs are subject to some of the same statutory requirements as are States, there are some requirements that do not apply to Tribes, such as the prohibitions in section 408. Since the statute does not always treat Tribes and States in the same way, we believe the Tribal TANF regulations should reflect the distinctions where appropriate.

C. Accountability for Meeting Program Requirements and Goals

The new law gives Tribes flexibility to design their TANF programs in ways that strengthen families and promote work, responsibility, and self-sufficiency. At the same time, however, TANF reflects a bipartisan commitment to ensuring that State and Tribal programs support the goals of welfare reform. To this end, the statutory provisions on data collection and penalties are crucial because they give us the authority we need to track what is happening to needy families and children under the new law, measure

program outcomes, and promote key objectives.

IV. Discussion of Cross-Cutting Issues

A. Child Support

One of TANF's purposes is to provide assistance to needy families so that children may be cared for in their own homes or the homes of relatives. Another is to end the dependence of needy parents on government benefits by promoting job preparation, work, marriage, and parental responsibility. A third is to prevent and reduce the incidence of out-of-wedlock pregnancies and to encourage the formation and maintenance of two-parent families. Child support enforcement provides an important means of achieving all of these goals for Indian families and children. In the NPRM, we solicited comments on the subject of conditioning eligibility for receipt of Tribal TANF assistance on cooperation with child support enforcement efforts. We received very few comments on this issue. The comments we received indicated that the decision on conditioning eligibility for Tribal TANF assistance on either cooperation or assignment of child support to the Tribe should be left to the individual Tribes or to tribal-state negotiations.

We have considered all comments received on the issue and believe that conditioning Tribal TANF eligibility on cooperation with child support enforcement agencies is consistent with assisting needy families achieve self-sufficiency. Section 286.75(a)(8) provides that, at their option, Tribal TANF programs may require cooperation with IV–D agencies as a prerequisite to receipt of TANF assistance. Good cause and other exceptions to cooperation shall be defined by the Tribal TANF program.

In addition, at § 286.155 we establish the rule that Tribal TANF programs may, at their option, condition eligibility for TANF assistance on assignment of child support to the Tribe. The statute does not address conditioning eligibility for Tribal TANF on the assignment of child support and we have determined that Tribes may require assignment as a condition of eligibility for Tribal TANF. If a Tribe elects this option, it may be approved only if the TFAP addresses the following to the satisfaction of the Secretary: (1) how the Tribe will use assigned support to further their TANF programs and, (2) procedures by which the Tribe will pay to the family any amount of child support collected and assigned to the Tribe that is in excess of the amount of TANF assistance provided to that family.

Section 286.155(b)(1) means that a Tribe may not retain assigned support in excess of TANF assistance. Any such excess must be passed on to the family. Section 286.155(b)(2) requires that assigned child support retained by the Tribe be used for TANF purposes under the TFAP. The TFAP should specify how assigned support will be used.

Until ACF issues regulations regarding the direct funding of Tribal child support enforcement programs, most child support will continue to be collected by States. States will continue to distribute amounts collected in accordance with Federal requirements and may, consistent with those requirements, retain amounts assigned to the State as a condition of receipt of AFDC and/or State TANF assistance. Amounts in excess of the amount that may be retained by the State would normally be passed through to the family. However, States may remit such amounts, if assigned to a Tribe with respect to Tribal TANF, to the Tribe within the required disbursement time frames.

As we stated above, to ensure that our rules support the legislative goals of PRWORA, we are committed to gathering information on how Tribes are responding to the new opportunities available to them to promote self-sufficiency. We intend to revisit the issue of child support enforcement as it relates to Tribal TANF programs, either through proposed legislation or regulation, if we identify situations where the Final Tribal TANF rules are not furthering the objectives of the Act.

Implementation of child support enforcement in Indian country is key to achieving self-sufficiency. The Federal government has a major role in child support enforcement (particularly with regard to the operation of the Federal Case Registry, National New Hire Directory and the expanded Federal Parent Locator Service), the continuing Federal interest in the effectiveness of child support collections, and the continued Federal financial commitment, under TANF, for needy families whose children do not have access to parental support.

B. Plan Format

In the NPRM, we solicited comments on the subject of whether ACF should develop a format or preprint for TANF. We received few comments on this issue. We have decided that, although all plans have common required elements, there is no need to prescribe the format which a Tribe should use to develop its plan. A Tribe may therefore use a format of its choosing, as long as all required statutory and regulatory elements are addressed.

C. Approved Plans Which Do Not Meet the Terms of the Final Rule

The Supreme Court has held that the Administrative Procedures Act (5 U.S.C. 551 et seq.) prohibits regulations from having retroactive effect because section 551 defines a rule as agency action having ''future effect.'' We acknowledge that there will inevitably be Tribal TANF programs that are currently operating in a manner that is inconsistent with the Final Rule and that will need time to amend their plans and their operations to bring programs in line with the final regulations. Between publication of the final Tribal TANF and NEW regulations and the effective date of the regulations, we will permit Tribal TANF and NEW Programs to continue to operate under a ''reasonable interpretation'' of the statute and applicable Policy Announcements, with the understanding that as of the effective date ALL Tribal TANF and New programs must comply with the final regulations or face penalties for non-compliance. The time frames for submitting amendments at § 286.165 applies; any amendments must be submitted at least 30 days prior to the effective date of the final regulations (i.e., 90 days from the date of publication of the Final Rule).

D. Other General Issues

The following is a discussion of all the comments we received regarding the proposed rule, as well as a discussion of all the regulatory provisions which we have changed. In most cases the discussion follows the order of the regulatory text, addressing each part and section in turn. However, we incorporated the discussion regarding any changes to the ''definitions'' section in the appropriate topic area discussion section. For areas where we received no comments, and where no changes have been made to the draft language, we have included the preamble discussion from the NPRM. The entire regulatory text is included in the Final Rule.

V. Part 286—Tribal TANF Program Provisions

Subpart A—General Tribal TANF Provisions (§§ 286.1–286.15)

Section 286.1 What Does This Part Cover?

This part contains our Final Rule for the implementation of section 412 of the Social Security Act, except for section 412(a)(2) which is covered in part 287.

Section 412 allows federally-recognized Indian tribes, certain specified Alaska Native organizations and Tribal consortia to submit plans for the administration of a Temporary Assistance for Needy Families (TANF) program.

In this Final Rule, we have tried to retain the flexibility provided by the statute to the Tribal Family Assistance program. At the same time, we recognize the need to set forth the general rules that will govern the program.

In addition, in recognition of the unique legal relationship the United States has with Tribal governments, these regulations will be applied in a manner that respects and promotes a government-to-government relationship between Tribal governments and the United States government, Tribal sovereignty, and the realization of Indian self-governance.

In this Final Rule the terms ''Tribal Family Assistance program'' or ''TFAP'' and ''Tribal TANF program'' are used interchangeably.

Section 286.5 What Definitions Apply to This Part?

This section of the Final Rule includes definitions of the terms used in Part 286. Where appropriate, it also includes cross-references which direct the reader to other sections or subparts of the Final Rule for additional information.

In drafting this section of the Final Rule, we chose not to define every term used in the statute and in these final regulations. We understand that excessive definitions may unduly and unintentionally limit Tribal flexibility in designing programs that best serve their needs.

For example, we have not defined ''Indian family'' or ''service population.'' Each Tribe administering its own Tribal TANF program is permitted by the statute to define its service population. Because funding for the Tribal TANF program is based on State expenditures of Federal funds on Indian families during fiscal year 1994, we believe the Tribal TANF program was intended to serve primarily Indian families. However, in order to provide flexibility to Tribes and States, Tribes may define service population and have the option of including only a portion of the Tribal enrollment, only Tribal members, all Indians, or even non-Indians residing in the service area. It will be up to each Tribe submitting a TANF plan to define the service population that the plan covers. The service population definition provided by a Tribe in turn determines what data the State would be asked to provide to calculate the amount of the Tribal TANF grant. Note that at § 286.75(d)(2) if a Tribe chooses to include non-Indian families in its service population definition, the Tribe is required to demonstrate State agreement with the inclusion of that portion of the Tribe's service population.

We also have not defined the individual work activities that count for the purpose of calculating a Tribe's work participation rate. These are terms the Tribe should define in designing its Tribal TANF program. We believe Tribes should have maximum flexibility to define these terms as appropriate for their program design.

Readers will note that we use the term ''we'' throughout the regulation and preamble. The term ''we'' means the Secretary of the Department of Health and Human Services or any of the following individuals or agencies acting on the Secretary's behalf: the Assistant Secretary for Children and Families, the Regional Administrators for Children and Families, the Department of Health and Human Services, and the Administration for Children and Families.

Readers should also note that we use the term ''Tribe'' throughout the regulation and preamble. The term ''Tribe'' means federally-recognized Indian tribes, consortia of such Indian tribes, and the 13 entities in the State of Alaska that are eligible to administer a Tribal Family Assistance program, under an approved plan. It also refers to the Indian tribes and the Alaska Native organizations that are eligible to administer a NEW Program because they operated a Tribal JOBS Program in fiscal year 1995.

We have provided necessary definitions from PRWORA for the readers' convenience. However, we have chosen not to augment these statutory definitions.

We also have provided clarifying, operational and administrative definitions in the interest of developing clearer, more coherent and succinct regulations. These include common acronyms and definitions we believe are needed in order to understand the nature and scope of the provisions in this Final Rule. Some of these terms have commonly understood meanings; others are consistent with definitions included in the State TANF Final Rule. We advise readers to review all the terms in this section carefully because many of them determine the application of substantive requirements.

Federal requirements related to the expenditures of Federal grant funds necessitate the use of precise definitions. An example of such a definition is that used for the term ''administrative costs,'' which triggers particular Federal grant requirements (see § 286.50). This definition is important because we have established, at § 286.50, a graduated cap over the first three years of operation which will ultimately limit to 25 percent the amount of Tribal TANF funds that a Tribe may use for administrative costs.

The terms ''assistance'' and ''families receiving assistance'' are used in the PRWORA in many critical places that affect the Tribal TANF program. For the purposes of the Tribal TANF program, we are adopting the same definition of assistance as developed and included in the Final Rule for the State TANF program. Please refer to § 286.10 for a detailed discussion of this definition.

Section 286.10 What Does the Term ''Assistance'' Mean? (New Section)

This is a new section in the Final Rule. In the NPRM we noted that the term ''assistance'' was a key term that affected Tribal TANF programs in the areas of calculating work participation rates and time limits, data collection and reporting, and consistency with legislative mandates for TANF program operations. The proposed rule included the definition of assistance in § 286.5, with the other Tribal TANF definitions. However, because of the length and significance of this term, we decided to give it its own section in the Final Rule.

Background

The legislative history for title IV–A of the Act makes clear that Congress did not intend ''assistance'' to mean something different in the Tribal TANF context than it does in the general TANF context. In addition, while the legislative history indicates that Congress intended ''assistance'' to encompass more than cash payments, it does not provide specific guidance (see H.R. Rep. No. 725, 104th Cong., 2d Session). Insofar as the legislative history circumscribes the development of a Final Rule on the definition of ''assistance,'' we determined that the statute requires a single definition of the term regardless of whether a State or a Tribe is administering the TANF program. Both the NPRM applicable to State TANF programs and the NPRM applicable to Tribal TANF programs proposed the same definition of assistance. For reference, please refer to 64 FR 17755 for an overview of comments received on the definition of assistance proposed in the NPRM applicable to State TANF programs published by ACF on November 20, 1997.

Overview of Comments

We received multiple comments in response to the Tribal TANF NPRM on this definition. Several commenters indicated that individual Tribes should determine what they consider short term/emergency assistance. Others wanted to narrow the possible benefits that could be considered within the definition of assistance. Commenters also requested that we expand the definition of one-time short-term assistance.

As a result of consideration of all comments received on this key concept, we have made substantial modifications to the definition of assistance as in the proposed Tribal TANF rule. The modifications address concerns with the scope of benefits treated as assistance, the treatment of work supports and the exclusion from the definition of ''one-time, short-term'' assistance.

Appropriateness of a Single Federal Definition of Assistance

Comment: Several commenters argued that Tribes should be able to determine for themselves how assistance would be defined in the TANF program rather than having a single Federal definition of TANF assistance.

Response: There are several reasons why we do not believe that this a feasible option. The definition of assistance is central to the accountability provisions in the statute. There must be a single definition of this term in order to insure that key TANF provisions are implemented as intended. Having various definitions of assistance rather than a single, uniform definition would raise questions about the consistency and comparability of TANF data reports, program information, work participation rates, time limits, and application of penalties. It would also make it very difficult to understand whether or how the TANF program is contributing to the movement of needy families to self-sufficiency.

We have established one uniform definition of assistance at § 286.10. We emphasize that this definition does not substantially impede the flexibility of States and Tribes to set eligibility rules or to expend funds on a broad range of benefits and services for needy families. The definition of assistance does not limit the types of allowable benefits or services which State and Tribal TANF programs may provide. Rather, the major effect of the definition is to determine the applicability of key TANF requirements to the benefits that a State or Tribe elects to provide.

Scope of Benefits Treated as Assistance

Comments: Several comments were received to the effect that the scope of what is considered assistance should be narrow and should exclude a variety of supports for working families such as child care, transportation and work-based assistance such as wage subsidies.

Response: We have made significant modifications to the definition of assistance with the effect that the scope of benefits deemed assistance is narrower than proposed in the published NPRMs. We agree that there are sound reasons for narrowing the definition of assistance to exclude some work supports. While neither the statute nor the legislative history specifically indicate that a particular subset of benefits under a TANF program should be excluded from the definition of assistance, there is also little direct evidence that Congress intended for time limits and data collection to apply to every conceivable array of new benefits or to working families that have not traditionally been part of the welfare system.

Clearly, in reforming the welfare program, Congress was trying to facilitate the ability of families to work and become self-sufficient. Two of the main effects of defining a TANF benefit as ''assistance'' are to require that a family work so that it can become self-sufficient and to time limit that benefit. However, the need to time limit work supports is mitigated where the family is already moving toward self-sufficiency.

At § 286.10(b) the definition of ''assistance'' provides that supports for working families (such as child care and transportation) are excluded. This exclusion covers supportive services needed to address employment-related needs and time spent by an employed individual in education and training needed for job retention and career advancement.

Except as provided in § 286.10(b), the exclusion does not cover supportive services related to participation in education, training, job search and related employment activities for nonworking families. Supportive services provided in this situation (to nonworking families) look more like traditional welfare rather than work supports. In addition, the same rationale for excluding nonworking families from the TANF work requirements, including work participation and time limits, does not exist for these families as exists for families that are already working. Educational and training activities are generally excluded under § 286.10(b)(6). The one exception is if education or training benefits include allowances or stipends designed to provide income support. These particular types of education and training benefits are considered assistance.

While our definition excludes some forms of support as ''assistance,'' the exclusions do not apply to the eligible Alaska Tribal entities and the State of Alaska in determining whether the Alaska Tribal entities' Tribal TANF programs are comparable to Alaska's State TANF program. For example, an Alaska Tribal entity that implements a Tribal TANF program may choose to include ''direct services'' as part of their benefit level definition, and these ''direct services'' would trigger the TANF requirements, i.e., work requirements, time limits, and data collection and reporting. Please refer to § 286.175 for more information on the Alaska comparability requirement.

Exclusion of Contribution To and Distributions From Individual Development Accounts

The definition at § 286.10(b)(5) excludes contributions to, and distributions from Individual Development Accounts (IDAs). While commenters did not raise concerns with the treatment of IDA benefits under the definition of assistance, enactment of the Assets for Independence Act (AFIA) (under title IV of Pub. L. 105–285) subsequent to publication of the Tribal TANF NPRM justify a specific discussion here of the impact of IDAs on Tribal TANF programs. Please note that we have added a new section, § 286.40 and ask that you refer to the discussion of § 286.40 in the Preamble for additional information about Tribal contributions to IDAs and the extent to which such contributions are allowable TANF expenditures.

Contributions to and distributions from IDAs are excluded from the definition of assistance for several reasons. First, many of the assets in IDA accounts represent deposits from the earnings of low-income families and the interest on those deposits. These sorts of assets do not represent assistance from TANF or any other governmental source. Second, when contributions are made into IDA accounts from the Tribal TANF agency or other third parties, they only represent potential assistance at that point. The individuals whose funds are in the account are potential beneficiaries, but have very limited access to the funds in the account. These funds are unavailable to meet their basic needs. Furthermore, the distributions from IDA accounts would normally be excluded under other provisions of our definition (e.g. as

emergency benefits, for education, and as nonrecurring, short-term benefits). Because the residual cases are likely insignificant in terms of the amount of assistance involved and the tracking of such amounts might create significant administrative burdens, we believe it is appropriate to provide an umbrella exclusion for IDA benefits.

Employment-related Services

The ''employment-related services'' exclusion at § 286.10(b)(6) generally covers on-the-job training, subsidized employment, and most education and training activities since most do not represent income support. This exclusion also covers payments to employers and third parties for supervision and training and payments under performance-based contracts for success in achieving job placements and job retention. As discussed above, there may be types of education and training benefits (e.g. stipends or allowances) that fall within the definition of assistance. The definition of assistance includes payments to individuals participating in work experience or community service. It also includes need-based payments to individuals in any work activity whose purpose is to supplement the money they receive for participating in the activity.

The distinction we make between work subsidies paid to employers and payments to participants in work experience and community service is similar to distinctions made under tax law. For example, we refer you to Notice 93–3, issued by the Internal Revenue Service on December 17, 1998. This Notice explains that TANF payments that meet certain conditions would not be considered income, earned income, or wages for Federal income tax purposes. The Notice provides that: ''Payments by a governmental unit to an individual under a legislatively provided social benefit for the promotion of the general welfare that are not basically for services rendered are not includable in the individual's gross income and are not wages for employment tax purposes, even if the individual is required to perform certain activities to remain eligible for the payments. * * * Similarly, these payments are not earned income for Earned Income Credit (EIC) purposes.'' Our definition of assistance distinguishes between work subsidies paid to employers and community service and work experience on a similar basis. We believe that payments to participants in work experience and community service are closely associated with traditional welfare benefits and are designed primarily to meet basic needs rather than as compensation for services performed. This view is also reflected in the Conference Report, H. Rep. 105–34, which added the Welfare-to-Work (WtW) program. In discussing the treatment of WtW cash assistance for time-limit purposes, it indicates that wage subsidies are indirect cash assistance. (See discussion in the preamble for § 286.130).

Nonrecurring, Short-Term Benefits

Comment: We received comments asking that short-term, episodic assistance for families in discrete circumstances and encompassing nonrecurring, short-term payments that could occur more than once in a 12 month period be excluded from the definition of assistance. Concerns were raised about the negative impact on innovation by TANF agencies unless the exclusion were expanded.

Response: In part, the narrower language in the proposed rule reflected our determination that it would not be appropriate to exempt families that received a substantial amount of assistance, assistance over a significant amount of time, or assistance provided on a recurring basis from work requirements and time limits. At the same time, we did not intend our definition to undermine State and Tribal efforts to divert families from the welfare rolls by providing short-term relief that could resolve discrete family problems. Based on comments received on the proposed rule as well as other sources of information, we realize that diversion activities are an important part of State and Tribal strategies to reduce dependency and encourage self-sufficiency. Restrictive Federal rules in this area could inadvertently stifle the ability of States and Tribes to respond effectively to discrete family problems. We also understand that subjecting families in diversion programs to all the TANF administrative and programmatic requirements would not represent an effective use of limited TANF resources.

Thus, the Final Rules include a revised definition that excludes more than one payment a year, so long as such payments provide only short-term relief to families, are meant to address a discrete crisis situation rather than to meet ongoing or recurrent needs, and will not provide for needs extending beyond four months. The revised definition uses the term ''nonrecurring'' rather than ''one-time'' because the former term is more consistent with the intended policy. A family may receive such benefits more than once. However, the expectation at the time such benefits are granted is that the situation will not occur again, and such benefits are not to be provided on a regular basis. We believe the revised exclusion is limited enough in nature and scope not to undermine the statutory provisions of the TANF program, while giving Tribes the flexibility to design effective diversion strategies.

The definition also excludes supports provided to individuals participating in applicant job search. Applicant job search is a common form of diversion that clearly fits within the goals of TANF and within this exclusion's view of a ''short-term'' benefit.

Similarly, the definition excludes supports for families that were recently employed, during periods of temporary unemployment, in order to enable them to maintain continuity in their service arrangements. Unnecessary disruptions in these arrangements could negatively affect the family's ability to re-enter the labor force quickly and, in the case of child care, could negatively affect the children in the family.

The four-month limitation reflects our belief that we could not maintain the integrity of the short-term exclusion without providing some regulatory framework. As written, the four-month limitation does not restrict the amount of accrued debts or liabilities (such as overdue rent) that a Tribe may cover or impose a specific monetary limit on the amount of benefits that the Tribe may provide. The exclusion at § 286.10(b)(1) is more flexible with respect to past debts or liabilities; it merely limits the extent to which payments for future needs can be excluded from the definition of assistance. The limitation reflects the period of time for which future needs can be addressed by a single ''nonrecurrent, short-term'' benefit. It is not appropriate for Tribes merely to condense the time period over which they pay assistance to needy families so they can categorize the benefits as ''nonassistance'' and avoid TANF requirements. Also, if a family's emergency is not resolvable within a reasonably short period of time, the Tribe should not keep the case in emergency status, but should convert it to a TANF assistance case.

At the same time, if a family receives aid in one month that falls under the nonrecurring, short-term exclusion, but suffers a major setback later in the year and develops a need for ongoing assistance, we do not want to require the Tribe to redefine the month of initial aid as assistance and retroactively subject the family to TANF requirements.

We note that diverting individuals from programs where they have an entitlement to benefits or to prompt

action on a request for assistance could represent a violation of rules in the other programs. Because of the tremendous importance of food stamps and Medicaid as supports for working families, we strongly encourage Tribes to maintain critical linkages with States with regard to these programs because accessing these other program benefits could further the goals of TANF. Please refer to 64 FR 17760 for a full discussion of State responsibilities under the Food Stamp and Medicaid programs.

Transitional services

To the extent that Tribes provide supports for working families, such as child care and transportation or work subsidies, or work-related services such as counseling, coaching, referrals, and job retention and advancement services under their transitional services programs, we exclude those services from the definition of assistance. In addition, short-term benefits such as cash assistance to stabilize a housing situation are excluded as ''nonrecurring, short-term'' assistance.

Tribes wanting to provide ongoing transitional payments that meet the definition of assistance to former recipients have two options. They may fund those programs under TANF as assistance, but use different need standards than they do for other forms of TANF assistance, or Tribes may fund ongoing transitional benefits with non-Federal Tribal funds.

Section 286.15 (§ 286.10 in the NPRM) Who Is Eligible To Operate a Tribal TANF Program?

This section of the Final Rule specifies which Indian tribes are eligible to submit Tribal Family Assistance Plans (TFAPs).

In general, any federally-recognized Indian tribe is eligible to submit a Tribal Family Assistance Plan. However, with respect to the State of Alaska, only the 12 Alaska Native regional nonprofit corporations specified at section 419 of the Act, plus the Metlakatla Indian Community of the Annette Islands Reserve may submit a TFAP.

In addition, a consortium of eligible Indian tribes may develop and submit a single TFAP.

Subpart B—Tribal TANF Funding (§§ 286.20–286.60)

Section 286.20 (§ 286.15 in the NPRM) How Is the Amount of a Tribal Family Assistance Grant (TFAG) Determined?, and

Section 286.25 (§ 286.20 in the NPRM) How Will We Resolve Disagreements Over the State-submitted Data Used to Determine the Amount of a Tribal Family Assistance Grant?

We have combined the discussions for these two sections of the Final Rule because they are interrelated. These sections of the Final Rule discuss how the amount of a Tribal Family Assistance Grant (TFAG) will be determined and the actions we believe will be necessary to resolve disagreements over the data received from a State.

PRWORA requires the Secretary to pay TFAGs to federally-recognized Indian tribes with approved 3-year Tribal Family Assistance Plans. To determine the amount of a TFAG, we must use data submitted by the State or States in which the Indian tribe is located. Section 412(a)(1)(B) specifies the data that we will use. The statute provides that, for each fiscal year 1997–2002, an Indian tribe that has an approved Tribal Family Assistance Plan will receive an amount equal to the Federal share (including administrative expenditures, which would include systems costs) of all expenditures (other than child care expenditures) by the State or States under the AFDC and Emergency Assistance (title IV–A) programs, and the JOBS (title IV–F) program for fiscal year (FY) 1994 for Indian families residing in the service area(s) identified in the Tribal Family Assistance Plan. For Tribes that operated a Tribal JOBS Program in FY 1994, the State title IV–F expenditures (including administrative costs) used in the calculation of the TFAG would be for expenditures made by the State on behalf of non-member Indians and non-Indians, if either or both are included in the Tribal TANF population and are living in the designated Tribal TANF service area(s). Any expenditures by the State for Tribal members who were served by the State JOBS program will also be included in the determination.

Section 412(a)(1)(B)(ii)(II) of the statute allows Tribes the opportunity to disagree with State-submitted data and to submit additional information relevant to our determination of the TFAG amount. We believe Tribes should have an opportunity to submit relevant information in instances in which the State has failed to submit requested data on a timely basis. However, we believe the lack of State-submitted data will be a very rare occurrence.

We will request State data based on the Tribe's identified service area and population, which may include areas outside the reservation and non-Indian families. We will allow States 30 days from the date of our request to submit the requested data before notifying the affected Tribe of its option under section 412(a)(1)(B)(ii)(II) of PRWORA to submit its own data. This time frame should allow States adequate time to gather and submit the data. However, in order for us to notify the State of any reduction in its grant not later than three months before payment of any quarterly installment, as specified by section 405(b), we will use the best available data to determine the amount of the TFAG, if the State has not submitted the specified data at the end of the 30-day period. Our experience to date has shown that we need time to resolve any issues related to determining the amount of a TFAG in order to meet the statutory requirement for notification to the State of the reduction in the amount of their State TANF grant.

We also believe a Tribe should have a reasonable period of time in which to review the State-submitted data and make a determination as to whether or not it concurs with the data. We have determined that a forty-five (45) day period should be sufficient for this activity. Therefore, we will allow a Tribe 45 days from when it receives the State-submitted data from us to notify us of its concurrence or non-concurrence with the data.

Once we receive State data, we will share it with the Tribe. We will also facilitate any meeting or discussions between the Tribe and the State to answer any questions the Tribe has about the submitted data. Any meetings or discussions to answer the Tribe's questions about the data need to be held within the 45-day period for Tribal concurrence. We believe it is in the best interests of both the Tribe and the State to reach a consensus on the State data. However, if the Tribe finds it cannot concur with the State data and has notified us to this effect, we will provide the Tribe an additional 45 days to submit additional relevant information. It will then be our responsibility under section 412(a)(1)(B)(ii)(II) to make the final determination as to the amount of the TFAG after review of the information submitted by the Tribe.

In instances in which the State has not submitted the requested data within

the time period given, we will notify the Tribe. We will give the Tribe 45 days from the date of our notification to submit relevant data. This 45-day time frame is the same time frame we have established for Tribes to submit information if they disagree with State-submitted data. In the absence of State-submitted data, we propose to use relevant Tribe-submitted data to determine the amount of the TFAG.

If a Tribe disagrees with the data submitted by the State, we will use the State-submitted data and any additional relevant information submitted by the Tribe to determine the amount of the TFAG. Relevant Tribal data may include, but are not limited to, Census Bureau data, data from the Bureau of Indian Affairs, data from other Federal programs, and tribal records.

Once the amount of the TFAG is officially determined, we will notify both the Tribe and the State of the Secretary's decision. Our goal will be to resolve any data issues at least two weeks prior to when we are required to notify the State. We will make official notification of the amount of the State Family Assistance Grant reduction to the appropriate State(s) no later than 90 days before the payment of the State's next quarterly SFAG installment.

Comments: Tribal commenters raised the issue of the sufficiency of fiscal year 1994 figures to determine the amount of the TFAG.

Response: ACF recognizes that the statutory TFAG funding formula fails to account for the State portion of funds expended for Indian families in fiscal year 1994. Without agreements with States to provide State matching funds, Tribes must absorb this funding gap. While ACF is committed to facilitating Tribes and States agreements on the provision of State matching funds, under the current statute, the amount of the TFAG is limited by the statutory formula specified at section 412(a)(1)(B) of the Act, and this formula does not allow for any adjustment to make up for the missing State portion of funds expended for Indian families in fiscal year 1994.

Comments: Commenters suggested that we clarify that the TFAG amount determined under section 412(a)(1)(B) is an amount equal to the total amount of Federal payments to the State for fiscal year 1994 attributable to expenditures under the former AFDC, JOBS and Emergency Assistance programs for Indian families, and that this amount includes not only expenditures attributable to direct family assistance, but also expenditures for administrative costs.

Response: The statute is clear that the TFAG amount is determined based on total Federal expenditures, and all expenditures for administrative costs must be included in the data that States submit under section 412(a)(1)(B)(ii)(I).

Comments: We received several comments calling for us to clarify that determination of the TFAG is not based upon the Tribe's definition of service population.

Response: We agree that, under the law, there is no nexus between a Tribe's definition of its service population and the formula under which the TFAG is determined. The TFAG funding formula must take into account ALL Indian families residing in the geographic service area or areas defined by the Tribe, but there is no requirement that the Indian families residing in a Tribe's geographic service area coincide with the Tribe's service population. Section 412(b)(1)(C) of the Act makes a clear distinction between a Tribe's service population and its service area or areas. The statute bases TFAG funding levels on ALL Indian families residing in the geographic service area determined by the Tribe. The statute leaves it to the Tribe to determine its service population and this service population may, but does not have to, include all Indian families residing in the Tribe's service area.

Comments: Several commenters suggested that we define the term ''Indian Family'' for the limited purpose of determining the amount of the TFAG. One commenter argued that a definition of Indian Family was critical in determining the amount of the TFAG. This commenter suggested that when we request the necessary data from the state to determine the TFAG, we should include in our letter to the state the definition of the Indian Family being proposed by the Tribe.

Response: In drafting the proposed rule, we chose not to define ''Indian family'' or ''service population.'' ACF will not define the term ''Indian family'' in recognition of the fact that like any sovereign government, Tribes determine their own membership criteria. Each Tribe administering its own Tribal TANF program is permitted by the statute to define its service population. As we noted in the preamble, in order to provide maximum flexibility to the Tribe, each Tribe may define its service population and it has the option of including only a portion of the tribal enrollment, only tribal members, all Indians, or even non-Indians residing in the service area. It will be up to each Tribe submitting a TANF plan to define the population that the plan will serve.

We continue to believe that excessive definitions may in fact unduly and unintentionally limit tribal flexibility in designing programs that best meet their service population needs. We are not persuaded that defining the term Indian family is critical to determination of the TFAG.

However, because States need to know what data to submit under section 412(a)(1)(B)(ii)(I), we will require a Tribe to declare its definition of ''Indian family'' in its Tribal Family Assistance Plan. We therefore adopt the suggestion that, when we request the necessary data from the state to determine the TFAG, we include in our letter the definition of Indian family and a description of the proposed service area proposed by the Tribe (§ 286.20). We believe this information will aid the State in determining the amount equal to the Federal expenditures (other than child care expenditures) spent by the State or States under the AFDC and Emergency Assistance Programs (including administrative costs), and the JOBS programs for fiscal year 1994 for Indian families residing in the service area(s) identified in the TFAP.

Comments: A significant number of commenters requested that we extend the time frames for State submission of expenditure data used to determine the TFAG amount, and the time frame for the Tribe to notify us of either their concurrence or non-concurrence with the State expenditure data. All commenters were unanimous in their view that the proposed time frames of 21 days for the state to respond to our data request and the amount of time provided to the Tribe to determine whether or not it concurs with the state data were insufficient. All commenters recommended the proposed time frames of 21 days be extended. Some commenters recommended the time frames be extended to 30 days, while others recommended the time frames be extended to anywhere from 45 days to 90 days.

Response: We have determined that it would be helpful to allow the State to take up to 30 days from the date of our letter to submit its data, 45 days for the Tribe to concur or nonconcur, and 45 days for the Tribe to submit alternative data, prior to our making a determination of the TFAG amount. Our experience to date has shown that this will allow sufficient time for the State to gather the expenditure data, and sufficient time for the Tribe to either concur or not concur with the State expenditure data.

Comment: One commenter suggested that States be given the opportunity to review and rebut data submitted by

Tribes under section 412(a)(1)(B)(ii)(II) of the Act. Section 412(a)(1)(B)(ii)(II) specifies that if Tribes disagree with data States are required to submit under section 412(a)(1)(B)(ii)(I) in order to determine the TFAG, Tribes may submit to the Secretary such additional information as may be relevant to making the determination and the Secretary may consider such information before making such determination.

Response: We agree with tribal commenters that the statute contemplates only that States submit the data described in section 412(a)(1)(B)(i) of the Act. The law requires States to submit data indicating the total amount of the Federal payments to a State or States * * * attributable to expenditures by the State or States under parts A and F (as so in effect) for fiscal year 1994 for Indian families residing in the service area or areas identified by the Indian tribe. The statute clearly indicates the parameters for State-submitted data. Once States submit the data described in section 412(a)(1)(B)(i) of the Act, only Tribes are afforded the opportunity to rebut or supplement such data by submitting additional information as may be relevant to the Secretary. Where there are inconsistencies in the data, follow-up discussions with the Tribe and the State will ensue.

Comments: Regarding the final regulation at § 286.25(a)(2), several comments were received proposing that we require a Tribe's agreement before the TFAG amount is determined.

Response: We have considered this and decided not to adopt this proposal. We have determined that the law does not envision conditioning determination of the TFAG amount on a Tribe's agreement. The statute specifies the data upon which the Secretary must determine the TFAG amount and provides for Tribes to submit additional relevant data in the event of disagreement with such data. The proposed scheme would frustrate clear Congressional intent as to how the TFAG is to be determined.

Section 286.30 (286.25 in the NPRM) What Is the Process for Retrocession of a Tribal Family Assistance Grant?

As defined at § 286.5, retrocession is a voluntary termination of a Tribal TANF program. Section 412 of the Act does not include a provision for retrocession. However, we recognize that Tribes voluntarily implement a TANF program for their needy families and should, therefore, be afforded the opportunity to withdraw their agreement to operate the program. For example, a Tribe may lose a State's commitment to provide State funds for Tribal TANF, which could significantly impact the Tribe's financial ability to operate the program. Based on overwhelming support and comments by both Tribes and States, we determined the necessity of a retrocession provision in these regulations.

In providing a retrocession provision in the regulations, we developed a time frame which we believed ensured that: (1) There would be minimal disruption of services to families in need of assistance; (2) a Tribe made an informed decision in determining whether or not to cease operating the Tribal TANF program; and (3) a State was provided adequate notice to ensure continuity of program services.

A Tribe that retrocedes a Tribal TANF program is responsible for complying with the data collection and reporting requirements and all other program requirements for the period before the retrocession is effective. In addition, the Tribe is liable for any applicable penalties (see subpart D); and it is subject to the provisions of 45 CFR part 92 and OMB Circulars A–87 and A–133, and other Federal statutes and regulations applicable to the TANF program. The Tribe also will be responsible for any penalties resulting from audits covering the period up to the effective date of retrocession. Please refer to § 286.195 for the discussion on penalties.

Overview of Comments

We received substantial comments regarding the proposed retrocession process. Most of these comments came from Tribes, but we also received a number of comments from States, advocacy groups, and other community organizations. All commenters agreed that a Tribe should be allowed to relinquish the program, but most questioned both the time frame for notification as well as the time frame for retrocession itself.

To deal with the large number of comments on this issue, we decided to cluster the comments into the following general categories: (1) When a Tribe should be allowed to relinquish the program; (2) how much advance notice is adequate; (3) conditions for return of a program to a Tribe who has retroceded its grant; and (4) other concerns.

Timing for Relinquishment

Comment: The draft regulation required that the effective date of a retrocession coincide with the end of the grant period. Virtually all commenters took exception to this limitation, noting that a Tribe should be allowed to relinquish the program (upon adequate notice) at any point in the year. These commenters argued that Tribes unable to adequately administer a program should be permitted to retrocede as soon as the state is able to begin providing services to the Tribal TANF service population. To require a Tribe to keep operating a program after the proposed effective date of the retrocession could result in a program diminished by a lack of resources or staff, an increased chance of tribal penalties, and the possibility of negative fiscal impacts occurring to other programs operated by the Tribe as the results of the Tribe's effort to meet the programmatic responsibilities under its tribal TANF plan.

Response: Regarding retrocession, we acknowledge that our proposal may not have been adequately responsive to the needs of Tribes operating a Tribal TANF program or to the families receiving services under the TANF program. However, that language was proposed because we believe that with approval of a plan to operate a Tribal TANF program comes both the Tribe's commitment and its responsibility to utilize funds specifically awarded under the TFAG to provide the approved services to its identified service population throughout the duration of the plan.

We agree with the commenters that Tribal TANF grantees should be given the opportunity to retrocede more than one day per year. It was never our intent to place tribal programs in the position of continuing operations beyond a reasonable time frame from when they sought to terminate Tribal TANF operations. Therefore, we have included specific language in the regulatory text which permits a Tribe to retrocede at any time, with the effective date of the retrocession the last day of any month, as mutually agreed upon by ACF, the Tribe, and the affected State.

Adequate Advance Notice

Comments: There were no consistent comments in this area. Although most Tribes and States agreed with the proposed 120-day time frame for notification, several Tribes commented that a time frame of 60 or 90 days was more than adequate for a state, in order to assure that a program failing to provide services would not be forced into a situation it could not handle. On the other hand, one state voiced concern that it would need a minimum of 180 days advance notice in order to develop the necessary infrastructure for service delivery and to minimize disruption of services.

Response: Since States are currently operating TANF programs, and since many States are already coordinating with Tribes, we believe that 120 days formal advance notice will give the State ample time to begin to implement services to those individuals previously served by the Tribal TANF program. However, in order to be responsive to unforeseen emergency circumstances which may require a more expeditious retrocession of a Tribal TANF program back to the state, the revised regulation will provide for an emergency waiver from the 120-day notice, upon mutual agreement by the Tribe and the affected State.

Comments: In many cases commenters recommended that the Tribe provide simultaneous notice to ACF and the state of its intent to terminate operation of the TANF program, thereby enabling the Tribe and state to begin discussions early, rather than waiting for ACF to formally notify the state of the Tribe's intent.

Response: In the writing of this section of the regulation we never intended to function as the intermediary between the Tribe and the State. Rather, our expectation has always been that the Tribe and State will work together to ensure that the families served under the Tribal TANF plan receive the necessary services. We believe it may be reasonably implied from section 405(b) of the Act that it is our responsibility to notify a State at least 90 days prior to the effective date of a Tribe's retrocession of the TANF program. However, we see no reason why the state, which will be responsible for taking over provision of TANF services to persons formerly served by the tribal program, should have less notice than ACF. We have revised the language in the final regulation to indicate that the Tribe should simultaneously notify ACF and the state of its intent to retrocede the TANF program.

Conditions for Return of a Program to a Tribe Who Had Retroceded its Grant

Comments: The draft regulations delineated two conditions for return of a TANF program to a Tribe that had previously retroceded. These conditions are that ''the reasons for the retrocession are no longer applicable, and all outstanding funds and penalty amounts [are] repaid.'' Several commenters expressed their views that these conditions were unfair and exceeded the Secretary's authority under the statute.

Response: Section 412(e) of the Act grants the Secretary broad authority to ''maintain program funding accountability.'' It is a reasonable exercise of that authority to take into account the circumstances of a Tribe's previous retrocession when considering the approval of a subsequent Tribal TANF plan. We have rewritten the regulation to emphasize that § 286.30(e) (previously § 286.25(d)) is intended to implement the Secretary's fiscal oversight authority.

Comment: Several commenters referred to a retroceded Tribe's motivation for deciding to ''renew'' its TANF program operation, as distinguished from a ''continuing program context.'' They pointed out that an unauthorized penalty would be imposed on a Tribe in this ''renewal context,'' and that there is no regulatory authority to deny a Tribe the right to operate a program.

Response: If a Tribe submits a TFAP subsequent to its retrocession of its TANF program back to the State, it is inaccurate to characterize this as a ''renewal.'' Rather, it is an application to operate a TANF program by an entity that was not able to complete its approved three-year TANF program. If a Tribe retrocedes its TANF program to the State, there are significant administrative, financial, and technical issues that must be addressed in transferring the Tribal TANF caseload to the State TANF program. It is an appropriate exercise of the Secretary's authority to ''maintain program funding accountability'' to require that a Tribe demonstrate that the circumstances that led to retrocession are no longer present. However, the Secretary may consider the extent to which the Tribe has control over such circumstances and those circumstances are related to fiscal accountability.

It is inaccurate to characterize § 286.25(d) as presented in the proposed rule as a ''penalty.'' It is not. Rather, it is a reasonable inquiry that only arises when triggered by a particular objective fact: Namely, tribal retrocession. Tribes that retrocede are not ''penalized''; they are merely required to rebut the presumption that they cannot complete a three-year TANF plan which is based on the fact that the Tribe retroceded a previously approved three-year TANF plan. If the ''reason'' for retrocession is beyond the control of the Tribe, or is not reasonably related to fiscal accountability, then the fact that a Tribe retroceded is irrelevant to its subsequent application to operate a TANF program.

Other Concerns

Comments: One Tribe commented that rather than return all unobligated funds to the Federal government, Tribes who retrocede a program should be allowed to retain a pro-rated amount of funds based on the amount of time they operated the TANF program. These funds could be used in a variety of other welfare-related programs that the Tribe is involved with.

Response: Tribal TANF funds are awarded to provide specific welfare-related services and assistance under the Tribal TANF program, as specified in §§ 286.35–286.45. Tribes who are no longer operating a TANF program have no authority to expend Tribal TANF funds beyond those that were obligated for the purposes of the TANF program prior to the effective date of the retrocession. Upon retrocession, they are therefore unable to retain any funds other than those which were previously obligated.

Comments: Several states requested that the regulations devote more attention to the potential problems that a state may encounter after a retrocession. One state indicated that if a Tribe runs out of funds before it retrocedes the program, the state may not have sufficient funds to absorb the returning caseload. They requested that adequate federal funds be made available until state appropriations could be provided by the state legislature. Similarly, one state organization requested guidance on how states and Tribes should proceed if the tribal grant is exhausted before the end of the fiscal year.

Response: If a Tribe is making expenditures for purposes which are reasonably calculated to accomplish the purpose of the statute, such expenditures are within the authority of the Tribe to determine. If a Tribe expends all of its TANF grant before it retrocedes the program and such expenditures are not otherwise improper, there is no general authority under which the federal government may augment State TANF funds to absorb any returning caseload subsequent to retrocession.

We take seriously the concerns raised about potential problems that a State may encounter subsequent to retrocession. In fact, this is a major reason why we would permit retrocession during a grant period only upon agreement of the state. In the current environment we should not presume that this situation would create a financial hardship for the State. Some states have surplus funds because of caseload reductions. In addition, states have access to some supplemental funding sources that are not accessible to the Tribes—including the Bonus to Reward Decrease in Illegitimacy Ratio (section 403(a)(2)), Supplemental Grant for Population Increases (section 403(a)(3)), the High Performance Bonus

(section 403(a)(4)), and the Contingency Fund (section 403(b)).

In order for welfare reform to work in Indian country, it is important for State and Tribal governments to work together. To avoid some of the potential problems that may arise subsequent to retrocession, we encourage States to plan for such contingencies as well as to work with tribal partners to minimize its occurrence.

It is the responsibility of the Tribe to carefully manage funds in order to minimize potential problems in this area. The federal government has the authority to monitor TANF expenditures on the mandated quarterly reports to ensure the Tribe is maintaining a viable TANF program and we will provide technical assistance to the extent necessary to prevent retrocession where that is possible.

Comment: One state objected that unobligated funds would be returned by the Tribe to the federal government rather than the State, indicating that the regulation was unclear as to whether these funds would be returned to the States' SFAG account for drawdown availability. The return of funds would promote service continuity and ease financial constraints that may be brought about as a result of the retrocession.

Response: We have clarified the regulation to specify that the SFAG will be increased by the amount of the TFAG available for the subsequent quarterly installment.

Comments: Several states indicated that the regulations should incorporate ongoing budgetary oversight of the tribal programs and provide HHS with the ability to intervene if a tribal program is losing financial viability. They requested that the regulations be amended to include criteria and a process for a federal decision to terminate a tribal program if tribal members are not able to gain access to the services specified in the TFAP as well as provisions for early notification to the state of possible financial problems with a Tribal TANF program, and for early notification to clients and other involved parties prior to retrocession.

Response: The United States has a unique legal relationship with Indian tribal governments. The federal government has guaranteed the right of Indian tribes to self-government, and the Tribes exercise sovereign powers over their members and territory. Just as states, Tribes must be provided the opportunity to develop and administer their own TANF programs within the confines of the statue and regulations. Adequate budgetary oversight is provided through the mandated submission of the quarterly reports.

Comments: Several states appealed for a ''grace period'' in meeting work participation requirements when there is a retrocession, and that they should be able to increase the percentage that can be exempted from time limits if adversely affected by a retrocession.

Response: The statute does not provide for a grace period, nor can we revise state TANF requirements in the Tribal TANF regulation. However, Regional Offices are available to provide technical assistance if a State is having difficulty incorporating former Tribal TANF recipients into the State program.

Comment: One state requested that the draft regulations be amended to include provisions allowing for ''partial retrocession,'' such as when a consortium member drops out, or a Tribe changes its service area or service population in a way which changes the amount of the allocation.

Response: We have considered the suggestion and determined that § 286.30 of these rules adequately accommodate these situations.

Section 286.35 (Section 286.30 in the NPRM) What are Proper Uses of Tribal Family Assistance Grant Funds?

Section 412 of the Act does not specify the particular purposes for which a TFAG may be used. However, under these Final Rules any such use must be consistent with section 401(a) of the Act. We believe the Tribes should have the same flexibility as the States in their use of TANF funds. Therefore, we indicate at § 286.35 that the Tribal TANF grantees will be able to use their TFAGs for the same purposes as States may use their TANF funds as specified in section 404(a) of the Act.

Thus, a Tribe may use its TFAG in any reasonable manner to accomplish the purposes of part A of title IV of the Act. This may include the provision of low-income households with assistance in meeting home heating and cooling costs. In addition, we believe that Tribes should be able to use their TFAGs in any manner that was an authorized use of funds under the AFDC and JOBS programs, as those programs were in effect on September 30, 1995.

In determining whether a welfare-related service or activity may be funded with its TFAG, a Tribe should refer to the purposes of TANF, as described in section 401 of the Act, as well as to section 404(a). Tribes should be aware that TANF funds may be used for activities reasonably calculated to accomplish the purposes of part IV–A of the Act. As specified in section 401(a), those purposes are: (1) To provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; (2) to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) to prevent and reduce the incidence of out-of-wedlock pregnancies; and (4) to encourage the formation and maintenance of two-parent families. TANF funds are not authorized to be used to contribute to or otherwise support non-TANF programs. Use of TANF funds to support non-TANF programs or other unauthorized purpose shall give rise to penalties under section 409(a)(1) of the Act (made applicable to Tribes by section 412(g).

Comments: Several commenters raised concerns with perceived restrictions on the use of TFAG funds for economic development and job creation activities.

Response: We will consider expenditures for economic development and job creation activities, and for supportive services to assist needy families to prepare for, obtain and retain employment to be permissible uses of TANF grant funds and will revise the regulatory language accordingly.

Comment: One commenter suggested that the language of § 286.30(a)(1) in the proposed rule be amended with the insertion of the words ''but not limited to'' after the word ''including'' on line 2 to clarify the fact that ''reasonably related purposes'' is not limited to home heating and cooling.

Response: The suggestion is appropriate, and we amended the language of § 286.35(a)(1) to insure clarity.

Comment: Regarding the proposed regulation at § 286.30(b), one commenter observed that in the proposed rule we had reserved this subsection, and presumed that we had intended to use it to define an appeals process when there was disagreement with the Secretary's determination of the TFAG amount. The commenter further suggested that § 286.30(b) specify that the appeals procedures found in 25 CFR part 900, subpart L, apply where the Tribe disagrees with the Secretary's determination of the TFAG amount.

Response: The commenter's presumption was incorrect on two counts. First, it is standard regulatory practice in order to preserve the future structural integrity of the provision to reserve a subsequent subsection when only one element in a sequence is used. Secondly, the appeals procedures found in 25 CFR part 900, subpart L, do not apply to the TANF program. The appeals procedures found in 25 CFR

part 900, subpart L, apply only to contracts by the Department of Health and Human Services (DHHS) and the Department of the Interior (DOI) in implementing title I of the Indian Self-Determination and Education Assistance Act or to programs administered by the DHHS or DOI for the benefit of Indians. The Department has determined that the TANF program is not contractible under the Indian Self-Determination and Education Assistance Act, nor is it a program administered by DHHS for the benefit of Indians. The TANF program is not one under which the federal government provides benefits or services directly to Indian tribes nor is TANF a program designed to benefit Indians based on their status as Indians, but rather it is a program designed to provide time limited assistance to needy families.

Section 286.40 May a Tribe Use the Tribal Family Assistance Grant To Fund IDAs ? (New Section)

Comment: Comments were raised about the extent to which the Individual Development Account (IDA) provision at section 404(h) of the Act was an optional program that Tribes could choose to implement.

Response: We addressed in the Preamble discussion at § 286.10 the question of the extent to which contributions to or distributions from IDAs were excluded from the definition of assistance. Here, we discuss the extent to which such contributions are allowable Tribal TANF expenditures. Section 404(h) of the Act expressly gives States the option to fund IDAs with TANF funds for individuals who are eligible for TANF assistance. The statute is silent with regard to whether Tribes have the same option to fund IDAs with TANF funds for individuals who are eligible for Tribal TANF assistance. However, in the subsequently enacted Assets for Independence Act (Pub. L. 105–285, or AFIA), there is strong evidence that Congress intended Tribes to have the same option to fund IDAs with TANF funds as is expressly provided to States. For example, section 412 of AFIA requires each qualified entity (including tribal governments) to prepare an annual report on the progress of the demonstration project including information on ''the number and characteristics of individuals making a deposit into an individual development account, the amounts withdrawn from the individual development accounts and the purposes for which such amounts were withdrawn, and the balances remaining in the individual development accounts.'' This legislative requirement would not make sense unless Congress intended to authorize Tribes as well as States to fund IDAs with TANF funds. It is not necessary for a Tribal government to have applied for AFIA funding in order for a Tribal TANF program to fund IDAs with TANF funds. Rather, it is the authorization at section 404(7) of AFIA which indicates that Congress intended to permit Tribal TANF programs to fund IDAs on the same basis as State TANF programs may fund IDAs.

The IDA provision in the Act creates an optional program which is subject to specific statutory requirements. IDAs are similar to savings accounts and enable recipients to save earned income for certain specified, significant items. IDAs are subject to special statutory restrictions on TANF recipient deposits, who can match recipient contributions, and how recipients may spend IDA funds.

Funds in an IDA account do not affect a recipient's eligibility for TANF assistance. Withdrawals from the IDA must be paid directly to a college or university, a bank, savings and loan institution, an individual selling a home, or a special account (if the recipient is starting a business). Section 404(h)(2)(D) authorizes the Secretary to establish regulations to ensure that individuals do not withdraw funds held in an IDA except for one or more of the qualified purposes. Post secondary education expenses, first home purchase, and business capitalization specifically are allowed qualified withdrawals. With this in mind, we did not feel it was necessary to be overly prescriptive in mandating how Tribes would ensure that individuals do not make unauthorized withdrawals from IDA accounts. We have given States and Tribes broad flexibility to establish procedures that ensure that only qualified withdrawals are made.

Section 286.45 (Section 286.35 in the NPRM) What Uses of Tribal Family Assistance Grant Funds Are Improper?

Just as section 412 of the Act does not specify the particular purposes for which Tribal Family Assistance Grant funds may be used, it does not specify any prohibitions or restrictions on the use of TFAG funds in a Tribal TANF program. However, we believe it is important to indicate in this Final Rule what would not be a proper use of a TFAG. TFAG funds must be used for the operation and administration of the TANF program. Tribal TFAG funds may not be used to contribute to or to subsidize non-TANF programs. Any use of TFAG funds to contribute to or otherwise support non-TANF programs will be considered an improper use of TANF funds and subject to penalties under § 286.195.

TFAG funds must be used to provide assistance to families and individuals that meet the eligibility criteria contained in the TFAP. We have revised the language in the final rule to clarify that funds must be used only for families or individuals meeting the Tribe's eligibility criteria. In addition, we propose that a TFAG may be used to provide assistance for no more than the number of months specified in a Tribe's approved TFAP.

OMB Circular A–87 includes restrictions and prohibitions that limit the use of a TFAG. In addition, all provisions in 45 CFR part 92 and OMB Circular A–133 apply to the Tribal TANF program. TANF is not one of the Block Grant programs exempt from the requirement of part 92 because OMB has determined that TANF should be subject to part 92.

Non-Citizens

Title IV of PRWORA establishes restrictions on the use of TANF funds to provide assistance to certain individuals who are not citizens of the United States. These restrictions are part of the definition of eligible family at § 286.5. Individuals who do not meet the criteria at § 286.5 may not receive TANF assistance paid with Tribal Family Assistance Grant funds.

Construction and Purchase of Facilities

The Comptroller General of the United States has prohibited the use of Federal funds for the construction or purchase of facilities or buildings unless there is explicit statutory authority permitting such use. Since the statute is silent on this, a Tribe may not use its TFAG for construction or for the purchase of facilities or buildings.

Program Income

We have received inquiries as to whether TANF funds may be used to generate program income. An example of program income is the income a Tribe earns if it sells a product (e.g., a software program) developed, in whole or mostly with TANF funds.

Tribes may generate program income to defray costs of the program. Under 45 CFR 92.25, there are several options for how this program income may be treated. To give Tribes flexibility in the use of TFAGs, we are proposing to permit Tribes to add to their Tribal Family Assistance Grant program income that has been earned by the Tribe. Tribes must use such program income for the purposes of the TANF program and for allowable TANF services, activities and assistance. We

will not require Tribes to report on the amount of program income earned, but they must keep on file financial records on program income earned and the purposes for which it is used in the event of an audit or review.

Comment: One comment relating to § 286.35(f) as proposed in the NPRM suggests that the proposed rule requiring that, ''Tribes must use program income generated by the Tribal Family Assistance Grant for administrative costs during the grant period'' needs to be clarified or deleted.

Response: There is no language or proposed rule in this section that requires that a Tribe use program income for administrative costs.

Comment: One comment relating to § 286.35(f) as proposed in the NPRM questions the statutory authority for this subsection, which requires that, ''Tribes must use program income generated by the Tribal Family Assistance Grant for the purposes of the TANF program and for allowable TANF services, activities, and assistance,'' and suggests that this provision be clarified or deleted.

Response: The authority for this requirement is found in 45 CFR Part 92.25(g)(2), which governs the use of program income for Federal grants and cooperative agreements and subawards to State, local and Indian tribal governments.

Use of Funds

Comment: A commenter suggests that § 286.35(a)(3) as proposed in the NPRM should be amended by including qualified aliens in the language, to clarify that TFAG fund cannot be used to provide services to individuals who are not qualified aliens and who do not meet the definition of eligible families.

Response: The suggested amendment is in order, and we have incorporated it in the regulatory text at § 286.45(a)(3). However, for Tribes that receive State funds (which the State can count for MOE purposes) and those funds are not commingled with Federal TANF funds, a Tribe may use these funds to provide a State or local public benefit as defined in PRWORA title IV, section 411(c) to members of eligible families as defined in § 263.2(b) of the TANF Final Rule applicable to State TANF programs. (64 FR 17894, April 12, 1999) A State or local public benefit may be provided to qualified aliens and some non-qualified aliens (non-immigrants under the Immigration and Nationality Act or aliens paroled into this country under section 212(d)(5) of such Act for less than one year). State or local public benefits may also be provided to illegal aliens if the State enacts a law after August 22, 1996 that affirmatively provides that illegal aliens are eligible to receive all or particular State or local public benefits (per 411(d) of PRWORA).

If the benefit is not a State or local public benefit or if the Federal or State or local public benefit is a non-cash benefit that is included on the Attorney General's Notice dated August 23, 1996 as necessary for the protection of life or safety, then the Tribe may help the alien family members—qualified and non-qualified. (See discussion in the preamble to the State TANF Final Rule (64 FR 17817–819, April 12, 1999).

Comment: With reference to § 286.35(b) as proposed, a commenter suggests that the * * * (p)rohibition on using TANF funds to contribute to or subsidize non-TANF programs is overly restrictive.''

Response: We disagree with the suggestion that the prohibition is overly restrictive. TANF funds may only be expended to further the purposes and goals for which the TANF program was created. The authority for this prohibition is clearly established in 45 CFR 92.25(g)(2).

Section 286.50 (Section 286.40 in the NPRM) Is There a Limit on the Percentage of a Tribal Family Assistance Grant That Can Be Used for Administrative Costs?

Under section 404(b) of the Act no more than 15 percent of a State's SFAG may be spent on administrative expenditures. Expenditures by a State for information technology and computerization needed for tracking or monitoring cases covered by the TANF program are excluded from the 15 percent limit. Because section 404(b) is not applicable to Tribal TANF programs, we asked in our discussions with Tribes and States, what limit, if any, should be placed on administrative expenditures under the Tribal TANF program. Many respondents indicated that a limit on administrative expenditures should not be applied to Tribal TANF programs. Other respondents indicated that Tribes do not have the same level of experience in operating this kind of welfare program as do States, and, that if a limit had to be set, any limit should be higher than the State TANF limit. Respondents also cited both the additional start-up expenses that Tribes will experience and the new requirements of the TANF program as a reason to set a higher limit for Tribal TANF programs.

In our deliberations on whether to propose a limit on administrative expenditures, we considered various options. One was to follow the statute and be silent on the issue. The second option was to apply the same limit placed on States. The third option was to set a limit that recognizes the special needs of Tribes mentioned above. In whatever option we chose, we felt it necessary to ensure that most of a Tribal TANF grant would be available to carry out the primary objective of the TANF statute.

We understand the reason why many of the respondents said that an administrative expenditure limit should not be placed on Tribal TANF programs. However, not placing a limit could result in depriving needy families of the program benefits Congress intended families to receive. We believe setting a limit on administrative expenditures is more consistent with the purposes of the Act. Placing a limit on administrative expenditures guarantees that the major portion of a Tribal TANF grant goes to assisting needy families.

We have responded to the fact that Tribes do not have the same level of experience operating welfare programs as do the States. In addition, we recognize that Tribes will need to expend a larger portion of their grant funds on administration than States because they cannot take advantage of economies of scale. Therefore, as the discussion below details, we revised this section to provide for a graduated cap over the first three years of operation which will ultimately limit to 25 percent the amount of Tribal TANF funds that a Tribe may use for administrative expenditures during any grant period. Thus, after the first two years of operation each Tribal TANF grantee will be required to expend at least 75 percent of its grant on direct program services (and technology) during the grant period.

Because expenditures for information technology and computerization needed for tracking and monitoring of cases under the TANF program by the States will be excluded from the administrative expenditure limit, these same expenditures by Tribes will also be excluded from the Tribal limit.

Tribes must allocate costs to proper programs. Under the Federal Appropriations Law, grantees must use funds in accordance with the purpose for which they were appropriated. In addition, as stated previously, the grants administration regulations at part 92, and OMB Circular A–87, ''Cost Principles for State, Local, and Indian Tribal Governments'', apply to the TANF program. OMB Circular A–87, in particular, establishes the procedures and rules applicable to the allocation of costs among programs and the allowability of costs under Federal grant programs such as TANF.

Overview of Comments

We received numerous comments regarding the proposed administrative cost provisions. A substantial majority of these comments came from Tribes and tribal organizations, but we also received comments from States, advocacy groups, and other community organizations.

To deal with the number of responses on this issue, we decided to cluster the comments into the following general categories: (1) The imposition of an administrative cost cap, including whether or not there is authority to impose such a cap; (2) the proposed 20 percent administrative cost limitation; (3) the treatment of eligibility determination and verification costs, as well as data entry costs, in the definition; (4) the relationship of indirect costs to administrative costs; and (5) identifying the base to be used to determine the cap (that is, whether the appropriate base for computing the Federal cap includes State matching funds). The first two categories will be dealt with in this section; the remaining three will be addressed in § 286.55.

Imposition of an Administrative Cost Cap

Comments: We received multiple comments questioning whether ACF had statutory authority to impose a cap. Comments from a number of Tribes indicated their belief that the cap goes beyond the authority of Public Law 93–638, the Indian Self-Determination Act. These respondents asked that the entire section be deleted.

Response: There is legal support for imposition of an administrative cap. Although the statute only requires an administrative cost cap for States, Federal law does not preclude the Secretary from establishing a cap for the Tribal TANF program. Both the statute and legislative history make it clear that Congress intended that a substantial majority of TFAG funds be available to provide time-limited program assistance and/or services to needy Indian families. Section 412(b), which specifies Tribal Family Assistance plan requirements, clearly contemplates that the TFAG be used to support the provision of ''assistance'' and ''welfare-related services.''

While we believe in granting Tribes broad flexibility to design their programs and have left key definitions up to the discretion of the Tribes, we believe there is a need for Federal guidance on the definition of ''administrative costs.'' The approach in this rule is a compromise between a Federal and tribal definition. It sets a Federal framework that specifies some items that must be considered ''administrative costs,'' but does not attempt to fully define the term.

We believe this framework is important. First, as the comments we received demonstrate, there is no common view of the meaning of this term. If we left this matter entirely to tribal discretion, we could expect a diversity of approaches, and Tribes might be subject to widely different penalty standards. Also, some Tribes might define the term so narrowly as to substantially undermine the intent of the administrative cost cap provisions. The philosophy underlying the administrative cost cap is clear: in order to protect needy families and children, it is critical that the substantial majority of TANF funds go towards helping needy families.

The Amount of the Administrative Cost Cap

Comments: Almost all respondents requested the flexibility to negotiate a higher administrative cap either over the course of the entire three-year grant or for the initial start-up year(s). There were widespread comments attesting to the fact that although states have operated similar programs in the past and have invested heavily in an infrastructure to support the program, no such opportunity has existed for Tribes. Tribes will initially have extensive administrative costs while they develop the required infrastructure and data systems to manage the program, and some small Tribes may also experience economy of scale problems. Tribes believe that the 20 percent limitation provided for in the NPRM is overly restrictive and unrealistic, and they furthermore maintain that any cap should not have as its basis the state cap.

Response: Although we do not believe that the administrative cap proposed in the draft regulations was either arbitrary or paternalistic, we believe that a negotiated and graduated administrative cost cap would recognize that Indian tribes do not have the same sorts of resources as are available to States and therefore should be allowed to claim more administrative costs, especially in the initial operation and administration of a TANF program. There is no provision for start-up funds in the legislation, which compels Tribes to use funds from their Tribal Family Assistance Grant for that purpose.

It is critical to the establishment and effective and efficient operation of any viable social service program that a solid infrastructure be developed from the beginning. TANF is the first comprehensive social services program that Tribes will operate. Therefore, Tribes with little or no infrastructure will need to create or strengthen their infrastructure in order to ensure a viable operating base for the program. Due to the uniqueness of TANF, even those Tribes with more sophisticated infrastructures will need to enhance and/or make substantial changes in their infrastructures to allow for the changes necessary to operate the TANF program effectively.

In most grant and contract programs Tribes are provided funds for planning, setup costs, contract support funds, and indirect costs to offset the lack of a tax base and other sources of funding to support Tribal programs. PRWORA provides no funding for Tribes to develop the necessary infrastructure to operate a TANF program.

Furthermore, program development and administrative activities (e.g., conference travel, home visits, procurement of goods and services, meetings with state and local TANF staff, etc.) are generally more expensive for Tribes than for state or local governments because of the distance from urban centers for most tribes, as well as the lack of transportation and public services.

Recognizing the unique administrative burdens on Tribes who have never been in the position of operating these programs, and who need to build an infrastructure capable of operating the Tribal TANF program, we have revised this section to allow ACF to negotiate with each Tribal TANF applicant individually for each year of a program's operation, a negotiated administrative cap for the first year not to exceed 35 percent, a negotiated administrative cap for the second year not to exceed 30 percent, and a negotiated administrative cap for all subsequent years of operation (that is, any and all years of program operation after the first two years) not to exceed 25 percent. Our negotiations will be based on, but not limited to, a Tribe's TANF funding level, the economic conditions and resources available to the Tribe, the relationship of the Tribe's administrative cost allocation proposal to the overall purposes of TANF, and a demonstration of the Tribe's administrative capability.

We believe that this graduated cap meets the intent of the law, yet provides Tribal TANF programs with additional funds to develop the necessary infrastructure to be successful in operating the Tribal TANF program. After the first two years of funding, each Tribal TANF grantee will be required to

expend at least 75 percent of its grant on direct service and benefits.

If a Tribe's administrative costs exceed the 25 percent limit (or 35 percent in the first year or 30 percent in the second year of operations), the penalty for misuse of funds (refer to § 286.195) will apply. The penalty will be in the amount spent on administrative costs in excess of the administrative cap for that particular year of operation. We will take an additional penalty in the amount of five percent of the TFAG if we find that a Tribe has intentionally exceeded the administrative cap limit. See discussion of § 286.200.

Section 286.55 (Section 286.45 in the NPRM) What Types of Costs Are Subject to the Administrative Cost Limit on Tribal Family Assistance Grants?

Just as with the State TANF program, we considered not proposing a Federal definition of ''administrative costs.'' That option had appeal because: (1) It is consistent with the philosophy of a block grant; (2) we took a similar approach in some other policy areas (*i.e.,* in not defining individual work activities); (3) we support the idea that we should focus on outcomes, rather than process; and (4) the same definition might not work for each Tribe. Also, we were concerned we could exacerbate consistency problems if we created a Federal definition. Because of the wide variety of definitions in other related Federal programs, adoption of a single national definition could create variances in operational procedures within Tribal agencies and add to the complexities administrators would face in operating these programs.

At the same time, we were hesitant to defer totally to Tribal definitions. The philosophy underlying this provision is very important; in the interest of protecting needy families and children, it is critical that the substantial majority of Federal TANF funds go towards helping needy families. If we did not provide some definition, it would be impossible to ensure that the limit had meaning. Also, we felt that it would be better to give general guidance to Tribes than to get into disputes with individual Tribes about whether their definitions represented a ''reasonable interpretation of the statute.''

We thought that it was very important that any definition be flexible enough not to unnecessarily constrain Tribal choices on how they deliver services. We believe a traditional definition of administrative costs would be inappropriate because the TANF program is unique, and we expect TANF to evolve into something significantly different from its predecessors and from other welfare-related programs. Specifically, we expect TANF to be a more service-oriented program, with substantially more resources devoted to case management and fewer distinctions between administrative activities and services provided to recipients.

The definition we have established does not directly address case management or eligibility determination. We understand that, especially for Tribal programs, the same individuals may be performing both activities. In such cases, to the extent that a worker's activities are essentially administrative in nature (*e.g.,* traditional eligibility determinations or verifications), the portion of the worker's time spent on such activities must be treated as administrative costs. However, to the extent that a worker's time is spent on case-management functions or delivering services to clients, that portion of the worker's time can be charged as program costs.

We believe that the definition in the Final Rule will not create a significant new administrative burden on Tribes. We believe that it is flexible enough to facilitate effective case management, accommodate evolving TANF program designs, and support innovation and diversity among Tribal TANF programs. It also has the significant advantage of being closely related to the definition in effect under the Job Training Partnership Act (JTPA). Thus, it should facilitate the coordination of Welfare-to-Work and TANF activities and support the transition of hard-to-employ TANF recipients into the work force.

Under §§ 286.40–45 of the Tribal TANF proposed regulations, Tribes could not spend more than 20 percent of their Federal TANF funds on administrative costs. The proposed regulation excluded expenditures for ''information technology and computerization needed for tracking or monitoring'' from the administrative cost cap, and the definition of administrative cost in § 286.5 provided additional information on what costs are both included and excluded from the definition of administrative costs and the cap.

The proposed definition at § 286.5 stated: ''Administrative costs means costs necessary for the proper administration of the TANF program. It includes the costs for general administration and coordination of this program, including overhead costs.'' It also provided examples of eleven types of activities that would be classified as ''administrative costs,'' such as salaries and benefits not associated with providing program services, plan and budget preparation, procurement, accounting, and payroll. In developing this definition, our intention was that it would be flexible enough to facilitate effective case management, accommodate evolving Tribal TANF program designs, and support innovation and diversity among the Tribal TANF programs. We expected that our final definition would support the evolution of Tribal TANF into a more service-oriented program, with substantially more resources devoted to case management and fewer distinctions between administrative activities and services provided to recipients.

We have not included specific language in the Final Rule about treatment of costs incurred by subgrantees, contractors, community service providers, and other third parties, and we received no comments in this area. Neither the statute nor the final regulation make any provision for special treatment of such costs. Thus, the expectation is that administrative costs incurred by these entities would be part of the total administrative cost cap. In other words, it is immaterial whether costs are incurred by the Tribal TANF agency directly or by other parties.

We realize this policy may create additional administrative burdens for the Tribe and do not want to unnecessarily divert resources to administrative activities. At the same time, we do not want to distort agency incentives to contract for administrative or program services. In seeking possible solutions for this problem, we looked at the JTPA approach (which allows expenditures on services that are available ''off-the-shelf'' to be treated entirely as program costs), but did not think that it provided an adequate solution. We thought that too few of the service contracts under TANF would qualify for simplified treatment on that basis.

The Treatment of Certain Costs

Comments: We received a number of comments requesting that we specify that the list of examples delineated in § 286.5 is for guidance only. There is a great deal of concern that this list will be seen as all-inclusive, rather than as a list of examples of activities which are considered as administrative costs.

Response: Although we believe our language is clear in this regard, we will clarify in the regulation that this list provides examples of costs that are considered administrative in nature, but is not all-inclusive.

Comments: Many of those commenting on this issue (and on the

definition of administrative costs found in § 286.5) wanted us to clarify that eligibility determinations and verifications are more closely aligned to program costs than to administrative costs. Some argued that eligibility determination was not an administrative activity and was not easily or logically separable from case management. Still others commented on the burden associated with our proposal and the general need for tribal flexibility in this area. They argued that because eligibility determination and verification is part of the overall case management function, it would more appropriately be categorized as a program or service function than administration. They further argued that the differentiation between eligibility and service delivery would be virtually impossible, because a case manager may collect information for the purpose of providing or arranging supportive services, but use that same information to determine the family's eligibility.

Response: While we understand that Tribes with limited resources do not want to direct those limited resources to prorating the expenses of front-line workers who are simultaneously engaged in eligibility determination, case management, and service provision to Tribal TANF beneficiaries, we do not believe it would be consistent with the intent of the administrative cost cap provisions for Tribes to be spending large amounts of money on eligibility determinations rather than program services. We have a statutory responsibility for protecting against misuse of funds, and we know that money diverted to administrative activities could decrease the availability of benefits and services for needy families. We also believe that a clear policy on eligibility determinations might produce more consistent penalty determinations and reduce audit disputes, appeals, and litigation regarding application of the misuse of funds penalty.

We do not agree that Tribes must incur a significant administrative burden in order to identify the costs associated with eligibility determination activities. We recognize that the nature of staff responsibilities is changing and the line between case management and eligibility determination is blurring. Thus, it may be more difficult to develop rules for allocating the time of workers between administrative and program activities. However, once a Tribe develops its allocation rules, the process of allocating staff time is straightforward and no more difficult than the current cost allocation process.

We also recognize that the Tribal TANF program offers the possibility for Tribes to administer programs in new ways. We understand that Tribes are developing program structures with blended functions, and we support such efforts. These Final Rules do not in any sense require Tribes to have separate administrative and program staff. They merely require that Tribes provide a reasonable method for determining and allocating administrative and program costs.

Based on these considerations, we have decided to add eligibility determinations to the list of administrative activities at § 286.5. More specifically, this rule reflects the basic definition that was in the proposed regulation (with the same basic examples of administrative cost activities), but adds the NPRM preamble policy that required eligibility determination to be treated as an administrative cost. We recognize that this is a significant policy decision that merits inclusion directly in the regulatory text.

Under the Final Rule, Tribes may develop their own definitions of administrative costs, consistent with this regulatory framework. Nevertheless, we want to remind them that they must properly allocate costs; that is, they must attribute administrative, program, and systems costs to benefitting programs and appropriate cost categories, in accordance with an approved cost allocation plan and the cost principles in part 92 and OMB Circular A–87, ''Cost Principles for State, Local, and Indian Tribal Governments.''

Comments: A number of comments suggested that the proposed language in § 286.5, the definition of administrative costs, was not sufficiently clear.

Response: We never intended to develop a regulation that fully defined the term administrative costs. For example, we believed that, by inference, readers would understand the language proposed at § 286.5 to mean that costs related to delivery of program services were not administrative costs. However, comments received suggest that the proposed rule was not sufficiently clear, and we have revised § 286.5 to make this point more clearly. More specifically, we have added a new paragraph, to exclude costs of providing services from the definition of administrative costs. The definition more directly states that costs of providing services are outside the definition of administrative costs, and it explicitly provides that case management, diversion and assessment activities are both program service costs and not considered administrative costs. (Note: Here, we would make a distinction between assessment activities designed to identify needs and develop appropriate service strategies versus assessing income, resources, and documentation for eligibility determination purposes; the latter are administrative costs). Further, it explains that items that would normally be administrative costs, but are systems-related and needed for monitoring or tracking purposes under Tribal TANF, fall under a systems exclusion. In other words, we will not consider those costs in determining whether a Tribe has exceeded its cap.

The Relationship of Indirect Costs to Administrative Costs

Indirect Costs negotiated by BIA, the Department's Division of Cost Allocation, or another federal agency are considered to be part of the total administrative costs. This is because such indirect costs are generally administrative, reflecting the proration of common administrative costs and overhead charges which are not readily identifiable as program costs. They must therefore be calculated as part of the administrative cost cap.

Comments: A number of respondents were adamant that we should use indirect cost rates that have already been negotiated with HHS or BIA, stating that negotiated indirect cost rate agreements with Federal agencies must be honored.

Response: In response to the comments that previously negotiated indirect cost rate caps be used, we emphasize that although most indirect costs are administrative in nature, there is no immediate relationship between administrative and indirect costs. Administrative costs might be classified as either direct or indirect costs, depending on how they are identified in the program. Indirect costs are costs (both administrative and programmatic) incurred for common or joint objectives across all programs, which cannot be identified readily or specifically but which are nevertheless necessary to the operations of the organization. A negotiated indirect cost rate is based on a specific direct cost base which is much smaller than the entire TFAG base. Tribal TANF programs whose actual administrative costs do not reach the imposed cap may be able to recover additional indirect costs in accordance with their agreements, as long as the total amount recovered does not exceed the approved indirect cost rate.

Base for Computing the Cap

Comments: Several commenters argued that we should allow for the combining of program funding sources under a single cost pool for the purposes of determining administrative costs associated with program operations. The inclusion of any state ''match'' funds in the base would streamline accounting functions by allowing a Tribe to negotiate one administrative cost rate for multiple funding sources. They asked that TFAG funding and state funding be considered as one program for purposes of determining administrative costs.

Response: In most cases state ''match'' is comprised of additional state funds that a state pays to tribal grantees on behalf of Indian families residing in the State. There is no requirement that a state provide such funds to Tribes. Since these are state, and not federal funds, we are not regulating the use of the funds in this rule. Notwithstanding the fact that we know states use these funds toward their required MOE amount, and would rather have all funds used toward service provision, states should understand that some administrative activities are a necessary part of service provision. It is therefore in the interest of the Tribe, when negotiating with a state over the receipt and use of any additional state funds, to ensure that a portion of those funds be allowable for administrative activities. However, we decline to make the requested change in the final regulation.

Comments: Several respondents, including one Federal agency, noted that Tribes have insufficient funds to develop the necessary infrastructure, and will be unable to purchase the hardware and software required to support an automated system whether they are charged as administrative or program costs. They recommended that federal start-up costs be provided outside of the cap for this purpose.

Response: We acknowledge the fact that states have been operating assistance programs for many years, and have had many opportunities to develop the essential infrastructures. However, additional funds were not appropriated by Congress to provide funds to Tribes separate from their TFAG in order to develop such systems. No additional sources of funding are available for this purpose.

Section 286.60 (Section 286.50 in the NPRM) Must Tribes Obligate All Tribal Family Assistance Grant Funds by the End of the Fiscal Year in Which They Are Awarded?

Background

Section 404(e) of the Act, entitled ''Authority to Reserve Certain Amounts for Assistance,'' allows States to reserve Federal TANF funds that they receive ''for any fiscal year for the purpose of providing, without fiscal year limitation, assistance under the State program funded under this part.''

This section initially did not apply to Tribal TANF or NEW Programs. Our original interpretation of the statute was that it precluded us granting to Tribes the authority to reserve TFAGs grants paid to them without fiscal year limitation. Therefore, the NPRM indicated that Tribes must obligate their TFAGs by the end of the fiscal year in which they are awarded.

Comments: Every Tribe commenting on this provision of the proposed rule voiced opposition, indicating that the proposed rule would frustrate contingency budgeting, prevent Tribes from coping with volatile and increasing caseloads, and generally hamper Tribes' efforts to achieve the objectives of the TANF program.

Response: The proposed rule was based on fact that States are permitted to reserve TANF funds with no fiscal year limitation under section 404(e) of the Act which, at that time, did not apply to Tribal TANF programs. Since 404(e) did not apply to Tribal TANF programs, our proposed rule required Tribal TANF programs to obligate their TANF funds no later than the end of the fiscal year in which the TANF grant funds were awarded.

In response to comments raised to this proposed rule, we reconsidered and determined that there was statutory authority for limited carry forward of Tribal TANF funds beyond what we had initially proposed in the NPRM. However, the Foster Care Independence Act of 1999 (Pub. L. 106–169), signed by the President on December 14, 1999, included a number of technical corrections to PRWORA which made our reconsideration of this rule moot. Included in those amendments is a provision which makes section 404(e) of PRWORA applicable to Tribes. Pursuant to amended section 404(e), a Tribe may reserve amounts awarded to the Tribe under section 412, without fiscal year limitation, to provide assistance under the Tribal TANF program. Federal unobligated balances carried forward from previous fiscal years may only be expended on assistance and related administrative costs associated with providing such assistance. The related administrative costs to provide that assistance will be reported against the negotiated administrative cost cap for the fiscal year in which the Federal funds were originally awarded.

The statute limits a Tribe's ability to spend reserved money in one very important way. A Tribe may expend funds only on benefits that meet the definition of assistance at § 286.10 or on the administrative costs directly associated with providing such assistance. It may not expend reserved funds on benefits specifically excluded from the definition of assistance or on activities generally directed at serving the goals of the program, but outside the scope of the definition of assistance.

The Tribe must obligate by September 30 of the current fiscal year any funds for expenditures on non-assistance. The Tribe must liquidate these obligations by September 30 of the immediate succeeding Federal fiscal year for which the funds were awarded. If the final liquidation amounts are lower than the original amount obligated, these funds must be reported as an unobligated balance for the year in which they were awarded. As mentioned in the previous paragraph, unobligated balances from previous fiscal years may only be expended on assistance and the administrative costs related to providing that assistance.

Subpart C—Tribal TANF Plan Content and Processing (§§ 286.65–286.190)

Section 286.65 (Section 286.55 in the NPRM) How Can a Tribe Apply To Administer a Tribal Temporary Assistance for Needy Families (TANF) Program?

Any eligible Indian tribe or Alaska Native regional non-profit corporation or intertribal consortium that wishes to administer a Tribal TANF program must submit a three-year Tribal Family Assistance Plan to the Secretary of the Department of Health and Human Services. This requirement extends to those Tribes that are operating a Pub. L. 102–477 employment and training program (please refer to § 286.160 for information on this).

Comment: One State commented that the regulation should address what happens at the end of the three-year grant cycle, including a notification deadline for a Tribe to declare to ACF and the state an intent to continue or discontinue Tribal TANF operations.

Response: The statute requires that an eligible Tribe, Alaska Native organization or intertribal consortium wishing to administer a Tribal TANF

program submit a three-year TFAP. Although section 412(a)(1)(A) authorizes Tribal TANF funding for more than three years, the statute is silent as to the required procedures for Tribes which intend to continue operating a Tribal TANF program beyond the initial three-year period.

We have added regulatory language to § 286.65 to indicate that, 120 days prior to the end of the three-year grant period, current Tribal TANF grantees must notify the appropriate Regional Office, the Central Office, and the affected State or States of their intentions for the following grant cycle. They must do one of the following:

(1) If they do not intend to continue operating the Tribal TANF program beyond the three years, they should submit a letter of intent that so specifies;

(2) If they intend to continue program operations with no changes to the geographic service area or service population, they should submit a letter of intent that so specifies. A current Tribal TANF grantee that intends to continue TANF program operations with no changes in service area or service population must submit a three-year TANF plan for approval no later than 60 days before the end of the current grant cycle;

(3) If they intend to continue program operations, but are proposing a change in the geographic service area and/or service population that will require new data from the state or a renegotiation of the grant amount, then they must submit a new three-year plan for approval at that time.

We believe that this process will provide all parties with sufficient time to ensure that there is no disruption in service to the Tribal TANF families.

Section 286.70 (Section 286.60 in the NPRM) Who Submits a Tribal Family Assistance Plan?

The chief executive officer of the Tribe, eligible Alaska Tribal entity, or Tribal consortium must sign and submit the TFAP. This is generally the Tribal Chairperson. The TFAP must also be accompanied by a Tribal resolution indicating Tribal Council support for the proposed Tribal TANF program. In the case of a Tribal consortium, the TFAP must be accompanied by Tribal resolutions from all members of the consortium. These Tribal Council resolutions must demonstrate each individual Tribe's support of the consortium, the delegation of decision-making authority to the consortium's governing board, and the Tribe's recognition that matters involving relationships between the Tribal TANF consortia and the State and/or Federal government on TANF matters are the express responsibility of the consortium's governing board.

We recognize that changes in the leadership of a Tribe or some other event may cause a participating Tribe to rethink its participation in the consortium and/or in Tribal TANF. If, for example, a subsequently elected Council decided to terminate participation in the consortium and in TANF, that decision might create a need for time to reintegrate a Tribal program or a part of the Tribal program into the State program. Thus, we specify at § 286.70(c) that, when one of the participating Tribes in a consortium wishes to withdraw from the consortium for purposes of either withdrawing from Tribal TANF altogether or to operate its own Tribal TANF program, that the Tribe needs to notify both the consortium and us of this fact at least 120 days prior to the planned effective date. This notification time frame is especially applicable if the Tribe is withdrawing from Tribal TANF altogether and the Tribe's withdrawal will cause a change to the service area or population of the consortium.

A Tribe withdrawing from a consortium for purposes of operating its own program must, in addition to the notification specified in the previous paragraph, submit its own Tribal TANF plan that meets the plan requirements at § 286.75 and the time frames specified at § 286.160.

Section 286.75 (Section 286.65 in the NPRM) What Must Be Included in the Tribal Family Assistance Plan?

Background

The TANF program concerns work, responsibility, and self-sufficiency for families. To that end, section 412(b) of the Act lists six features of a Tribal Family Assistance Plan.

Approach to Providing Welfare-Related Services

The TFAP must outline the Tribe's strategy for providing welfare-related services. The Act does not specify what this outline must entail; however, we believe it is important that it includes information necessary for anyone to understand what services will be provided and to whom the services will be provided.

To that end, the Tribal Family Assistance Plan must include, but is not limited to, information such as general eligibility criteria and special populations to be served, a description of the assistance and services to be offered, and the means by which they will be offered using TANF funds.

The description of general eligibility requirements consists of the Tribe's definition of ''eligible family,'' including income and resource limits that make a family ''needy,'' and the Tribe's definition of ''Tribal member family'' or ''Indian family.'' The description of the services and assistance to be provided includes whether the Tribe will provide cash assistance, and what other assistance and services will be provided.

The PRWORA discusses a variety of special populations who can benefit from a TANF program. While the statute does not require a Tribal TANF program to provide specific or targeted services to these populations, if the Tribe opts to do so, it must include a discussion of those services in the TFAP. For example, teen parents without a secondary degree are a special target population for State TANF-related services. If a Tribe wants to provide specific services to teen parents, it needs to describe the specific services in the plan.

We are also requiring information in the Tribal TANF plan regarding whether services will be provided to families who are transitioning off TANF assistance due to employment. Section 411(a)(5) of the Act requires Tribes to report, on a quarterly basis, the total amount of TANF funds expended to provide transitional services to families that have ceased to receive assistance because of employment, along with a description of such services. Therefore, we believe it prudent for ACF and the public to know whether the Tribe's TANF program provides transitional services and, if so, what types of services will be offered.

Questions have been raised about the potential dual eligibility of Indians for State and Tribal TANF programs. It is the position of the Department that section 417 of the Act precludes our regulating the conduct of States in this area. Nonetheless, we note that the issue of the dual eligibility of Indians raises constitutional concerns about the denial of state citizenship rights under the fourteenth amendment. We also note that, under section 408(c) of the Act, State TANF programs are subject to title VI of the Civil Rights Act of 1964 and certain other Federal non-discrimination provisions.

As TANF focuses on outcomes, we believe a TFAP needs to identify the Tribe's goals for its TANF program and indicate how it will measure progress towards those goals. We believe this will help focus efforts on achieving positive outcomes for families. Progress can be measured longitudinally over time or over the short term, but should

be clearly targeted on those being served by the Tribal TANF program. For example: the incidence of teen pregnancy will be reduced by approximately X % over the three-year period of the TFAP, or educational achievement by teen parents receiving TANF assistance will experience an overall gain of at least one grade level over the three-year-period of the TFAP.

Sections 402(a)(4)(A) and (B) of the Act require States to certify that local governments and private sector organizations have been consulted regarding the State TANF plan and design of welfare services and have had at least 45 days to submit comments on the plan. We have included similar requirements as part of the Tribal TANF plan process. We have incorporated a public comment period as a means of soliciting input into the design of the Tribal TANF program and providing a means through which Tribes may design a program which truly meets the community's needs. This public comment period should afford affected parties the opportunity to review and comment on a Tribe's TFAP. While the Act does not specifically require Tribes to conduct a public comment period prior to submission of the TFAP, previous experience demonstrates the value of such a comment period towards tailoring the program to meet the individual circumstances of those who will be affected by the program and its far-reaching impact on Tribal children and families. Furthermore, we discern Congressional recognition in the Act of the value of public comment on the content of TANF plans and the design of welfare services. We believe that this is equally applicable to Tribal TANF plans.

Finally, it is important that individuals who apply for and/or receive TANF are afforded due process should the Tribe take an adverse action against them. Therefore, the TFAP must include an assurance that the Tribe has developed a specific TANF dispute resolution process. This process must be used when individuals or families dispute the Tribe's decision to deny, reduce, suspend, sanction or terminate assistance.

Child Support Enforcement

Just as the enactment of PRWORA created opportunities for Tribes to operate their own TANF programs, it provided new opportunities to ensure that Tribal families receive child support from responsible parents. The relationship between TANF and child support enforcement programs is important, regardless of whether the State or Tribe operates one or both of these programs. In addition, the relationship between self-sufficiency and child support becomes extremely important for TANF families because of the time-limited nature of TANF assistance.

Under PRWORA, in order to receive a TANF block grant, a State must certify that it operates a child support enforcement program meeting requirements under title IV–D of the Act. A State child support enforcement program must provide the following services to TANF and former TANF recipients and to others who apply for services: location of parents, establishment of paternity and support orders and enforcement of orders. In order to receive TANF assistance from a State, a TANF applicant or recipient must assign any rights to support to the State and cooperate with the child support enforcement program in establishing paternity and securing support. Collections of assigned support are used to reduce State and Federal costs of the TANF program.

PRWORA does not place similar requirements on Tribes or families receiving Tribal TANF assistance. Tribes are not required to certify that they are operating a child support enforcement program as a condition of receiving a Tribal TANF grant. Nor is there any requirement that Tribal TANF applicants and recipients assign all rights to support as a condition of receipt of Tribal TANF. There are, therefore, no penalties to the Tribe for failing to operate a child support enforcement program nor to a Tribal TANF recipient for failing to cooperate with child support efforts. However, several Tribes with approved Tribal TANF plans are requiring Tribal TANF recipients to cooperate with child support efforts.

Prior to enactment of PRWORA, title IV–D of the Act placed responsibility for the delivery of child support enforcement services with the States. Consequently, States have attempted to provide child support services on Tribal lands but have generally been constrained in their abilities to establish paternity, or establish or enforce child support orders with respect to noncustodial parents who reside within the jurisdiction of a Tribe because of sovereignty and jurisdictional issues. Therefore, arrangements for child support services on Tribal lands may involve a specific agreement to recognize State or county jurisdiction on Tribal lands for the narrow purpose of child support enforcement. In such agreements, Tribes agree to allow the child support agency to extend State program procedures to the reservation. Alternatively, some States and Tribes have entered into cooperative agreements under which a Tribal entity provides child support services on Tribal lands and receives funding from the State.

Under PRWORA, requirements for State/Tribal cooperative agreements, as well as direct Federal funding of Tribes for operating child support enforcement programs, were addressed for the first time in title IV–D of the Act. Section 5546 of the Balanced Budget Act of 1997 made technical amendments to the cooperative agreements language in section 454(33) of the Act and to direct funding of Tribal child support enforcement programs under section 455(f) of the Act.

Issues relating to responsibilities for providing child support enforcement services for Tribal TANF assistance cases and distribution of support collections in such cases have already been raised in several States. States and Tribes must work together to determine how Tribal TANF and State child support programs will work best for Tribal families. More than ever before, this collaboration is critical.

Since child support is a critical component of self-sufficiency for many single parent families, Tribes need to determine whether they want to condition a family's eligibility for Tribal TANF assistance on cooperation with the State child support enforcement program. If the Tribe will so condition eligibility, the TFAP should so specify.

Tribes that have entered into, or will enter into, cooperative agreements with their States on child support matters have decided that child support is a critical issue for families. Likewise, Tribes that will decide, after regulations have been issued, to operate their own child support enforcement programs know the importance of child support.

Provision of Services

As required by section 412(b)(1)(B), the TFAP must indicate whether the welfare-related services provided under this plan will be provided by the Indian tribe or through agreements, contracts or compacts with inter-Tribal consortia, States, or other entities. The Tribe determines which Tribal agency will have the lead responsibility for the overall administration of the Tribal TANF program. The designated lead agency plans, directs and operates the Tribal TANF Program on behalf of the Tribe. While it has the flexibility to contract many portions of the Tribal TANF program with public and/or private entities, the lead agency must maintain overall administrative control of the program. The lead agency is

required to submit and administer the Tribal TANF plans, coordinate Tribal TANF services with other Tribal and State programs, and collect and submit required data. Although not required by statute, we are requiring at § 286.75(b) that Tribes identify the lead agency in the TFAP because of its importance in the overall administration of and responsibility for the Tribal TANF program. The plan must also include a description of the administrative structure for supervision of the Tribal TANF program, including the designated unit responsible for the program and its location within the Tribal government.

For lead agencies that wish to enter into agreements or contracts with other entities, the TFAP needs to specify how the welfare-related services will be provided, *e.g.,* through sub-contracts. In the instance of Tribal consortia, the lead agency fulfills the same responsibility as the designated unit discussed above.

Population/Service Area

Section 412(b)(1)(C) of the Act requires that a TFAP identify the population and service area or areas to be served by the plan. Yet the statute defines neither of these terms.

In our consultation with Tribes on how service area and population should be defined, we heard from Tribes that they should be given flexibility to define their own Tribal TANF service area and population. We have also heard that, at least in the case of Oklahoma, we might expect disagreements between Tribes to arise if service area parameters were not established for Tribes in that State. This concern was due to the fact that none of the Tribes in Oklahoma, except for one, have reservations. Our intent in this Final Rule is to balance Tribal flexibility with the need to afford consideration to Tribes who disagree with another Tribe's proposed service area or population.

Therefore, with regards to service population, Tribes have the flexibility to decide whether their TFAP will serve all Indian families within the service area or solely the enrolled members of the Tribe. A Tribe would convey its decision in the TFAP. If the TFAP provides for services to all Indian families within the service area, then the Tribe agrees to provide such services. If the TFAP provides for services solely to families of enrolled members of the Tribe, then the Tribe does not agree to provide services to the families of non-enrolled Indians residing in the service area of the Tribe.

Regardless of the decision reached by the Tribe in this matter, the responsibility for TANF services to non-Indian families in the Tribal service area resides with the State TANF program, unless the Tribe has negotiated an agreement with the State to allow the Tribe to serve non-Indian families within the Tribal service area. If such an agreement has been reached, the Tribe must include a copy of the agreement or other such documentation of State concurrence, such as a letter from the State, with the TFAP.

There may be various reasons why both a Tribe and the State would want the Tribe to provide TANF assistance to all needy families in its service area (for example, there are very few non-Indian families in the service area). We believe this flexibility to allow a Tribe to include non-Indians in its service population, with State agreement, benefits both Tribes and States.

In those instances where non-enrolled Indians or non-Indians are served by the Tribal TANF Program, the Tribal TANF program is the final authority on the services to be provided. The non-enrolled member's Tribe or the State(s) cannot decide on the nature of the services to be provided by the Tribal TANF program.

With regards to service area, a Tribal TANF service area could include the Tribe's reservation or just portions of the reservation. It could also include ''near reservation areas'' meeting BIA requirements as outlined at 25 CFR 20.1(r). For Tribes without land bases, the service area could include all or part of the Tribe's service area as defined by BIA.

In the case of claimed service areas extending beyond the Tribe's ''near reservation area'' or BIA-defined service area, we are concerned about possible complications resulting from misunderstandings on the scope of the service area. Therefore, if a Tribe claims an alternative service area, the TFAP should clearly define the demographic extent of such areas and include a memorandum of understanding with the appropriate State(s) agency or Tribal government reflecting State(s) or Tribal agreement to the servicing of the Tribal TANF service population by the Tribal TANF Program in the extended area.

Likewise, for Tribes in Oklahoma, if the Tribe defines its service area as other than just its ''tribal jurisdiction statistical area'' (TJSA), the Tribe must include an agreement with the appropriate Tribal government reflecting that Tribe's agreement to the service area. TJSAs are areas delineated for each federally-recognized Tribe in Oklahoma without a reservation by the Census Bureau.

Duplicative Assistance

Section 412(b)(1)(D) indicates that an individual receiving assistance from a Tribal TANF program may not receive assistance from another State or Tribal TANF program for the same purpose. The TFAP must contain an assurance that families receiving assistance under the Tribal TANF plan will not receive duplicative services under any other State or Tribal TANF plan. The Tribe must develop a process to ensure that duplication does not occur and must include a description of that process in the TFAP. We believe any process the Tribe develops should include a mutual information exchange between the Tribe and State(s) and other nearby Tribal TANF grantees.

Employment Opportunities

Section 412(b)(1)(E) requires that Tribes identify in their TFAPs the employment opportunities in and near the service area or areas of the Indian tribe. Section 286.75(g) of the Final Rule reiterates this requirement. The employment opportunities within and near the Tribal TANF service area will greatly impact the service population's ability to obtain and maintain employment. In designing the Tribal TANF program, Tribes should consider current unemployment rates, public and private sector employment opportunities, and education and training resources. These factors should provide a basis for the Tribe's proposed work activities, work participation requirements, penalties against individuals, and time limits.

Section 412(b)(1)(D) of the Act also requires that TFAPs identify the manner in which the Indian tribe will cooperate and participate in enhancing employment opportunities for TANF recipients consistent with any applicable State standards. At § 286.75(g)(2) we reiterate the statutory requirement that the TFAPs describe how the Tribe will enhance employment opportunities for their TANF recipients. Tribes should consider the best means by which they can work with other Tribal or State agencies, and other private and public sector entities on or near the reservation, to enhance employment opportunities. These efforts may be through memoranda of understanding or other public-private partnerships. These activities should also be consistent with any State employment standards (for example, a State minimum wage requirement).

Fiscal Accountability

As required by section 412(b)(1)(F) of the Act, the TFAP must provide an assurance that the Tribe applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

Establishing Minimum Work Participation Requirements, Time Limits for the Receipt of Assistance and Penalties Against Individuals

PRWORA promotes self-sufficiency and independence while holding individuals to a higher standard of personal responsibility for the support of their children than prior law. The legislation expands the concept of mutual responsibility, introduced under the Family Support Act of 1988, that income assistance to families with able-bodied adults should be transitional and conditioned upon their efforts to become self-sufficient. These goals are reflected in the State TANF provisions requiring individuals to participate in work activities, limiting the number of months that assistance will be provided, and penalizing individuals for failure to participate in work activities as required.

Minimum work participation requirements, time limits for the receipt of assistance and penalties against individuals who refuse to participate in work activities as required are explicitly stated for the State TANF programs in the statute. For the Tribal TANF programs, these three components are not specified. Instead, section 412(c) of the Act provides that for each Tribal TANF grantee Tribal TANF minimum work participation requirements, time limits for the receipt of assistance, and penalties against individuals are to be established by the Secretary with the participation of the Tribes.

The statute further specifies that Tribal TANF work participation requirements and time limits are to be consistent with the purposes of TANF and consistent with the economic conditions and resources available to each Tribe. In addition, penalties against individuals are to be similar to those found in section 407(e) of the statute. However, the statute does not specify a process or procedure to be used to establish minimum work participation requirements, appropriate time limits for the receipt of assistance, and penalties against individuals for each Tribal TANF grantee.

During discussions with Tribes and States as to what process should be used to establish these requirements for each Tribal TANF grantee, many suggested that we use the proposal a Tribe includes in its Tribal TANF plan as the basis for negotiating and establishing these requirements. We agree that it would be prudent to establish these requirements as part of the TANF plan process so that Tribes will know in advance of accepting the TANF program grant the requirements to which they are committing and for which they will be held accountable.

Thus, we are requiring that each Tribe specify its proposal for minimum work participation requirements, time limits for the receipt of assistance, penalties against individuals who refuse to participate in work activities as required, and related policies in its Tribal TANF plan. In addition, the Tribe must include a rationale for its proposals and related policies in the plan. The rationale should address how the Tribe's proposal is consistent with the purposes of TANF and is consistent with the economic conditions and resources available to the Tribe.

Examples of the information that we would expect to be included to illustrate the Tribe's proposal include, but are not limited to: Poverty, unemployment, jobless and job surplus rates; education levels of adults in the service area; availability of and/or accessibility to resources (educational facilities, transportation) to help families become employable and find employment; and employment opportunities on and near the service area.

We will review and evaluate a Tribe's proposal for these components as part of the review and approval process for the entire plan. Additional information or discussion about a Tribe's proposal may be necessary before we approve the plan.

Minimum work participation requirements are further detailed at §§ 286.80–110 of the Final Rule. The Final Rule at §§ 286.115–130 contains additional information on time limits. Information on penalties against individuals is outlined at §§ 286.135–150.

Comments: We received a number of comments regarding the definition of ''service population.'' One commenter concurred that a Tribe should define its own service area and service population. Another commenter asked that the TFAP include information on how other entities would serve groups excluded from the definition of ''service population.'' Yet another commenter indicated that a Tribe should be mandated to provide services to all individuals living within its boundaries and precluded from considering enrolled members who are located near-reservation.

Response: Section 412(b)(1)(C) of the Act requires a Tribe to identify the service area or areas to be served by the TFAP, yet does not define the term. The preamble of the proposed rule included a lengthy discussion on our intent and expectations in this area, and we have restated that discussion above. We believe that all comments have already been answered.

Comment: One commenter asked that the final regulations encourage a mutual effort between the state and the Tribe as the Tribe defines its service area.

Response: For welfare reform to succeed in Indian country, Tribes and States need to work together in addressing various issues. Throughout this rule we encourage coordination and cooperation between Tribes and States, as well as between Tribes.

Section 286.80 (Section 286.70 in the NPRM) What Information on Minimum Work Participation Requirements Must a Tribe Include in Its Tribal Family Assistance Plan?

Background

As Tribes focus on assisting adults in obtaining work and earning paychecks quickly, parents receiving assistance from a Tribal TANF program are also expected to meet new and more stringent work requirements.

Section 401(a)(2) of the Act states that one of the purposes of TANF is to promote job preparation and work to help needy families become self-sufficient. The statute, at section 407, provides specific individual work participation requirements and participation rate goals to ensure this purpose is carried out under State TANF programs. For State TANF programs, work participation requirements encompass (1) the proportion of TANF families participating in the activities (participation rate targets); (2) the activity level to be required of families, *e.g.,* average number of hours of work per week; (3) the activities that families must be engaged in, *e.g.,* subsidized employment, vocational training, *etc.;* and (4) exemptions, limitations and special rules related to work requirements.

In providing flexibility in establishing work participation requirements, Congress recognized that Tribal economies and resources will vary and affect a Tribal TANF family's and program's ability to meet the work requirements imposed upon State TANF

recipients and State TANF programs. Since the statutory language requires that the work requirements take into consideration the economic conditions and resources available to each Tribe, we cannot establish across-the-board minimum work requirements that would be applied to all Tribes. Additionally, written and verbal feedback from Tribes indicated overwhelming support for negotiating on a case-by-case basis with each individual Tribe (as opposed to applying an across-the-board minimum) that will reflect the differences among Tribal economies and resources.

In order to have the information needed to establish minimum work participation requirements for each Tribal grantee, we specify at § 286.80 that each Tribe specify in its TFAP: (1) The targeted participation rates for each of the fiscal years covered by the plan; (2) the minimum number of hours families will be required to participate in work activities for each of the fiscal years covered by the plan; (3) the work activities that count towards the work requirement; (4) any limitations and special rules related to work requirements; and (5) the rationale for the Tribe's proposed work requirements, including how they are consistent with the purposes of TANF and with the economic conditions and resources available to the Tribe.

Considering that many Tribal families reside in remote areas and lack of adequate transportation is a major concern, the final regulation at § 286.80(b)(2)(i) allows a Tribe to include reasonable transportation time to and from the activity site in determining the number of hours of participation. Counting transportation time may be indicative of the economic conditions and resources available to a Tribe, and transportation is an economic resource.

Therefore, if a Tribe proposes to count reasonable transportation time towards the minimum number of hours individuals participate, the Tribe's TFAP will need to so specify. The Tribe's definition of ''reasonable'' would also have to be included in the plan. However, we would also expect Tribes proposing to include reasonable transportation time in determining the number of hours of work participation, to demonstrate that their overall proposal for number of hours is consistent with the purposes of TANF.

As discussed above, the Tribe's rationale for its proposed work participation requirements could include, but is not limited to: Poverty, unemployment, jobless and job surplus rates; education levels of adults in the service area; availability and/or accessibility to resources (educational facilities, transportation) to help families become employable and find employment; and employment opportunities on and near the service area.

As noted above, any Tribe proposing to include reasonable transportation time as part of its proposal on minimum hours of participation will also have to include a rationale for this decision.

Comments: Several commenters support the overall flexibility afforded Tribes in defining work and negotiating participation rates proposed in § 286.70 of the NPRM. They indicate that the provisions of the section appear reasonable. They also support providing the Tribes the opportunity to revise rates in subsequent years.

However, one commenter, in addressing this section, suggested that the work participation rates should be capped at 15 percent.

Response: The statute at Section 412(c) provides that work participation rates shall be established consistent with the purposes of the Act, consistent with the economic conditions and resources available to each Tribe, and in a manner similar to comparable provisions in Section 407(e). This clearly provides for a negotiated rate and not for any type of general cap.

Comment: One commenter suggests that in § 286.70(a) of the NPRM the words ''negotiate with us'' be removed and replaced with ''provide ACF''.

Response: The statute at section 412 provides that ''The Secretary, with the participation of the Indian tribes, shall establish for each Indian tribe * * * minimum work requirements. * * * This clearly provides for a negotiation process.

Comments: Several commenters strongly endorsed the provisions of § 286.70(b)(1) as proposed in the NPRM, which allows the Tribes the option to establish different participation rates, *i.e.* one for all families, a rate for all families and two-parent families, or two separate rates for one-parent and two-parent families.

Several commenters agreed with § 286.70(b)(2)(i) as proposed, which allows ''reasonable'' transportation time to be counted toward determining the hours of work participation and encourage its retention. However, one commenter objected to the Tribes having to explain how counting this time is consistent with the purposes of TANF.

Response: We agree with the desirability of retaining this provision. However, just as a basic rationale is required to explain or ''justify'' work requirements and participation rates on a plan by plan basis, so too should a basic rationale be provided to establish the ''reasonableness'' of the allowance, and to explain how it contributes to the needs of the Tribe and is therefore consistent with the purposes of TANF.

Comments: Several commenters pointed out that there is no reason or justification for the requirement found in § 286.70(b)(5) of the proposed rule, that if a Tribe's TFAP differs from that required of the State for participation rates and work activities, it must be justified in comparison to the State requirements. Commenters point out that while justification for participation rates and work activities is necessary and proper, it should be based on tribal criteria and established needs, and not be measured against or compared with the State's.

Response: We agree. We have revised the first paragraph of § 286.80(b)(5) accordingly.

(Section 286.75 in the NPRM) What Additional Information on Minimum Work Participation Rates Must Be Included in a Tribal Family Assistance Plan? (Deleted)

Upon review of the proposed rule, we determined that this section was unnecessary, as it repeated information found in other sections as well. We therefore removed it from the Final Rule, and renumbered the rule accordingly.

Section 286.85 (Section 286.80 in the NPRM) How Will We Calculate the Work Participation Rates?

Commenters addressing this section agreed with its provisions as written and endorsed their retention.

Similar to the calculations for State participation rates, the final regulations at § 286.85 indicate that the yearly participation rate will be the average of the monthly participation rates. Monthly rates, for each rate approved in the Tribe's TANF plan, will be determined by a ratio with the numerator and denominator defined as follows:

Numerator: The number of families with an adult or minor head-of-household receiving TANF assistance from the Tribe engaged in work activities as defined in the Tribe's approved TANF plan for the required number of hours.

Denominator: The number of families with an adult or minor head-of-household receiving TANF assistance from the Tribe.

This calculation will be appropriately modified depending upon whether the Tribe chooses to target (1) an all-family

rate, (2) an all-family rate and a two-parent rate, or (3) a one-parent rate and a two-parent rate.

We have also made it clear in this Final Rule that a Tribe may count as a month of participation any partial months of assistance, if an adult in the family is engaged in work activities for the minimum average number of hours in each full week that the family receives assistance in that month. These families are already included in the denominator since they are recipients of assistance in that month.

Exclusions From Work Participation Rate Calculations

The PRWORA does not specify exclusions from the participation rate calculations for Tribal TANF programs. However, consistent with the flexibility provided State TANF programs, in § 286.85(c)(2) we allow Tribes to exclude from the total number of TANF families (the denominator): (1) Those families who have a child under the age of one if the Tribe opts to exempt these families from participating in activities (and so specified in the Tribe's TANF plan); and (2) on a limited basis, those families who are sanctioned for non-compliance.

The statute at section 407(b)(1)(B)(i)(II) precludes States from excluding families sanctioned for non-compliance with the work participation requirements from the denominator if the families have been sanctioned for more than three months out of a twelve-month period. We considered whether to apply the same restriction to Tribal TANF work participation rate calculations. We were concerned that if we did not apply the same restriction and allowed Tribes to exclude sanctioned families indefinitely, then we would be inadvertently encouraging Tribes to discontinue their efforts in bringing those families into compliance and working towards self-sufficiency. Therefore, we decided at § 286.85(c)(2)(i) that families sanctioned for non-compliance with the work participation requirements are to be excluded from the denominator only if they have not been sanctioned for more than three months (whether or not consecutively) out of the last twelve months.

The final regulations do not provide for any other exclusions in calculating the Tribal TANF participation rate.

We considered whether we should negotiate exclusions from the work participation rate calculations on a case-by-case basis with each individual Tribe. We rejected this approach because we believe a uniform method for calculating Tribal TANF work participation rates will help ensure that penalties are applied equitably across Tribes administering a TANF program. Additionally, since the rates themselves will be negotiated with each individual Tribe, such negotiations will already take into account unique circumstances which may make it difficult for certain families to participate in work activities.

Two-Parent Families

Section 407(b)(2) of the Act, as amended by the Balanced Budget Act of 1997, requires a State to not consider as a two-parent family a family in which one of the parents is disabled for purposes of the work participation rate. Thus, a two-parent family in which one of the parents is disabled will be treated as a single-parent family for purposes of calculating the work participation rate. In § 286.85(e) this provision is made applicable to Tribal TANF programs as well.

Section 286.90 (Section 286.85 in the NPRM) How Many Hours Per Week Must an Adult or Minor Head-of-Household Participate in Work-Related Activities To Count in the Numerator of the Work Participation Rate?, and

Section 286.95 (Section 286.90 in the NPRM) What, if Any, Are the Special Rules Concerning Counting Work for Two-Parent Families?

For Tribal TANF programs the statute does not specify the minimum number of hours individuals must participate in order to be counted for participation rate calculations. The Act gives us the authority to negotiate these requirements with Tribes. The final regulation at § 286.95 indicates that the minimum average number of hours per week for State TANF families presumptuously applies to Tribal TANF families as well. However, unlike the State requirements, we have provided Tribes the opportunity to rebut this presumption. Tribes will be permitted to establish fewer minimally required hours for families if a Tribe provides appropriate justification in its TANF plan. For example, the availability and accessibility of resources may not enable Tribal individuals to participate at the minimum number of hours per week required of State TANF recipients.

Section 407(c)(2)(B) of the Act enables States to consider as engaged in work a custodial parent or caretaker relative with a child under age 6, who is the only parent or caretaker relative in the family, if s(he) participates for an average of 20 hours per week. We have extended this provision to Tribal TANF programs.

The Balanced Budget Act of 1997 amended section 407(c)(1)(B)(i) of the Act to allow both parents in a two-parent family to share the number of hours required to be considered as engaged in work for purposes of meeting State TANF work requirements. The final regulation at § 286.95 indicates that Tribal TANF programs will also be able to apply this policy.

Comments: Several commenters pointed out that (as indicated in the proposed rule) § 286.85, or at least § 286.85(a), appeared to be in conflict with proposed § 286.80 and § 286.90. They pointed out that § 286.80 allowed for a Tribe to establish minimum work participation rates for all cases, while § 286.90 provided only that an adult or minor caretaker must participate in work activities for at least the minimum average number of hours per week specified in the Tribe's approved TFAG. On the other hand, § 286.90(a) established a mandatory 20 hours per week minimum for a single custodial parent or caretaker relative with a child under six years of age. Additionally, § 286.90(b) provided that in a two-parent family the number of work hours required could be shared. Commenters suggested that § 286.90 should be deleted in its entirety.

Response: We agree there was a conflict between what is now § 286.95(a) and §§ 286.70 and 286.80, and that § 286.95(a) should be deleted. The Tribe should be allowed to set minimum work requirements for parents or caretakers of children under six as part of their general establishment of work requirements in its TFAG. However, we have determined that permitting two-parent families to share hours encourages and supports the maintenance of such families. Therefore, § 286.95 is justified under section 401 of the Act.

Section 286.100 (Section 286.95 in the NPRM) What Activities Count Towards the Work Participation Rates?

Comments: Commenters supported the flexibility this section allowed the Tribes in identifying work activities.

PRWORA does not specify the work activities required of Tribal TANF recipients but instead authorizes the establishment of minimum work participation requirements, which include work activities, for each Tribal grantee. The overwhelming feedback we received in discussions with Tribes suggested that the work activities identified for States in the statute be considered activities that count toward a Tribal TANF participation rate with two caveats: (1) That they not be limited to those activities; and (2) that they not

be further defined in the regulations. Therefore, at § 286.100 we listed the same activities found at section 407(b) of the Act. In addition, we are providing Tribes further flexibility to identify additional activities that they would consider acceptable and necessary in helping families work towards self-sufficiency. For example, a Tribe may identify subsistence activities or substance abuse treatment as activities the Tribe believes necessary to help families achieve self-sufficiency.

Furthermore, since we are not defining the work activities in the final regulations for States, but are instead asking States to define them, we feel it is appropriate to afford Tribes the same definition flexibility.

Section 286.105 (Section 286.100 in the NPRM) What Limitations Concerning Vocational Education, Job Search and Job Readiness Assistance Exist with Respect to the Work Participation Rate?

Tribal TANF work activities should not be subject to the same restrictions on vocational training as are placed on State TANF programs by statute (*i.e.,* not be limited to 12 months). Because Tribal families may have minimal work skills and experience, and Tribal work opportunities may be much more limited, Tribes should have the flexibility to engage Tribal families in more extensive training. Therefore, the final regulation at § 286.105(a) does not impose the same limitation that is imposed upon States.

However, with respect to the job search/job readiness limitation required of State TANF programs, we believe that Tribal TANF families should also not simply be asked to job search or participate in job readiness activities as their sole activity for lengthy periods of time. Therefore, the Final Rule at § 286.105(b) is similar to the provision found at section 407(c)(2)(A)(i) of the Act that limits to six weeks in a fiscal year the length of time that a State can consider participation in job search/job readiness in a fiscal year by any individual to be considered engaged in work.

We are also affording Tribes the option afforded to States that if the unemployment rate in a Tribal TANF service area is at least 50 percent greater than the United States' total unemployment rate for the fiscal year, then job search and job readiness assistance can be counted for up to twelve weeks during that fiscal year.

However, unlike for State TANF programs, we indicate at § 286.105(c) that if job search is conducted on an ancillary basis as part of another activity, then time spent in job search activities can count without limitation. We believe that as long as a family is engaging in activities in addition to job searching, then including hours spent in job search as part of their other activities is consistent with the intent of the law, to help families reach their goal of achieving self-sufficiency as soon as possible.

Comments: Several commenters strongly supported the provisions of this section. Three commenters objected to the limitation in proposed § 286.100(b)(1) on job search and job readiness activities, arguing that this section was not supported by section 412 of the Act. They suggested that the six week limitation on job search and job readiness activities should be deleted and that any limitations should be negotiated by the Tribes.

Response: Given that all TANF assistance is time-limited and the fact that the statute specifically limits the amount of time that job search and job readiness may be counted as work activities under State programs, we determined that permitting Tribes to negotiate limitations on job search and job readiness on a case-by-case basis could not be justified under the statute. Therefore, we have not changed the language in this section.

Section 286.110 (Section 286.105 in the NPRM) What Safeguards Are There To Ensure That Participants in Tribal TANF Work Activities Do Not Displace Other Workers?

Section 407(f)(2) of the Act contains two safeguards to ensure that in helping welfare recipients become self-sufficient, we do not jeopardize the economic well-being of non-TANF families through displacement. First, a recipient may not be assigned to a vacant position if the employer has placed other individuals on layoff from the same or equivalent job. Second, an employer may not terminate the employment of any regular employee in order to create a vacancy for the employment of a TANF recipient. We believe these safeguards provide important protection for all workers and need to be in place under both Tribal and State TANF programs. Furthermore, we do not intend for these provisions to preempt or supersede any Tribal laws providing greater protection for employees.

Time Limits

In addition to promoting self-sufficiency and independence through employment, PRWORA stresses the temporary nature of welfare and limits the number of months that assistance can be provided with TANF funds. PRWORA provides a 60-month (or less, at State option) time limit for the receipt of TANF assistance under State TANF programs. The time limit provisions include not only the length of time that assistance can be provided, but also what months of assistance will count toward the time limit and whether any categories of recipients are exempt from the time limit rules. We have the authority, under section 412(c) of the Act, to establish for each Tribe, with the participation of the Tribe, appropriate time limits for receipt of assistance. Once established for each Tribe, the Tribe may not use its TFAG to provide assistance to a family that includes an adult beyond the established time limit.

Section 412(c)(2) of the statute further provides that the time limits established for Tribal TANF programs must be consistent with the purposes of TANF and consistent with the economic conditions and resources available to each Tribe. This principle has been echoed in our on-going consultation with Tribes and Tribal organizations. The comments we have received strongly suggest that the Tribal TANF time limits should reflect the unique circumstances of each service area and service population.

Comments: Several commenters objected to proposed § 286.105, which requires safeguards to ensure that participants in tribal TANF work activities do not displace other workers. Their objections were based on the premise that these provisions sought to impose a rule on Tribes that the Act, at section 407(f)(2), applies only to the states. They further argued that, as proposed in § 286.105(2)(b), it would impose on the Tribes requirements for internal grievance procedures, in direct violation of their sovereignty. They argue that while the Tribes should have the option to adopt such rules on a voluntary basis and that while they probably would do so, they should not be imposed on them as mandatory requirements. On this basis, they recommended that this section be deleted entirely.

Response: The requirement that each Tribal TANF program create nondisplacement procedures reflects our concern about the possibility that placement of Tribal TANF recipients at work sites could displace other workers from their jobs. When workers are displaced by Tribal TANF recipients, there is the danger that the displaced workers may be forced to become the next generation of TANF recipients, which would be contrary to the purposes of the TANF program. In addition, this requirement is consistent with section 412 (a)(3)(B) of the Act that

applies to Tribal Welfare-to-Work programs and that incorporate a nondisplacement requirement. Through § 286.110, we want to encourage Tribes to exercise due care as they promote work and implement new job development, placement, and referral activities in a manner that is consistent with the proper use of TANF funds and that does not unintentionally frustrate the goals of the TANF program. Section 286.110(2)(b) merely requires that Tribes establish and maintain internal grievance procedures to resolve complaints that workers have been displaced. We agree that it is an essential exercise of tribal sovereignty for Tribes to determine for themselves the substance of these grievance procedures and to take whatever action the Tribe deems appropriate to resolve complaints concerning displacement under those procedures.

Section 286.115 (Section 286.110 in the NPRM) What Information on Time Limits for the Receipt of Assistance Must a Tribe Include in Its Tribal Family Assistance Plan?

As part of its plan, a Tribe will propose a time limit for receipt of Tribal TANF assistance that will apply to its service population and provide a rationale for its proposal. By ''time limit,'' we mean the maximum number of months (whether or not consecutive) that federally funded assistance will be provided to a Tribal TANF family that includes an adult. The proposed time limit should reflect the intent of Congress that welfare should be temporary and not a way of life. The proposal should also take into consideration those factors that may impact on the length of time that a TANF family might be expected to need in order to find employment and become self-sufficient.

To allow for maximum flexibility, we are not requiring that the same time limit apply throughout the Tribal TANF service area. A Tribe should have the option to decide that because economic conditions and the availability and accessibility of services vary, it is appropriate to establish different time limits by geographic area. For example, a Tribe could choose to establish a shorter time limit for a part of the service area that has many employment opportunities than for another part of the service area with high unemployment.

If the Tribe proposes to provide assistance for longer than 60 months, it should explain how that time limit was determined and provide a rationale for its determination. As mentioned earlier, examples of the information that we would expect to be included to illustrate the Tribe's proposal include, but are not limited to: Poverty, unemployment, jobless and job surplus rates; education levels of adults in the service area; availability of and/or accessibility to resources (educational facilities, transportation) to help families become employable and find employment; and employment opportunities on and near the service area.

As part of the negotiation process, we may ask for additional information and/or further discussion before the proposed time limits are approved. This would ensure that all factors are considered in establishing appropriate time limits for a Tribal TANF program.

Determining if the Time Limit Has Been Exceeded

Section 408(a)(7) of the Act provides that States may not use Federal funds to provide assistance to a family that includes an adult who has received assistance for more than five years. In other words, if a family does not include any adults who are receiving assistance (*i.e.,* only the children receive assistance), then the time limit does not apply. We have made the Tribal TANF requirements consistent with the State requirements in this area. The intent of Congress is that families should achieve self-sufficiency through employment. It does not seem reasonable to apply the time limit requirement to cases where only children are receiving assistance, and employment is not an option.

Section 408(a)(7)(B) of the Act requires States to disregard certain months of assistance in determining if the 60-month time limit has been exceeded. Specifically, State TANF programs do not count any month during which a minor who was not head of the household or married to the head of the household received assistance. For the reasons explained below, we propose to apply this disregard provision to Tribes.

The decision as to whether a family has met the time limit is based on how long the adults have received assistance. Therefore, it does not seem reasonable to include months when an individual received assistance as a minor. However, Tribes, like States, would count months when a minor received assistance as the head of a household or as the spouse of the head of the household. The reason is that minor heads of households and minors who are married to heads of household are generally treated as adults in terms of other program requirements under the Act.

Section 407(a)(7)(D) of the Act, as amended by the Balanced Budget Act of 1997, requires that Tribes and States disregard as a month of assistance any month during which an adult lived in Indian country or an Alaskan Native village in which at least 50 percent of the adults were not employed. To determine whether 50 percent of the adults were not employed, the statute allows the use of any reliable data with respect to the month. This would allow the use of the Labor Force Report, which is issued every two years by the Bureau of Indian Affairs, Department of Labor Unemployment Data, or any other reliable data source or combination of data sources.

Comments: Several comments were received supporting maximum flexibility for Tribes in accommodating the unique characteristics of their service populations.

Comments were also received noting that, while the regulations provide for time limits to be negotiated by Tribes beyond the 60-month limit imposed on states by statute, ''* * * no clear guidance has been provided on the type of information that will be considered in approving extended time limits,'' and suggesting that factors that would be considered be enumerated in the Final Rule.

Response: Section 286.115(b)(1) does provide examples of the types of information that will be considered. However, this list is not intended to be exhaustive. In acknowledgment of the differences of geographical, social, and economical conditions affecting each Tribe, each Tribe must have the opportunity to justify its proposed time limit based on its unique needs, and where appropriate, even to justify different time limits for different geographic areas based on special conditions.

Comment: Comments were received supporting the flexibility provided in proposed § 286.110(d)(2) which allowed Tribes a very wide range in the data that could be used to establish and support the invocation of the ''50 percent not employed exception.'' However, these commenters also suggested that, ''(i)f Tribes are expected and required to collect and collate this data, adequate resources for comprehensive data collection should be made available.''

Response: While we do not disagree on the need for adequate resources, the statute makes no provision for funding to Tribes for data collection.

Comment: With regard to proposed § 286.110(e), one commenter suggested that additional language should be inserted at the beginning of this section making more specific reference to proposed §§ 286.110(a)(2) and (3); § 286.110(d); and § 286.115 as

exceptions to the requirement to count previous assistance received toward the total lifetime restriction.

Response: We believe the language in §§ 286.115(a) and 286.120 is sufficient and that additional language would be redundant and unnecessary.

Comment: One commenter recommended including the definition of ''adult'' for the purposes of the 50 percent unemployment disregard.

Response: There is no qualifier in the statute, so we have chosen not to further define this term in the regulation.

Section 286.120 (Section 286.115 in the NPRM) Can Tribes Make Exceptions to the Established Time Limit for Families?

For State TANF programs, section 408(a)(7)(C) of the Act allows for two hardship exceptions from the 60-month time limit: (1) Families that meet the State's definition of ''hardship''; and (2) families that include an individual who has been battered or subjected to extreme cruelty. A State may exempt no more than 20 percent of its average monthly caseload under these exceptions.

Section 412(c) of the Act does not mention a similar exception for Tribal TANF programs. However, because the time limit provisions include not only how long a family may receive Tribal TANF benefits, but also who is subject to the time limits, it is reasonable that Tribes should have the option to provide for similar exceptions from their established time limits. The final regulations provide that we will negotiate the maximum percentage of cases in the Tribe's caseload which may be exempted from the established time limits.

Comment: One commenter recommended the addition of language in proposed § 286.115 for exemption from the time limit to be made for ''(f)amilies who are determined by the Tribe to be directly impacted by a declared economic disaster in their area * * *.''

Response: Section 286.120(a)(1) provides that exemptions may be provided for ''hardship, as defined by the Tribe * * *.'' This allows for the Tribe to make provision for such an exemption in their plan if it chooses to do so.

Comment: One commenter suggested that due to the nature of domestic violence and the resulting length of time often needed to assist a victim in becoming job ready, Tribes should define exceptions on an individual basis.

Response: This section provides no standard for the length of exemptions. Each Tribe may define these based on its client and program needs if it chooses to do so.

Section 286.125 (Section 286.120 in the NPRM) Does the Receipt of TANF Benefits Under a State or Other Tribal TANF Program Count Towards a Tribe's TANF Time Limit?

Under section 408(a)(7) of the Act, a State must consider receipt of TANF benefits under other State programs in determining if the 60-month time limit has been exceeded. Although section 412 of the Act does not include a similar requirement for Tribal TANF programs, we believe that prior receipt of TANF must also be counted by Tribes when determining if the time limit has been exceeded. We do not believe the intent of Congress was otherwise. Thus, a Tribe must count towards an adult's time limit all prior months of TANF assistance funded with TANF block grant funds, except for any month that was exempt or disregarded by statute or regulation.

As stated earlier, the PRWORA promotes self-sufficiency and independence by providing people with more work opportunities while holding individuals to a higher standard of personal responsibility for the support of their children. The legislation expands the concept of mutual responsibility, introduced under the Family Support Act of 1988, that income assistance to families with able-bodied adults should be transitional and conditioned upon their efforts to become self-sufficient. As Tribes focus on helping adults get work and earn paychecks quickly, parents are also expected to meet new, tougher work requirements. We will expect Tribes to ensure that parents understand what is required of them, and to develop proposals for penalties against individuals that reflect the importance of those requirements.

Comments: Commenters pointed to the difficulty in complying with the requirements of proposed § 286.120 that a participant's prior months of TANF assistance received outside of their own program must be counted toward the individual's total eligibility determination. The difficulty is based on the lack of reliable information exchange systems between Tribes and between Tribes and states or other local governments administering TANF. It was suggested that language be added relieving the Tribe of this need to comply if information is not available or ''* * * where compliance is not required under an approved tribal TANF plan.''

Response: While we recognize the difficulty for Tribes in determining prior receipt of TANF assistance, we believe that Congress was clear that TANF assistance must be time-limited. Therefore, it is necessary to document all assistance provided to an individual regardless of source.

We also recognize that if the information necessary to determine length of assistance from other sources, i.e. a state or another Tribe, cannot be accessed or if an individual commits fraud at the time of enrollment in identifying prior assistance, the Tribe cannot be held responsible. However, TFAPs do include provisions for recourse against individuals in instances of misrepresentation and fraud.

Section 286.130 Does the Receipt of Welfare-to-Work (WtW) Cash Assistance Count Towards a Tribe's Time Limit? (New Section)

Comment: A couple of commenters suggested that we address the impact of WtW cash assistance on the time limit for receipt of Tribal TANF assistance. We believe that discussion of this issue is especially important in light of amendments to the Act dealing with WtW assistance which were enacted subsequent to publication of the Tribal TANF NPRM.

Response: This is a new section in the Final Rule. Here we have clarified the circumstances under which benefits received by a family under WtW count against the time limit for receipt of TANF assistance. We do not believe that the statute permits a broad exclusion of WtW cash assistance from the definition of assistance applicable to Tribal TANF operations. Section 408(a)(7)(G) of the Act provides that ''noncash [WtW] assistance'' shall not be considered assistance for purposes of the TANF program time limit. This specific and limited exclusion strongly suggests that cash WtW assistance should generally be considered assistance. If a WtW benefit falls within the definition of assistance at § 286.130, it must count toward the TANF time limit.

In defining ''WtW cash assistance,'' (*i.e.,* what counts towards the time limit for receipt of TANF assistance), we started with the presumption that to be considered ''WtW cash assistance'' a benefit must fall within the general definition of assistance at § 286.10. Therefore, services, work supports, and nonrecurring, short-term benefits that are excluded from the definition of assistance at § 286.10(b) may not be ''WtW cash assistance.'' Also excluded are supportive services for nonworking families. Although these may be thought of as assistance, these benefits are services designed to meet specific

nonbasic needs and should not be characterized like cash.

''WtW cash assistance'' includes assistance designed to meet a family's ongoing, basic needs. It also includes such benefits as cash assistance to the family, even when provided to participants in community service or work experience (or other work activities) and conditioned on work. Conference Report (H.Rpt. 105–217) specifically mentions ''wage subsidies'' as an example of ''WtW cash assistance.''

We want to make it clear that the definition of ''WtW cash assistance'' in no way limits the types of WtW benefits for which families that have exhausted receipt of TANF assistance are eligible or may receive. States, Tribes, and local agencies may provide cash and noncash WtW assistance and other benefits to such families beyond the TANF-related time limit on assistance.

Section 286.135 (Section 286.125 in the NPRM) What Information on Penalties Against Individuals Must Be Included in a Tribal Family Assistance Plan?;

Section 286.140 What Special Provisions Apply to Victims of Domestic Violence? (New Section);

Section 286.145 (Section 286.130 in the NPRM) What Is the Penalty if an Individual Refuses to Engage in Work Activities?; and

Section 286.150 (Section 286.135 in the NPRM) Can a Family, With a Child Under Age 6, Be Penalized Because a Parent Refuses To Work Because (S)He Cannot Find Child Care?

Similar to our handling of these three sections in the NPRM, this Final Rule combines the discussions of these because of the inter-relationship among them.

As mentioned above, section 412(c) of the Act gives flexibility to establish penalties against individuals, and related policies, for each Tribal TANF grantee. Section 412(c)(3) specifies that penalties against individuals established for each Tribal TANF grantee must be similar to comparable provisions in section 407(e). However, the statute does not specify a process or procedure to accomplish this.

As discussed earlier, we will use the Tribal TANF plan process to establish the requirements related to penalties against individuals and related policies that will become a part of the Tribal TANF program. In addition, the Tribe must include a rationale for its proposal and related policies in the plan. The rationale needs to address how the Tribe's proposal is: consistent with the purposes of section 412 of the Act; consistent with the economic conditions and resources available to the Tribe; and similar to the requirements applicable to States as specified at section 407(e) of the Act.

States are required to reduce the amount of assistance otherwise payable to the family pro rata (or more at State option) for the period during the month in which the individual refused to engage in work as required, subject to good cause and other exceptions determined by the State. The States also are given, by the statute at section 407(e)(1)(B), the option to terminate the case.

In addition, a State may establish, pursuant to section 407(e)(1) of the Act, good cause exceptions to penalties for failure to engage in work as required. We believe that Tribes must also be able to establish reasonable good cause exceptions because penalties against individuals established for each Tribal TANF grantee must be comparable to those specified at section 407(e). A Tribe must include a rationale for its good cause exceptions. The rationale should address how the good cause exceptions are reasonable and how they relate to the goals of the Tribe's TANF program.

As specified in the statute at section 407(e)(2), a State may not reduce or terminate assistance to a single custodial parent caring for a child under age six for refusing to engage in work as required, if the parent demonstrates an inability (as determined by the State) to obtain needed child care. The parent's demonstrated inability must be for one of the following reasons:

- Appropriate child care within a reasonable distance from the individual's home or work site is unavailable;
- Informal child care by a relative or under other arrangements is unavailable or unsuitable; or
- Appropriate and affordable formal child care arrangements are unavailable.

We believe a comparable provision should apply to Tribal TANF programs as the lack of child care may be even more acute on remote Indian reservations.

Refusal to work when the Tribe determines an acceptable form of child care is available is not protected from sanctioning.

Because each Tribe has the authority to determine whether the individual has adequately demonstrated an inability to obtain needed child care, we expect the Tribe to define the terms ''appropriate child care,'' ''reasonable distance,'' ''unsuitability of informal care,'' and ''affordable child care arrangements.'' The Tribe must also provide families with the criteria (including the definitions) that it applies in implementing the exception and the means by which a parent can demonstrate an inability to obtain needed child care.

To keep families moving toward self-sufficiency and to promote Tribal compliance with this penalty exception, our rules provide that Tribes must have procedures in place that: (1) Enable a family to demonstrate its inability to obtain needed child care; (2) inform parents that the family's benefits cannot be reduced or terminated when they demonstrate that they are unable to work due to the lack of needed child care for a child under the age of six; and (3) advise parents that the time during which they are excepted from the penalty will still count toward the time limit on Federal benefits at section 408(a)(7) of the Act, if applicable.

The regulations for the Child Care and Development Fund (CCDF) reinforce the importance of providing this vital information to parents by also requiring the child care lead agency, as part of its consumer education efforts, to inform TANF parents seeking child care in the CCDF system of the existence of the child care exception and how to demonstrate an inability to obtain needed child care. Further, the CCDF rule requires the lead agency for child care to coordinate with the TANF agency in order to understand how the TANF agency defines and applies the terms of the statute regarding the penalty exception and to include the definitions of any appropriate terms or criteria in the CCDF plan.

Under section 402(a)(7) of the Act States may opt to establish and enforce standards and procedures for identifying and helping victims of domestic violence. If the State has chosen to establish these standards, it may waive certain program requirements, including work requirements, in cases where compliance would make it more difficult for an individual receiving assistance to escape domestic violence or would unfairly penalize victims or individuals who are at risk of further violence. The State must determine that the individual receiving the program waiver has good cause for failing to comply with the requirements. Tribes may also wish to consider whether to establish their own standards and procedures related to victims of domestic violence.

There may be other reasons a Tribe may want to impose a penalty on an individual who refuses to cooperate with program requirements other than work activity requirements. For

example, a Tribe may want to impose a penalty on a custodial parent who refuses to cooperate with a child support enforcement program.

Based on the above information, we believe the Tribe's TANF plan must address the following questions:

(1) Will the Tribe impose a pro rata reduction, or more at Tribal option, or will it terminate assistance to a family which includes an adult or minor head-of-household that refuses to engage in work as required?

(2) What will be the proposed Tribal policies with respect to a single custodial parent, with a child under the age of 6, who refuses to engage in work activities because of a demonstrated inability to obtain child care?

(3) What good cause exceptions, if any, does the Tribe propose which will allow individuals to avoid penalties for failure to engage in work activities? What is the rationale for these exceptions?

(4) What other rules governing penalties does the Tribe propose?

(5) What, if any, will be the Tribe's policies in relation to victims of domestic violence?

With respect to the prohibition on penalizing single custodial parents with a child under age 6, we want to underscore the pivotal role of child care in supporting work and that the lack of appropriate, affordable child care can create unacceptable hardships on children and families. To keep families moving toward self-sufficiency, Tribes may want to consider adopting a process or procedure that enables a family to demonstrate its inability to obtain needed child care. Just as States must have policies for continuing benefits to a single-parent family when it demonstrates that it is unable to work due to the lack of child care for a child under the age of six, it is important for Tribes to have policies too. Like States, Tribes should inform eligible parents that the time during which they are excepted from the penalty will count towards the time limit on benefits, unless the Tribe's approved time limit proposal provides for an exception.

The regulations for the Child Care and Development Fund (CCDF) reinforce the importance of providing this vital information to parents by requiring the child care Lead Agency, as part of its consumer education efforts, to inform parents about the penalty exception to the TANF work requirement. It must also provide parents with the information outlined above concerning the process or procedures for demonstrating an inability to obtain needed child care.

As the role of child care is pivotal in supporting work activities, it is important for the Tribal and State CCDF programs to coordinate fully with the Tribal TANF program. Coordination between CCDF and TANF is critical to the success of both programs.

In addressing the economic conditions and available resources in support of its proposal for penalties against individuals, the Tribe may refer back to the information already provided in the plan in relation to the Tribe's proposal for minimum work participation requirements and time limits. It may also offer additional information in support of its proposal.

Comment: One commenter objected to § 286.125 as proposed on the basis that it "* * * proposes to establish criteria which must be included in a Tribal TANF plan for penalizing individuals who refuse to engage in work activities."

Response: We believe that the commenter has misread this section. The specific subsection to which we believe reference is made, § 286.125(a)(1) as proposed, does not propose to establish any criteria. It requires that the Tribe respond to the question of whether it plans to impose a pro rata reduction or some other alternative, without imposing either.

When coupled with § 286.145, this section clearly provides that penalties, and the methodology for imposing them, can be established in their TFAP by each Tribe.

Comment: One commenter objected to the entire § 286.135 as proposed, arguing that it "describes special rules to be imposed by ACF on Tribes," and that "(t)he law does not require special consideration in these areas."

Response: We believe the rule recognizes that child care helps parents reach and maintain economic self-sufficiency and is consistent with the law. Obtaining appropriate, affordable and safe child care is widely recognized as a major barrier that keeps families on welfare and out of the workforce. This section recognizes that parents are more likely to obtain work and remain in the workforce if appropriate child care is available while also recognizing that Tribes must define for themselves the criteria which families must satisfy in order to avoid work participation penalties due to unavailability of child care.

Comment: Commenters suggested that while child care may be available, it may not always be appropriate, and therefore recommends that the work "appropriate" be inserted before the words "child care."

Response: We have revised the regulatory language accordingly.

Section 286.155 May a Tribe Condition Eligibility for Tribal TANF Assistance on Assignment of Child Support to the Tribe? (New Section)

A thorough discussion of this section can be found earlier in the preamble, under IV.A Discussion of Cross-Cutting Issues—Child Support.

Tribal TANF Plan Processing

Section 286.160 (Section 286.140 in the NPRM) What Are the Applicable Time Frames and Procedures for Submitting a Tribal Family Assistance Plan?

The PRWORA does not give a date by which a Tribe must submit a Tribal Family Assistance Plan. In establishing the time frame within which a Tribe must submit the TFAP, we considered two factors. The first was the requirement found at section 405(b) of the Act that we provide to a State timely notice of the amount of the reduction to its State Family Assistance Grant (SFAG) that results from the operation of a Tribal TANF program. The statute requires this notice to be made three (3) months before we take the reduction in the State's SFAG quarterly installment. The second consideration is the authority at section 412 (b)(2) of the Act which provides for Secretarial approval of each Tribal Family Assistance Plan.

As mentioned in the discussion on determining the amount of a Tribal Family Assistance Grant, our experience to date has indicated that we need sufficient time to request data from the State, receive and process it, and resolve any issues, prior to making official notice to the State. We have outlined time frames at § 286.20 for requesting State data and resolving any issues concerning the data. In order to meet these time frames and meet the requirement for a three-month notice to the State, the Final Rule at § 286.160 requires a Tribe to submit to us a letter of intent, unless the Tribe has already requested, received and resolved any issues regarding the State-supplied data. We will use the letter of intent to request the data from the State and thus will need to specify the Tribe's proposed implementation date and proposed service area and population. We have specified time frames for the submission of the letter of intent at § 286.160(a).

In order to meet the approval requirement, including review, discussion, and where appropriate, modification of the TFAP in consultation with the Tribe, we have determined that we will need a

minimum of 120 days to accomplish these actions for Tribes who propose to implement a program on the first day of a calendar quarter. Therefore, the final regulation at § 286.160(a) requires the formal submission of a Tribal TANF plan to us based on the dates specified in the table below.

A Tribe will be able to implement a Tribal TANF program on the first day of any month. However, due to the requirement for a three-month notification to the State of its adjusted quarterly SFAG amount, a Tribe who wishes to implement a TANF program on other than the first day of a calendar quarter, i.e., January 1, April 1, July 1 or October 1, will need to submit both its letter of intent and its formal plan as if the proposed implementation date was the first day of a calendar quarter. The following table illustrates, based on implementation dates, when a Tribe needs to submit its letter of intent and formal plan in order for us to meet the statutory requirement for notification to the State.

If proposed implementation date is:	The letter of intent is due:	The formal plan is due:	And we must notify the State by:
January 1, February 1 or March 1	July 1 of previous year	September 1 of previous year	October 1 of previous year.
April 1, May 1 or June 1	October 1 of previous year	December 1 of previous year	January 1 of same year.
July 1, August 1 or September 1	January 1 of same year	March 1 of same year	April 1 of same year.
October 1, November 1 or December 1.	April 1 of same year	June 1 of same year	July 1 of same year.

As noted above, the Secretary has explicit authority to approve Tribal TANF plans. In exercising this authority, we plan to work with each Tribe that submits a TFAP to ensure that plans contain the information required by statute and regulation. A Tribe may make revisions to its plan during the review process. In instances where we disapprove a plan, the final regulation at § 286.165(e) provides an appeal process.

Public Law 102–477

Public Law 102–477, the Indian Employment, Training and Related Services Demonstration Act of 1992, allows Tribes to integrate certain federally funded employment, training and related services programs into a single plan. The purpose of this public law is to improve the effectiveness of these programs and services.

The PRWORA requires the Secretary to review and approve all TFAPs for Tribes seeking to operate a Tribal TANF Program. Those requirements are found at section 412(a). Section 5 of Public Law 102–477 states ''the programs that may be integrated in a demonstration project * * * shall include any program under which an Indian tribe is eligible for receipt of funds.'' In order to receive a Tribal Family Assistance Grant, Tribes must first have approved Tribal TANF plans. Therefore, the final regulation at § 286.160(f) indicates that a Tribe must have separate approval of its TFAP from the Secretary before it can integrate the Tribal TANF program into a Public Law 102–477 plan.

Overview of Comments

Comments were received from several Tribes, consortia, inter-tribal organizations, and states regarding this requirement. All the commenters questioned the need for a separate stand-alone plan and recommended that this requirement be dropped. The commenters supported this position by noting that the intent of Pub.L. 102–477 is to facilitate integration of labor-related social service programs. They also noted that such integration would ''* * * provide a more comprehensive view'' and ''give * * * ACF staff greater understanding of how the Tribe(s) will provide services to meet TANF work requirements.'' Finally, the commenters argued that, ''there is no reason why an annual integrated plan cannot * * * include the required items (elements)'' of a TANF plan.

Response: The rationale cited in the proposed rule and related discussions for requiring approval of a stand-alone TANF plan prior to integration into a Pub.L. 102–477 plan is that the statute specifically requires the Secretary to approve a tribal TANF plan as opposed to just acknowledging the plan as complete, as is done with state plans. Just as the review, negotiation, and approval process(es) that must take place between the Tribe and HHS to arrive at an approved plan cannot be delegated to any other agency or department, neither can it be subject to any conditions that might be imposed by the Department of Interior relating to approval of a Pub.L. 102–477 program.

Furthermore, in addition to the requirement for approval of the plan and the process that it necessitates, there are important programmatic considerations that must be taken into consideration:

First, the development of the tribal TANF plans, at least initially, can and does often entail developmental activities and negotiation processes involving the Tribe, State, and HHS, that are unique to the TANF program and clearly beyond the scope of what is allowed or required of other programs that could be included in a Pub.L. 477 plan. These include such things as: Establishing service area and population; determining level of funding entitlement; establishing eligibility criteria, tenure of service and program duration; negotiating the nature and scope of state support; and development of state and tribal collaboration.

Second, at the time of renewal or in the case of an amendment to a TANF plan, there is a requirement for renegotiation with, and subsequent review and approval by the Secretary that requires the plan to be considered on its own merit.

Finally, Pub. L. 102–477 gives the Department of Interior complete authority to approve or disapprove Pub.L. 102–477 plans, while PRWORA gives the Secretary sole authority to approve or disapprove TANF plans. These two functions and the processes which they entail are unique, distinct processes and of necessity must remain so between the two Departments.

Section 286.165 (Section 286.145 in the NPRM) How Is a Tribal Family Assistance Plan Amended?

Section 412 of the statute does not address amendments to Tribal TANF plans. We believe that Tribes need to have an opportunity, during the period covered by a plan, to amend the plan. Thus, the final regulation at § 286.165 allows Tribes to amend TFAPs.

In addition, the final regulation establishes the procedure for the submission, review and implementation of a Tribal TANF plan amendment. We require the submission to the Secretary of a plan amendment no later than thirty (30) days prior to the implementation of the amendment. The implementation date for an approved amendment will be the first day of any month. We will take prompt action to approve or disapprove the proposed amendment. If we disapprove a plan amendment, the Tribe will be given an opportunity to appeal

the decision. Use of TANF funds for services or activities under an amendment cannot be made until the implementation date of the approved amendment.

Section 286.170 How May a Tribe Petition for Administrative Review of Disapproval of a TFAP or Amendment? (New Section)

We received a comment that the Final Rule should outline an appeals process to be used by Tribes when a TFAP or plan amendment is not approved. We concur and, accordingly, have included this new section in the Final Rule.

Specials Provisions for Alaska

Section 286.175 (Section 286.150 in the NPRM) What Special Provisions Apply to Alaska?;

Section 286.180 (Section 286.155 in the NPRM) What is the Process for Developing the Comparability Criteria That Are Required in Alaska?;

Section 286.185 (Section 286.160 in the NPRM) What Happens When a Dispute Arises Between the State of Alaska and the Tribal TANF Eligible Entities in the State Related to the Comparability Criteria?; and

Section 286.190 (Section 286.165 in the NPRM) If the Secretary, the State of Alaska, or Any of the Tribal TANF Eligible Entities in the State of Alaska Want to Amend the Comparability Criteria, What is the Process for Doing So?

Comment: One commenter expressed concern that the comparability requirement places an unfair burden to Tribes in Alaska and has been a major deterrent toTribes wishing to operate a Tribal TANF program in Alaska.

Response: Section 412(i) of the statute requires the Tribal TANF eligible entities in the State of Alaska to operate a program in accordance with requirements comparable to the State of Alaska's TANF program. Given the requirements of the statute, we provided a framework for Tribes to work together with the state toward developing comparability criteria. As we indicated in the Preamble to the proposed rule, in November 1996 we sponsored a meeting during which a ''Single Points of Contact (SPOC)'' group was formed to develop an initial comparability criteria document. These representatives of the 13 eligible Tribal TANF eligible entities, the State, and ACF continued to meet and further refine the document until such time as the first eligible entity submitted a Tribal TANF plan. Because of the ongoing collaboration and coordination among all affected parties, this process allowed the greatest level of flexibility possible given the mandatory requirements of the statute. All eligible entities have agreed to the comparability criteria document which was developed as a result of this process.

Subpart D—Accountability and Penalties (Sections 286.195–286.240)

It is clear that, in enacting the applicable penalties at section 409(a) of the Act, Congress intended for Tribal flexibility to be balanced with Tribal accountability. To assure that Tribes fulfil their new responsibilities under the TANF program, Congress established a number of penalties and requirements under section 409. The penalty areas indicate the areas of performance that Congress found most significant and appropriate for Tribal programs. Through specific sanctions, Congress provided the Secretary authority to enforce particular provisions in the law.

As referenced in section 412 of the Act, section 409(a) includes four penalties that can be imposed on Tribes. This subpart of the Final Rule covers these penalties.

Comment: One commenter points out the inequity found in the fact that while Tribes can be penalized for not meeting the participation rates, they are excluded from the bonus rewards for achieving certain levels of performance.

Response: These provisions are set by the statute and cannot be affected by regulation.

Section 286.195 (Section 286.170 in the NPRM) What Penalties Will Apply to Tribes?

The four penalties that apply to Tribes are as follows:

(1) A penalty of the amount by which a Tribe's grant was used in violation of part IV–A of the Act;

(2) A penalty of five percent of the TFAG as a result of findings which show that the Tribe intended to violate a provision of the Act;

(3) A penalty in the amount of the outstanding loan plus the interest owed on the outstanding amount for failure to repay a Federal loan; and

(4) A penalty for failure to satisfy the minimum work participation rates.

As specified in section 409(a)(3) of the Act, the participation rate penalty amount will depend on whether the Tribe was under a penalty for this reason in the preceding fiscal year. If a penalty was not imposed on the Tribe in the preceding year, the penalty reduction will be a maximum of five percent of the TFAG in the following year. If a penalty was imposed in the preceding year, the penalty reduction will be increased by 2 percent per year, up to a maximum of 21 percent. We will take into consideration the severity of the failure in determining the amount of the penalty. In our consultation with Tribes, we have been advised that it will be difficult to satisfy the participation rates because of economic conditions (e.g., high unemployment rates) in Tribal service areas. Although these conditions will be considered in establishing the minimum participation rates for each TFAG program, we recognize that it may still be difficult for Tribes to meet this requirement. For this reason, we will take into consideration the following two factors in determining the amount of the penalty: (1) Increases in the unemployment rate in the Tribe's service area, and (2) changes in TFAG caseload (e.g., increases in the number of families receiving services).

If we impose a penalty on a Tribe, the following fiscal year's TFAG will be reduced. In calculating the amount of the penalty, all applicable penalty percentages will be added together and the total will be applied to the amount of the TFAG that would have been payable if no penalties were assessed against the Tribe. As a final step, other (non-percentage) penalty amounts will be subtracted. If this calculation would result in the TFAG being reduced by more than 25 percent, we will apply the State TANF limitation in section 409(d) of the Act. In applying the penalties against a State TANF program, we cannot reduce the State's block grant by more than 25 percent in any quarter. If we are unable to collect the entire penalty in a fiscal year, any excess penalty amounts will be applied against the grants for succeeding years. We intend to treat Tribes like States in this area, and limit the amount of TFAG reduction due to penalties to 25 percent in any given fiscal year.

Failure To Repay a Federal Loan

Section 406 of the Act permits Tribes to borrow funds to operate their TANF programs. Tribes must use these loan funds for the same purposes as apply to other Federal TANF funds. In addition, the statute also specifically provides that Tribes may use such loans for welfare anti-fraud activities and for the provision of assistance to Indian families that have moved from the service area of a State or other Tribe operating a Tribal TANF program. Tribes have three years to repay loans and must pay interest on any loans received. We will be issuing a program instruction notifying Tribes and States of the application process and the information needed for the application.

Section 409(a)(6) of the Act establishes a penalty for Tribes that do not repay loans provided under section 406. We will penalize Tribes for failing to repay a loan provided under section 406 (see § 286.195(a)(4) and § 286.210). A specific vehicle for determining a Tribe's compliance with this requirement is unnecessary. In our loan agreements with Tribes, we will specify due dates for the repayment of the loans and will know if payments are not made.

Outstanding Penalties and Retrocession

In developing the proposed rules, a question arose concerning how we will treat situations where a Tribe decides to retrocede the TANF program. Since the Tribe will no longer receive a TFAG, we would be unable to collect any penalty by withholding or offsetting in the succeeding fiscal year. However, we stipulate in the final regulation that a Tribe that retrocedes a Tribal TANF program is responsible for the payment of any penalty that may be assessed for the period the program was in effect.

Replacement of Penalty Amounts

Section 409(a)(12) of the Act requires a State to expend its own funds to replace any reduction in its SFAG due to the imposition of a penalty. This is to prevent recipients from also being penalized for the State's failure to administer its program in accordance with the requirements of the Act. We believe that a similar failure by a Tribe should not cause Tribal TANF recipients to be penalized. For this reason, in the same fiscal year as a penalty is imposed, at § 286.195(c)(1) we require a Tribe to expend Tribal funds to replace any reduction in the TFAG resulting from penalties that have been imposed. The Tribe must document compliance with this provision on its TANF Financial Report.

As amended by the Balanced Budget Act of 1997, section 409(a)(12) states that failure of a State to replace any reduction in its SFAG amount due to penalties may result in a penalty of not more than 2 percent of the SFAG, plus the amount that was required to be replaced. However, we do not want to subject Tribes to a penalty that is so severe that services to recipients are jeopardized. Therefore, at § 286.195(c)(2) we impose a similar, but not the same, penalty on Tribes. We stipulate in the Final Rule that we may impose a penalty of not more than 2 percent of the TFAG if a Tribe fails to expend its own funds to replace any reduction in the TFAG due to penalties.

Comments: Two commenters suggested that there is no statutory basis for this section and that it should be deleted.

Response: The statutory basis for this section is found at sections 412(g)(1) and (a)(2) which clearly make the provisions of subsections (a)(1), (a)(3), (a)(6), (b), and (c) of section 409 applicable to tribal grants.

Comment: One commenter suggested that ''(t)he Tribes need to have meaningful involvement * * *'' in the process of determining whether violations have occurred and whether penalties should be assessed.''

Response: We believe that this is provided by the very nature of the process as set forth in § 286.220, which provides opportunity for the Tribe to respond to and dispute any findings.

Comment: One commenter objected specifically to proposed § 286.170(a)(3), which imposes penalties for failure to meet minimum work requirements.

Response: As noted in the previous response to the general objections to this section, these penalties are specified by the statute.

Comment: Several commenters objected to the provisions of subsections (c)(1) and (c)(2), which provide that the Tribe must expend additional tribal funds to replace any reduction due to penalties and provide for additional penalties for failure to do so.

Response: Although section 409(a)(12) of the statute only requires states to provide ''replacement funds'' for funds lost due to penalties, and additional penalties for failure to provide them, Federal law does not preclude the Secretary from establishing this requirement for Tribes. A Tribe's failure to administer its program in accordance with the requirements of the Act should not cause Tribal TANF recipients to be penalized. Thus we have made no changes to this section.

Section 286.200 (Section 286.175 in the NPRM) How Will We Determine if Tribal Family Assistance Grant Funds Were Misused or Intentionally Misused?

It is clear that in establishing the many penalties at section 409(a) of the Act, Congress expressed its intent that both States and Tribes balance flexibility with accountability. Because of the differences in the requirements for State and Tribal programs, as mentioned above, section 412 specifies that only four of the requirements and penalties under section 409 apply to Tribes. The penalty areas, or rather, the areas of Tribal performance that Congress found significant and attached fiscal sanctions to, vary considerably. Thus, in considering what method to employ in monitoring Tribal performance, we concluded that no one method could be employed. The following explains the different methods we will use to determine if a Tribe used TFAG funds in violation of the Act.

Misuse of Funds

The penalty at § 286.195(a)(1) and § 286.200(a) provides that if a Tribe has been found to have used funds in violation of title IV–A through an audit conducted under the Single Audit Act (31 U.S.C. Chapter 75), as referenced in section 102(f) of the Indian Self-Determination Act Amendments of 1994 (Pub. L. 103–413), the Tribe is subject to a penalty in the amount misused. This is the only penalty for which Congress identified a method for determining a penalty.

Under the requirements of the Single Audit Act, Tribes operating Federal grant programs meeting a monetary threshold (currently $300,000 for all Federal grants) must conduct an annual audit. Those Tribes which meet the threshold must comply with this annual audit requirement.

The single audit is an organization-wide audit that reviews Tribal performance in many program areas. We implemented the Single Audit Act through use of Office of Management and Budget (OMB) Circular A–128, ''Audits of State and Local Governments.'' Because of amendments made to the Single Audit Act in 1996, OMB recently revised this circular and a similar circular for non-profit organizations, A–133. Effective June 30, 1997, A–128 has been rescinded, with the result that the revised A–133 now includes the single audit requirements for States, local governments, Indian tribes and non-profit organizations.

In conducting their audits, among the tools auditors use are the statute and regulations for each program and a compliance supplement issued by OMB that focuses on certain areas of primary concern. Upon issuance of final regulations, we will prepare a TANF program compliance supplement.

The Single Audit Act does not preclude us or other Federal offices or agencies, such as the Office of the Inspector General (OIG), from conducting audits or reviews. In fact, we conclude that we have specific authority to conduct additional audits or reviews. Under 31 U.S.C. 7503(b),

''* * * a Federal agency may conduct, or arrange for additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any non-Federal entity (or subrecipient thereof) to constrain, in any manner, such agency from carrying out or arranging for

such additional audits, except that the Federal agency shall plan such audits to not be duplicative of audits of Federal awards.''

Thus, although the single audit will be our primary means for determining if a Tribe has misused funds, we may, through our own audits and reviews, or through OIG and its contractors, conduct audits or reviews of the Tribal TANF program which will not be duplicative of single organization-wide audit activities. Our need to conduct such audits may arise from complaints from individuals and organizations, requests by the Congress to review particular areas of interest, or other indications which signal problems in Tribal compliance with TANF program requirements. These additional reviews and audits may be the basis for assessing a penalty under this section.

Intentional Misuse of Funds

Where a penalty is determined for the misuse of funds, we may apply a second penalty if we determine that the Tribe has intentionally misused its TFAG. The criteria for determining ''intentional misuse'' are found at § 286.200(d). The single audit will be the primary means for determining this penalty as it is linked to the penalty for misuse of funds. However, as with the use of the single audit for misuse of funds, we may also conduct other reviews and audits in response to complaints from individuals and organizations or other indications which signal problems with compliance with TANF program requirements. These additional reviews and audits may be the basis for assessing a penalty under this section.

Additional Single Audit Discussion

Although we specify that the single audit will be the primary means to determine the specific penalties for misuse and intentional misuse of TFAG funds, we will not ignore other single audit findings such as Tribal non-compliance with the minimum participation rate requirement. Where the single audit is used to determine a penalty for failure to satisfy the minimum participation rate, the penalty that will apply is the percentage reduction described at § 286.195(a)(3), not the dollar-for-dollar penalty at § 286.195(a)(1) for misuse of funds.

The single audit may also reveal Tribal non-compliance with the negotiated time limit requirements (see § 286.120). Since Tribes are not subject to the State penalty at section 409(a)(9) for failure to comply with the time limit provisions, the question arose as to whether the Tribe's failure should be treated as a misuse of funds. Because the penalty for misuse of funds is equal to the amount that was spent incorrectly, the Tribal penalty could potentially be higher than the five percent penalty for States. As a result, a Tribe could be subject to a higher penalty by comparison. To avoid disparate treatment of States and Tribes in this area, we will limit any potential penalty for failure to comply with the Tribal time limits to a maximum of five percent.

Similarly, where we, or OIG, conduct an audit or review and have findings that could result in a penalty, the penalty amount that will apply is the penalty amount associated with the specific penalty under section 409(a) of the Act.

Comments: Several Tribes questioned whether ACF has the authority to conduct additional audits and reviews that may result in penalties on Tribes. They assert that the only penalties that may be applied regarding misuse of funds are determined by the Single Audit Act.

Response: The single audit will be the primary means for determining the penalty for misuse of funds, whether misused intentionally or not. The single audit may also be used to determine tribal non-compliance with other Tribal TANF requirements, such as minimum participation rate or negotiated time limit requirements. However, the Single Audit Act does not preclude Federal agencies from conducting additional audits or reviews. As we indicated above, we have specific authority under 31 U.S.C. 7503(b) to conduct or arrange for such additional audits or reviews. Such an audit or review will not be duplicative of the single organization-wide audit activities. The need to conduct such an audit or review will be based on indications that may signal problems in tribal compliance with TANF program requirements, such as complaints from individuals or organizations, or may arise from a request by Congress to review a particular area of interest.

Section 286.205 (Section 286.180 in the NPRM) How Will We Determine if a Tribe Fails To Meet the Minimum Work Participation Rate(s)?

Tribal compliance with the minimum work participation rates under § 286.205 will be primarily monitored through the information required by section 411(a) of the Act. The Final Rule at § 286.80 provides additional information on minimum work participation requirements.

Some of the data required to be reported by section 411(a) of the Act were included to gather information in this area. Thus, we concluded that the section 411(a) data collection tools would be our primary means for determining this penalty. Our ability to meet our program management responsibilities may also mean that we will conduct reviews in the future to verify the data submitted by Tribes, particularly in this area where a fiscal penalty is applicable.

Timely and accurate data is essential if we are to determine Tribal compliance in this area. Thus, if a Tribe fails to submit a timely report, we will consider this as a failure by the Tribe to meet its work participation rate requirements and will enforce the penalty for failure to meet the work participation requirements. Likewise, if the data indicating that the Tribe has met its participation rate is found to be so inaccurate as to seriously raise a doubt that the Tribe has met these requirements, we may enforce the participation rate penalty.

Although the single audit will be the primary means for determining certain specific penalties for misuse or intentional misuse of TFAG funds, if a single audit detects Tribal non-compliance in the minimum participation rate area, we cannot ignore that finding. Therefore, we will consider imposing a penalty based on the single audit in this area. The penalty amount that will apply is the penalty under section 409(a)(3) for failure to meet the participation rates and not the penalty under section 409(a)(1) for misuse of funds.

Comment: A commenter suggested that an exception should be made to the requirement for meeting work participation requirements for ''regions struggling because of declared economic disasters.''

Response: Tribes already have the ability in § 286.80 to establish exemptions, limitations, and special rules in relation to work requirements as part of their basic plan.

Comment: One commenter questions the language of proposed § 286.185(b), which provides that ''* * * (t)he accuracy of the reports are subject to validation by (ACF) * * *'' and asks how that will occur. Suggestion was made that either the information identifying the means of validation be included or that this language be removed altogether.

Response: Section 286.205(a) clearly provides that the Tribal TANF Data Report submitted by the Tribe will be the major source for determining compliance. Also, § 286.220 provides opportunity for the Tribe to explain and/or justify the data.

Section 286.210 (Section 286.185 of the NPRM) What is the Penalty For a Tribe's Failure To Repay a Federal Loan?

If the Tribe fails to repay its loan, plus any accumulated interest, in accordance with its agreement with ACF, we will reduce the Tribe's TFAG for the immediately succeeding fiscal year by the outstanding loan amount, plus any interest owed. Neither the reasonable cause provisions at § 286.225 of this chapter nor the corrective compliance plan provisions at § 286.230 of this chapter apply when a Tribe fails to repay a Federal loan. Please refer to § 286.235 for more information on this penalty.

Section 286.215 (Section 286.190 in the NPRM) When Are the TANF Penalty Provisions Applicable?

This section of the Final Rules provides the general time frames for the effective dates of the Tribal TANF provisions. As we noted in the NPRM, many of the penalty and funding provisions had statutorily delayed effective dates. For example, while Tribes will be held accountable for the penalties of misuse of funds from the date of implementation of TANF, the penalty to satisfy minimum participation rates will not apply until six months after the date of implementation of the Tribal TANF program.

We also made the important point that we did not intend to apply the TANF rules retroactively against Tribes. We indicated that, with respect to any actions or behavior that occurred before the Final Rule, we would judge Tribal actions and behavior only against a reasonable interpretation of the statute.

In the period prior to the effective date of the Final Rules, Tribes must implement the TANF provisions in accordance with a reasonable interpretation of the statute. If a Tribe's actions are found to be inconsistent with the final regulations, but it has acted in accordance with a reasonable interpretation of the statute and its approved TFAP, no penalty will be taken against the Tribe. However, if a Tribe is found to be liable for a penalty prior to the effective date of the Final Rules, the Tribe may present its arguments for ''reasonable cause,'' which, if granted, will result in no penalty being taken.

Comments: Several commenters suggested that the provisions of proposed § 286.190(b), which provides that a Tribe may be subject to the penalties for failure to meet the minimum work requirements beginning after the first 6 months of operation of a program, are too stringent. Suggestions were made that the ''grace period'' on compliance should be extended from 12 to 24 months.

Response: Minimum work requirements are determined via the negotiation process. If a Tribe determines during this process that it may have difficulty meeting the negotiated rate, it should not agree to that rate. Thus, we are retaining the proposed language.

Section 286.220 (Section 286.195 in the NPRM) What Happens if a Tribe Fails To Meet TANF Requirements?

If we determine that a Tribe has failed to meet any of the requirements included in the penalty provisions, we will notify the Tribe in writing. Our notification to the Tribe will include: (1) The penalty, including the specific penalty amount; (2) the basis for our decision; (3) an explanation of the Tribe's opportunity to submit a reasonable cause justification and/or corrective compliance plan where appropriate; and, (4) an invitation to the Tribe to present its arguments if it believes that the data or method for making the decision was in error, or that the Tribe's actions, in the absence of Federal regulations, were based on a reasonable interpretation of the statute.

Reasonable Cause and Corrective Compliance Plan

Provisions at sections 409(b) of the Act state that we can excuse or reduce certain penalties if we determine that the Tribe has reasonable cause for failing to comply with certain requirements that are subject to a penalty. At § 286.225 Tribes will have the opportunity to demonstrate reasonable cause upon receipt of a written notification of a proposed penalty.

Section 409(c) of the Act, as amended by the Balanced Budget Act of 1997, provides that prior to imposing certain penalties against a Tribe, we will notify the Tribe of the violation and allow the Tribe the opportunity to enter into a corrective compliance plan which outlines how the Tribe will correct the violation and ensure continuing compliance with TANF requirements.

Comments: Several comments were received relating to the fact that, while setting time frames for the Tribe to respond to findings that would result in penalties, § 286.195 as proposed sets no time frame for the agency to respond, and that the two-week time frame in subsection (e) for the Tribe to submit additional information is too short.

Response: We have clarified subsection (c) to specify that we will notify the Tribe of our decision with respect to their submissions within two weeks from when the determination is made. We have amended subsection (e) to allow the Tribe thirty (30) days for submission of additional information. We have also amended § 286.205 to clarify what we mean by ''complete and accurate.''

Section 286.225 (Section 286.200 in the NPRM) How May a Tribe Establish Reasonable Cause For Failing To Meet a Requirement That Is Subject to Application of a Penalty?

This section describes the factors that we will consider in deciding whether or not to excuse a penalty based on a Tribe's claim of reasonable cause, describes the contents of an acceptable corrective compliance plan that will correct the problems that resulted in a penalty, and discusses the process for applying these provisions.

PRWORA did not specify any definition of reasonable cause or indicate what factors we should use in determining a reasonable cause exceptions for a penalty. We will consider only certain, limited factors when we decide whether or not to excuse a penalty for reasonable cause. In keeping with the need to support the commitment of Congress, the Administration, States, and Tribes to the objectives of the TANF program, including program accountability, we have identified a limited number of reasonable cause factors with an emphasis on corrective solutions. These are the same reasonable cause factors that are applicable for State programs. These factors are applicable to all penalties for which the reasonable cause provision applies. In the case of the penalty for failure to satisfy the minimum participation rates, one additional factor is applicable only to that specific penalty.

General reasonable cause may include the following: (1) Natural disasters and other calamities (*e.g.,* hurricanes, tornadoes, earthquakes, fires, floods, etc.) whose disruptive impact was so significant that the Tribe failed to meet a requirement; (2) formally issued Federal guidance which provided incorrect information resulting in the Tribe's failure, or guidance that was issued after a Tribe implemented the requirements of the Act based on a different but reasonable interpretation of the Act; (3) isolated, non-recurring problems of minimum impact that are not indicative of a systemic problem; (4) significant increases in the unemployment rate in the service area and changes in the TFAG caseload size; and (5) the clearly demonstrated need to

divert critical system resources to Y2K compliance activities.

We have included one additional specific reasonable cause factor for a Tribe's failure to satisfy minimum work participation rates. Under the Final Rule at § 286.225(c), a Tribe may demonstrate that its failure is due to its granting of good cause to victims of domestic violence. In this case, the Tribe must show that it would have achieved the work participation rate(s) if cases with good cause were removed from both parts of the calculation (*i.e.,* from the denominator and the numerator described in § 286.85). In addition, a Tribe must show that it granted good cause in accordance with policies approved in the Tribe's Family Assistance Plan (refer to § 286.135).

We understand that limited employment opportunities in many Tribal service areas may affect a Tribe's ability to satisfy the participation rates. However, as explained in § 286.100, the work participation requirements established for each Tribe will take into consideration the Tribe's economic conditions and resources.

The burden of proof rests with the Tribe to adequately and fully explain what circumstances, events, or other occurrences constitute reasonable cause with reference to failure to meet a particular requirement. The Tribe must provide us with all relevant information and documentation to substantiate its claim of reasonable cause for failure to meet one or more of these requirements.

Comments: Several commenters suggested that the language of § 286.170(a)(3) as proposed, which provides for consideration to be given for unemployment increases and changes in the caseload size in determining whether a Tribe has failed to meet the minimum work participation rates, should be incorporated into this section.

Response: We agree. We have amended § 286.225(a) with the addition of these additional factors that can be used to claim reasonable cause.

Comment: A commenter suggested an exception be made for ''* * * regions struggling because of declared economic disasters.''

Response: We believe that the revision mentioned above addresses this concern.

Comment: One commenter suggested that an exception should be made for ''* * * extreme weather conditions * * *.''

Response: We believe that it is not unreasonable to include extreme weather conditions, which seriously disrupt transportation or prevent access to services, work sites, or related activities in this section. We have amended section 286.225(a)(1) accordingly.

Comment: One commenter suggests that ''* * * this section should include acknowledgment of the lack of employment, poor economic development, and lack of transportation and childcare on reservations.''

Response: We believe these factors are acknowledged in the general plan content area. They are also taken into account when negotiating work participation rates in the individual plans.

Section 286.230 (Section 286.205 in the NPRM) What If a Tribe Does Not Have Reasonable Cause for Failing To Meet a Requirement?

As mentioned above, section 409(c) of the Act, as amended by the Balanced Budget Act of 1997, provides that prior to imposing certain penalties against a Tribe, the Tribe will be given the opportunity to enter into a corrective compliance plan.

The corrective compliance plan must identify the action steps, outcomes, and time frames for completion that the Tribe believes will fully and adequately correct the violation. We recognize that each plan will be specific to the violation (or penalty) and that each Tribe operates its TANF program in a unique manner. Thus, we will review each plan on a case-by-case basis. Our determination to accept a plan will be guided by the extent to which the Tribe's plan indicates that it will correct the situation leading to the penalty.

In instances where a Tribe used its TFAG in a manner that is prohibited (see § 286.200 on misuse of funds), we will expect that it will remove this expenditure from its TANF accounting records and provide steps to assure that such a problem does not recur.

Section 409(c)(3) of the Act appropriately requires that a violation be corrected ''in a timely manner.'' A Tribe's timely correction of problems resulting in a penalty is critical if for no other reason than to assure that the Tribe is not subject to subsequent penalties. While we recognize that the types of problems Tribes encounter may vary, some concern exists that, if we do not restrict the length of a corrective compliance plan, there is the possibility a Tribe could indefinitely prolong the corrective compliance process, leaving problems unresolved into another fiscal year. As a result, the Tribe's ability to operate an effective program to serve the needs of its service population would be severely limited.

Therefore, we are limiting the period covered by a corrective compliance plan to six months, *i.e.,* the plan period ends six months from the date we accept a Tribe's compliance plan. We believe that, for most violations, Tribes will have some indication prior to our notice that a problem exists and will be able to begin addressing the problem prior to submitting the corrective compliance plan. Therefore, we think it fair and reasonable that the corrective compliance plan period begin with our acceptance of the plan, giving the Tribe sufficient time to correct or terminate the violation(s).

Our review of a Tribe's efforts to complete its action steps and achieve the outcomes within the time frames established in the plan will determine if the penalty will be fully excused, reduced, or applied in full.

Corrective Compliance Plan Review

During the 60-day period defined below, we will consult with the Tribe on any modifications to the corrective compliance plan and seek mutual agreement on a final plan. Any modifications to the Tribe's corrective compliance plan resulting from such consultation will constitute the Tribe's final corrective compliance plan and will obligate the Tribe to initiate the corrective actions specified in that plan.

We may either accept the Tribe's corrective compliance plan within the 60-day period that begins on the date the plan is received by us, or reject the plan during this same period. If a Tribe does not agree to modify its plan as we recommend, we may reject the plan. If we reject the plan, we will immediately notify the Tribe that the penalty is imposed. The Tribe may appeal this decision in accordance with the provisions of section 410 of the Act and the final regulations at § 286.240. If we have not taken an action to reject a plan by the end of the 60-day period, the plan is accepted, as required by section 409(c)(1)(D) of the Act.

If a Tribe corrects or discontinues, as appropriate, the problems in accordance with its corrective compliance plan, we will not impose the penalty. If we find that the Tribe has acted in substantial compliance with its plan but the violation has not been fully corrected, we may decide to reduce the amount of the penalty or, if the situation is compelling, excuse the penalty in its entirety. We will make a determination of substantial compliance based upon information and documentation furnished by the Tribe. In determining substantial compliance, we will consider the willingness of the Tribe to correct the violation and the adequacy of the corrective actions undertaken by the Tribe pursuant to its plan.

Process

Because both the reasonable cause and the corrective compliance plan provisions apply, we will establish the determination of reasonable cause in conjunction with the determination of acceptability of a Tribe's corrective compliance plan, if any is submitted. Thus, a Tribe may submit to us its justification for reasonable cause and corrective compliance plan within 60 days of the receipt of our notice of failure to comply with a requirement.

A Tribe may choose to submit reasonable cause justification without a corrective compliance plan. If we do not accept the Tribe's justification, the Tribe will be notified in writing. This notification will also inform the Tribe of its opportunity to submit a corrective compliance plan. The Tribe will have a 60-day period that begins with the date of the notice of the violation to submit to us a corrective compliance plan to correct the violation. A Tribe may also choose to submit only a corrective compliance plan if it believes that the reasonable cause factors do not apply to the particular penalty.

Although a corrective compliance plan is not required when a Tribe has reasonable cause for failing to meet a requirement which is subject to a penalty, we stress the importance of corrective action to prevent similar problems from recurring. While a Tribe may have a very good explanation why it failed to satisfy a requirement under the Act, we will work with the Tribe to identify solutions to eliminate these problems or prevent them from recurring. Otherwise, they may well continue and detract from the Tribe's ability to operate an effective program to serve the needs of its families. Our goal is to focus on positive steps to improve the program.

Due Dates

The Tribe's response to our notification that it has failed to meet a requirement under section 409(a) of the Act, either including its reasonable cause justification and/or its corrective compliance plan, must be postmarked within sixty days of the receipt of our notification letter to the Tribe. Also, if a Tribe believes that our determination is incorrect, any documentation supporting its position should be submitted within sixty days of the date of the receipt of our notice.

If, upon review of the Tribe's submittal, we find that we need additional information, the Tribe must provide the information within two weeks of the date of our request. This is to make sure we are able to respond timely.

Imposing the Penalty

Once a final decision is made to impose a full or partial penalty, we will notify the Tribe that its TFAG will be reduced and inform the Tribe of its right to appeal our decision to the Departmental Appeals Board (the Board).

In imposing a penalty, we will not reduce any TFAG to a Tribe by more than 25 percent. If this limitation of 25 percent prevents us from recovering the full amount of penalties during a fiscal year, we will carry the penalty forward and reduce the TFAG for the immediately succeeding fiscal year by the remaining amount.

Comment: A comment was received indicating that the time frames proposed in § 286.205(b) and (c) appear to be adequate.

Response: No response is needed.

Comment: A comment regarding proposed § 286.205(f) suggests that there needs to be documentation accepting or rejecting a compliance plan, and that the time frame for response should be accelerated and begin with the postmark date of the plan rather than the receipt date at ACF.

Response: We believe the process, which provides for notification to the Tribe of our determination that a penalty is applicable, and the Tribe's response in the form of either a submission of a compliance plan or challenge to the finding(s), as well as other corresponding actions throughout the appeal process adequately provides for sufficient documentation. The time frame in § 286.230(f), like the time frames set forth throughout this entire section, is determined by the Departmental Appeals Board procedures.

Section 286.235 (Section 286.210 in the NPRM) What Penalties Cannot Be Excused?

Sections 409(b)(2) and 409(c)(3), as amended by the Balanced Budget Act of 1997, provide that reasonable cause and corrective compliance plan are not available for certain penalties. One of these penalties is the penalty for failure to repay a Federal loan issued under section 406. Thus we cannot forgive any outstanding loan amount or the interest owed on the outstanding amount.

The other penalty that cannot be excused is the penalty for failure to replace any grant reduction resulting from other penalties that have been imposed.

Section 286.240 (Section 286.215 in the NPRM) How Can a Tribe Appeal Our Decision To Take a Penalty?

Section 410 of the Act provides that within five days after the date the Secretary takes any adverse action under this part with respect to a State, the Secretary shall notify the chief executive officer of the State of the adverse action. We believe that it is reasonable to make these same appeal provisions, including the time frames in section 410, available for Tribes. Thus, within sixty days after the date a Tribe receives notice of such adverse action, the Tribe may appeal the action, in whole or in part, to the Board by filing an appeal with the Board. Where not inconsistent with section 410(b)(2), a Tribes's appeal to the Board will be subject to our regulations at 45 CFR part 16.

By inclusion in this rule, section 410(b)(2) provides that the Board shall consider an appeal filed by the Tribe on the basis of documentation the Tribe may submit, along with any additional information required by the Board to support a final decision. In deciding whether to uphold an adverse action or any portion of such action, the Board shall conduct a thorough review of the issues and make a final determination within sixty days after the appeal is filed.

Finally, a Tribe may obtain judicial review of a final decision by the Board by filing an action within ninety days after the date of the final decision with the district court of the United States in the judicial district where the Tribe or TFAG service area is located. The district court shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A) and (E) of section 706(2) of title 5, U.S.C. The review will be on the basis of the documents and supporting data submitted to the Board.

Comments: Several commenters commented on the fact that § 286.215 as proposed does not specify whether ACF will cease or reduce funding during an appeal.

Response: We do not intend to cease or withdraw funding during the appeals process. We have amended § 286.240 accordingly.

Subpart E—Data Collection and Reporting Requirements (Sections 286.245—286.285, Appendices A-H)

General Approach

Section 412(h) of the Act makes section 411 data collection and reporting requirements applicable to

Tribes. The requirements for States are addressed separately under the final State TANF regulations (64 FR 17857) which were published April 12, 1999. Although the reporting requirements stipulated under the final State TANF regulations are also required of Tribes under the statute, some of the particular data elements are not applicable. In order to minimize misunderstandings about what data elements are applicable to Tribes, we separately address the Tribal data collection and reporting requirements in this Final Rule. Additional background and summary information on these requirements, including a complete discussion of modifications which have been made to the proposed requirements, can be found at part 265 of the State TANF Final Rule.

Based on comments we received both prior to and after the development of the proposed regulations, Tribes generally view the section 411 requirements as very difficult to meet. Automated systems capabilities necessary for collecting and reporting the data required of the Act are sorely lacking on most reservations. Tribes also cited difficulties in obtaining current and accurate data from other program sources that are not administered by Tribes, and that may not be readily available to Tribal TANF program operators. For example, Tribes do not generally administer programs such as Food Stamps, Medicaid, subsidized housing, Child Support Enforcement, and State-administered child care programs, yet the specified data elements require such information. Tribes expressed concern that obtaining these data would entail developing costly mechanisms to gather accurate information on a monthly basis from States.

We are sensitive to these issues and are committed to helping Tribes, to the extent possible, in meeting the reporting requirements.

Before we discuss the comments associated with specific sections of the regulatory text or the Appendices, we want to respond to two cross-cutting issues:

Publishing the Appendices as a Part of the Rule

Comment: A few commenters urged us to publish the specific data elements as a part of the Final Rule and to codify them as a part of the Code of Federal Regulations (CFR). This approach, they believed, would help ensure that Tribes would not only have early access to the requirements but, once they were codified, the requirements would be less subject to change, given the time it takes to revise Federal rules.

Other commenters urged us to publish the data elements in the **Federal Register** at the same time we published the Final Rule for the purpose of advance notice to the Tribes of the specific data requirements, but they did not recommend that they be a part of the Final Rule in the CFR.

Response: We agree with the importance of giving Tribes early access to the specific data elements and have published the appendices, including all data elements and instructions, in today's **Federal Register** along with the Final Rule.

It was never our intention, however, that these data collection requirements become a part of the rule itself or be codified in the CFR. We believe data collection needs may change over time, in part because the program is a dynamic one and because Congress may modify the reporting requirements. Therefore, we would want to be able to respond to those changes as quickly as possible. Since changes in reporting requirements require Paperwork Reduction Act (PRA) approvals, the public is guaranteed an opportunity to comment on any future changes to the TANF Data and Financial Reports as a part of the PRA review process.

Y2K Compliance

We have taken a number of actions to raise awareness of the problem and respond to questions from human service providers. For example, we have established an Internet e-mail address and phone line and a Y2K web page (*http://www.y2k.acf.dhhs.gov).* We have also distributed information packages to more than 7,000 human service providers and representative organizations, and we have added a reasonable cause criterion related to Y2K compliance. This new criterion provides penalty relief to a Tribe if it can clearly demonstrate that addressing Y2K issues prevented it from meeting the reporting requirements for the first two quarters and it reports the first two quarters of data by November 15, 2000.

Section 286.245 (Section 286.220 in the NPRM) What Data Collection and Reporting Requirements Apply to Tribal TANF Programs?

This section describes the general scope and purpose of this subpart as it applies to Tribal TANF data collection and reporting. Paragraph (a) also makes clear that section 412(h) of the Act requires that the same reporting requirements of section 411 of the Act be applied to Tribal TANF Programs. We have modified the proposed State regulatory requirements in order to collect from Tribal TANF programs only the data required based on section 411(a) of the Act—quarterly reporting requirements; section 411(b)—report to Congress, and section 412(c)—work participation requirements. One reason for the modification is that Tribes do not have a maintenance-of-effort (MOE) requirement; thus there is no need for data related to MOE. (Section 411(a)(1)(A)(xii) authorizes the collection of information that is necessary for calculating participation rates).

The final regulation at § 286.255(b) also makes clear that Tribes will be required to submit: (1) Disaggregated data for two types of families: those receiving assistance and those no longer receiving assistance; and (2) aggregated data for three categories of families: Those receiving assistance, those applying for assistance, and those no longer receiving assistance.

This subpart also explains the proposed content of the quarterly TANF Data Report, TANF Financial Report, and the annual report, as well as reporting due dates.

Section 286.250 (Section 286.225 in the NPRM) What Definitions Apply to This Subpart?

The data collection and reporting regulations rely on the general Tribal TANF definitions at § 286.5.

In this subpart, we are proposing one additional definition—for data collection and reporting purposes only—a definition of ''TANF family.'' This definition will apply to data collection for the Tribal TANF program as it will to State TANF programs.

The law uses various terms to describe persons being served under the TANF program, *e.g.*, eligible families, families receiving assistance, and recipients. Unlike the AFDC program, there are no persons who must be served under the TANF program. Therefore, each Tribe and State will develop its own definition of ''eligible family,'' to meet its unique program design and circumstances.

We do not expect coverage and family eligibility definitions to be comparable across Tribes and States. Therefore, we have established a definition that will enable us to better understand the different Tribal and State programs and their effects. The definition of ''TANF family'' starts with the persons in the family who are actually receiving assistance under the Tribal TANF program. (Any non-custodial parents participating in work activities will be included as a person receiving assistance in an ''eligible family'' since

Tribes may only serve non-custodial parents on that basis.) We, then, would include three additional categories of persons living in the household, if they are not already receiving assistance. These three additional categories are:

(1) Parent(s) or caretaker relative(s) of any minor child receiving assistance;

(2) Minor siblings of any child receiving assistance; and

(3) Any person whose income and resources would be counted in determining the family's eligibility for or amount of assistance.

We believe information on these additional individuals is critical to understanding the effects of TANF on families and the variability among Tribal and State caseloads, *e.g.*, to what extent are differences due to, or artifacts of, Tribal or State eligibility rules.

- We need information on the parent(s) or caretaker relative(s) (*i.e.,* an adult relative, living in the household but not receiving assistance, and caring for a minor child) to understand the circumstances that exist in no-parent (*e.g.*, child-only) cases not covered by key program requirements, such as time limits and work requirements.
- We need information on minor siblings in order to understand the impact of ''family cap'' provisions.
- We also need information on other persons whose income or resources are considered in order to understand the paths by which families avoid dependence.

For research and other purposes, there was interest in collecting data on a broader range of persons in the household, *e.g.*, any other person living in the household such as a grandmother or a non-marital partner of the mother. We determined that we should limit reporting to those categories of persons on whom the Tribes and States will gather data for their own purposes and for which information will be directly relevant to administration of the TANF program.

In the interest of greater comparability of data, we also considered defining terms such as ''parent,'' ''caretaker relative,'' and ''sibling.'' We chose not to define these terms because we were concerned that our data collection policies could inadvertently constrain Tribal and State flexibility in designing their programs. We believe that variation among Tribal and State definitions in these areas will not be significant and will not decrease the usefulness of the data.

We believe this definition of family will not create an undue burden on Tribes since all these additional persons either are part of an aided child's immediate family or have their income or resources considered in determining eligibility.

Finally, we want to emphasize that we have established this definition of ''TANF family'' for reporting purposes only. Our aim is to obtain data that will be as comparable as possible under the statute, and, to the extent possible, over time. Some comparability in data collection is necessary for assessing program performance; understanding the impact of program changes on families and children; and informing the States, the Tribes, the Congress, and the public of the progress of welfare reform.

Section 286.255 (Section 286.230 in the NPRM) What Quarterly Reports Must the Tribe Submit to Us?

Each Tribe must file two reports on a quarterly basis—the TANF Data Report and the Tribal TANF Financial Report. You will find the Data Report in its entirety in the Appendices to this Part.

TANF Data Report

The TANF Data Report consists of three sections (Appendices A, B, and C), two of which provide disaggregated case information. The third section provides aggregated data. The contents of each section were thoroughly discussed in the NPRM.

Section 286.260 (Section 286.235 of the NPRM) May Tribes Use Sampling and Electronic Filing?

We will implement section 411(a) of the Act by permitting Tribes to meet the data collection and reporting requirements by submitting the disaggregated case file data based on the use of a scientifically acceptable sampling method approved by the Secretary. Tribes may also submit all data on all cases monthly rather than on a sample of cases. However, Tribes, like States, are not authorized to submit aggregated data based on a sample.

We provide a definition of ''scientifically acceptable sampling method'' in paragraph (b) of this section. This definition reflects generally acceptable statistical standards for selecting samples and is consistent with existing AFDC/JOBS statistical policy.

At a later date, we will issue the TANF Sampling and Statistical Manual which will contain instructions on the approved procedures and more detailed specifications for sampling methods applicable to both Tribal and State TANF programs.

We also offer Tribes the opportunity to file quarterly reports electronically. We plan to develop a PC-based software package that will facilitate data entry and create transmission files for each report. The transmission files created by the system will be the standard file format for electronic submission to us. We also plan to provide some edits in the system to ensure data consistency.

Because the data collection and reporting requirements are applicable in advance of our developing the software package, Tribes will have the option to submit a disk with the required data or submit hard copy reports. Additionally, Tribes that do not have the necessary equipment for electronic submission would continue to submit data on disk or submit hard copy reports.

Section 286.265 (Section 286.240 in the NPRM) When Are Quarterly Reports Due?

Unlike for States, there are no report submission time frames specified by the Act for Tribes. In our December 1997 policy announcement (TANF–ACF–PA–97–4), we stated that Tribes are required to submit the TANF data reports within 45 days following the end of each report quarter (consistent with that given to States). This Final Rule contains the same time frame; Tribes must submit the TANF Data Report and the Tribal TANF Financial Report no later than 45 days following the close of each report quarter. If the 45th day falls on a weekend or on a national, State or Tribal holiday, the reports will be due no later than the next business day.

Section 116(a) of PRWORA indicates that the effective date for title IV–A of the Social Security Act as amended by PRWORA is July 1, 1997. This would seem to indicate that Tribal TANF grantees would need to begin collecting the required TANF data as of the implementation date of their Tribal TANF program. However, section 116(a)(2) states that the provisions of section 411(a) are delayed for States to the later of July 1, 1997, or the date that is six months after the date that the Secretary of Health and Human Services receives a complete State plan.

Although section 116(a) on its face seems to apply only to the States, we are interpreting this section to be applicable to Tribal grantees as well with regards to section 411(a). We base our interpretation on section 412(h) which states that section 411 applies to Tribes and the fact that section 116(a)(2) is titled ''Delayed Effective Date For Certain Provisions''. We interpret the language of section 116(a)(2) to mean that section 411(a) of the Act could be delayed by all entities subject to it. As the effective date of section 411(a) is delayed for States, we believe the effective date is also delayed for Tribes.

We will also apply section 116(a)(2) of the Act to Tribes. Section 116(a)(2) gives States a six-month reprieve from data reporting requirements upon initial

implementation of their TANF programs. We recognize that, unlike States, most Tribes have never operated an AFDC-type program, and considerable time and effort will be needed to start up the Tribal TANF program. We believe that providing Tribes with a six-month time period before data needs to begin to be collected and submitted will aid Tribes in the initial program implementation stage.

Therefore, the effective date of a Tribe's first TANF Data Report and Tribal TANF Financial Report will be for the period beginning six months after the implementation date of its TANF program.

For example —

Tribe implements TANF	Data collection reporting period starts	Covering the period	First data report is due
July 1, 1997	January 1, 1998	Jan.–Mar. 1998	May 15, 1998.
October 1, 1997	April 1, 1998	Apr.–June1998	Aug. 14, 1998.
November 1, 1997	May 1, 1998	May–June 1998	Aug. 14, 1998.
January 1, 1998	July 1, 1998	July–Sept. 1998	Nov. 16, 1998.
February 1, 1998	August 1, 1998	Aug.–Sept. 1998	Nov. 16, 1998.
March 1, 1998	September 1, 1998	Sept. 1998	Nov. 16, 1998.
April 1, 1998	October 1, 1998	Oct.–Dec.1998	Feb. 15, 1999.

For Tribes currently operating a TANF program, the Tribe shall begin collecting data for the TANF Data Report as of the effective date of this regulation.

Comment: It was pointed out that proposed § 286.240(a) failed to recognize State and Tribal holidays as legitimate ''one business day'' waivers for the submission of required quarterly reports..

Response: We have revised the regulations at § 286.265(b) to include such holidays as legitimate waivers.

Comment: Several comments were made that the data collection and reporting requirements proposed in § 286.240(b) should be implemented after 12 months rather than six months.

Response: Section 116 of PRWORA permits only a six-month delay. Furthermore, the wording of § 286.240(b) as proposed implied that financial data did not have to be gathered and reported for six months. This is an obvious oversight, and we have corrected that language.

Section 286.270 (Section 286.245 in the NPRM) What Happens if the Tribe Does Not Satisfy the Quarterly Reporting Requirements?

As previously discussed, section 412(h) of the Act requires Tribes to report on certain data in accordance with section 411. Unlike for States, the Act does not impose fiscal penalties on Tribes that do not submit the reports. However, in § 286.270(a), we caution Tribes that by not submitting complete and accurate reports, which include the data necessary for calculating participation rates, they are liable for penalties associated with failure to meet the established participation targets.

In addition, failure to submit the required Tribal TANF Financial Report could raise an issue of proper use of funds.

Section 286.275 (Section 286.250 in the NPRM) What Information Must Tribes File Annually?

Section 411(b) of the Act requires the Secretary to prepare an annual report to Congress addressing the States' implementation and operation of the TANF program. Since section 412(h) makes all of section 411 applicable to Tribal TANF programs, we interpret this to mean that Congress intended that Tribes as well as States collect the data necessary for the section 411(b) annual report. Therefore, we will need data on Tribal TANF programs for inclusion in the section 411(b) Report to Congress. We will collect some of the information required in section 411(b) for this Report to Congress as an addendum to the fourth quarter Tribal TANF Financial Report.

At a later date, we will work with Tribes and others to identify the specific information that should be included in this report.

In order to minimize the reporting burden on Tribes, we will collect some information for our report to Congress from the quarterly Data and Financial Reports, Tribal plans, annual reviews, and/or special studies. We also want to take advantage of the research efforts on the TANF program currently being conducted by several research organizations. To the extent that we may be able to build on existing endeavors, we will avoid duplication of effort, reduce reporting burden, and produce a better, more complete picture of Tribal TANF programs nationally.

Comment: Some commenters said that the data required was repetitive of information collected for use in other program functions.

Response: We have changed the regulations to indicate that the Tribal TANF grantee's annual report may include by reference all information previously supplied either in its TFAP or a previous annual report, and we will no longer require performance and program reports. Further, the annual report is no longer associated with the Tribal TANF grantee's fourth quarter financial report. The annual report may now be submitted either as an addendum to the fourth quarter TANF data report or as a separate annual report.

Section 286.280 (Section 286.255 in the NPRM) When Are Annual Reports Due?

As indicated at § 286.280(a), the annual reports must be filed ninety (90) days after the close of the Federal fiscal year. This deadline is consistent with the deadline for most annual reports under DHHS grant programs.

Comment: Some commenters expressed concern about the timing of the first annual report, as some Tribes may have only a month or two of Tribal TANF operations before the first such report is due.

Response: We revised § 286.280(b) to indicate that a Tribe does not have to submit an annual report until the end of the first full fiscal year during which it has operated the plan, but the report must include all relevant data since the plan was approved. For example, if a plan is approved September 1999, the first annual report is due 90 days after the end of Fiscal Year 2000, and is to cover the period September 1999 through September 2000.

In addition, the wording of § 286.255(b) as proposed implied that the first annual report for all Tribes is for FY 1998. This was an obvious oversight, and we corrected that language.

Comment: It was suggested that we use State-submitted data where there is a duplication of TANF data.

Response: The Statue specifically requires that Tribes gather and report data on their service population. To the

extent that data required are available only from a State or another Tribe (*e.g.*, months receiving TANF), the Tribe must make a good faith effort to obtain the data.

Section 286.285 (Section 286.260 in the NPRM) How Do the Data Collection and Reporting Requirements Affect Public Law 102–477 Tribes?

Pub. L. 102–477, the Indian Employment and Training and Related Services Demonstration Act of 1992, affords Tribes an opportunity to consolidate certain programs into one grant. In paragraph (a) of this section we require Tribes desiring to include TANF in their Pub. L. 102–477 plan to obtain approval to operate a Tribal TANF program first through the Tribal TANF plan submission process outlined in these regulations. (See § 286.160 regarding the Tribal TANF plan approval process).

While Pub. L. 102–477 enables Tribes to prepare one consolidated report regarding the programs included in the plan, it does not provide for waivers of statutory requirements. Because the Tribal TANF data collection and reporting requirements are statutory, § 286.285(a) clarifies that Pub. L. 102–477 Tribes must continue to submit the specified data of the Act.

However, in § 286.285(b) we propose that the statutory data (both disaggregated and aggregated) can be submitted in a Pub. L. 102–477 consolidated report to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), in a format negotiated with BIA. We considered whether we should require Pub. L. 102–477 Tribes to submit TANF reports directly to us, but rejected this idea on the basis that Pub. L. 102–477 specifically authorizes Tribes to consolidate data and make one report for all integrated programs in the plan. However, we are providing Pub. L. 102–477 Tribes with the option to report the required TANF data directly to us. We will work jointly with BIA in collecting the statutory data required.

Appendices A–H

Background

In Subpart E—Data Collection and Reporting Requirements—of the Proposed Rule we published the following eight Appendices: Appendix A—Proposed TANF Disaggregated Data Collection for Families Receiving Assistance Under the TANF Program; Appendix B—Proposed TANF Disaggregated Data Collection for Families no Longer Receiving Assistance under the TANF Program; Appendix C—Proposed TANF Aggregated Data Collection for Families Applying for, Receiving, and no Longer Receiving Assistance under the TANF Program; Appendix D—Proposed TANF Financial Report; Appendix E—Proposed Summary of Sampling Specifications; Appendix F—Statutory Reference Table for Appendix A; Appendix G—Statutory Reference Table for Appendix B; and Appendix H—Statutory Reference Table for Appendix C.

In the NPRM we indicated that these appendices to part 286 would not be included in the final regulations. However, we are addressing the comments we received about these appendices.

Comments: We received several comments about not including Appendices A, B, C, and D in the final regulations.

Response: Our rationale for not including them is threefold. First, if they were included, then anytime it was necessary to make any type of change to the data to be reported (including reducing the data required, sample sizes, and changes in definitions), it would be necessary to republish the revised requirements as regulations. Second, it is necessary to design a data collection system that accurately reflects statutory intent. And third, pursuant to section 412(g) of PRWORA, the data collection and reporting requirements of section 411 apply to Tribal TANF programs, subject to certain clarifications. We will make such clarifications as are necessary through the issuance of a Program Instruction.

In the interim, for purposes of implementing statutory provisions relating to data and measurement of work participation rates, it is necessary to obtain some data about Tribal TANF programs. Instructions as to what data must be supplied by the Tribes are contained in the data system program instructions issued by ACF on May 5, 1998— ''TANF–ACF–PI–98–2 Interim Tribal TANF Data Report, Form ACF–343, Approved by the Office of Management and Budget (OMB) Through 12/31/1998 (Control No. 0970–0176)''. Note: an extension through April 30, 2000 has been granted.

Comments: In the preamble, we requested comments as to whether we should include a tribal enrollment identifier. The comments we received indicate general opposition to this provision.

Response: A tribal enrollment identifier is not included.

Appendix A, TANF Disaggregated Data Collection for Families Receiving Assistance Under the TANF Program; and:

Appendix B, TANF Disaggregated Data Collection for Families no Longer Receiving Assistance Under the TANF Program

Comments: Commenters requested assurance that specific individuals and families not be identified.

Response: All data gathered under this Statute is covered by the Privacy Act of 1974, 5 U.S.C. section 552a, as amended in 1997 (5 U.S.C.A. section 552a), which restricts the use and release of data on individuals.

Comment: It was stated that the data requested in Appendix B would be available only for the last month the case was active and thus would place a tremendous burden on Tribes to collect. The only time such data would be available would be for the last month the case was active.

Response: The data being requested is to be supplied only once—in the month in which the case was closed, which would be the month after the last month it was active.

Appendix C, TANF Aggregated Data Collection for Families Applying for, Receiving, and no Longer Receiving Assistance Under the TANF Program

Comment: A comment was received that the term ''out-of-wedlock'' should be replaced with ''marital status of household adults'' because the term is culturally insensitive to Tribes who consider no birth of a child within a tribal community illegitimate.

Response: The statute requires data on ''out-of-wedlock'' births. Marital status of adults during the month of the report is already included as an item to be reported.

Appendix D, TANF Financial Report

Instructions for completing and submitting a Tribal TANF financial report will be issued in a subsequent program instruction.

Comment: A comment was received that we should not require reporting of tribal expenditures for TANF.

Response: This data is to be reported only when TFAG funds are withheld for a penalty and the Tribe must substitute its own funds in an amount that is no less than the amount withheld. Fiduciary responsibilities require us to obtain this particular data.

Appendix E, Summary of Sampling Specifications

Comment: Several commenters expressed concern that the sample sizes

proposed were too large to permit all but the largest Tribes to utilize that method of collecting and reporting data.

Response: The proposed sample sizes specified were based on the necessity for making confidence level statements about the observed work participation rates being within a given range. The sample size could be reduced based on the proportion of the caseload it represented through a statistical formula called the ''finite population factor'' (or population correction factor). Use of this factor is already permitted in the interim data system program instructions issued by ACF on May 5, 1998 (TANF–ACF–PI–98–2) and may be used for the final system.

All samples involve extra administrative costs for design, control, and monitoring. While the use of the ''finite population factor'' will somewhat reduce the sample size, the reduction may not be significant enough to offset the extra administrative costs involved. If the caseload is small and there is relatively low turnover in the cases, the extra administrative costs of design, control, and monitoring may far outweigh any benefits to be derived from sampling.

ACF has made available to Tribes, at no cost, an automated data entry and reporting system for the interim reporting that is now in effect. As data collection requirements are finalized for Tribes, a new system will be made available to the Tribes, again at no cost. The essential value to this system (or any other similar automated system) is that once the data is entered into the system, only changes have to be entered. This reduces the reporting burden substantially. Costs associated with designing, administering, monitoring, and controlling a sample will be considered administrative costs.

Comment: A comment was received that the sample size should be for the TANF program as a whole rather than for each individual Tribe.

Response: The Statue requires that we determine if each Tribe is meeting its negotiated work participation rates. We can do this only if we obtain scientifically acceptable samples from each Tribe.

Comment: It was suggested that ''scientifically acceptable sampling method'' be replaced with ''or any other scientifically supportable sampling method proposed by the Tribe and approved for use which has been included in the Tribal TANF plan.''

Response: There is no practical difference between ''scientifically supportable'' and ''scientifically acceptable.'' ''Scientifically acceptable sampling method'' has the advantage of being the more commonly used and understood phrase. Inclusion of a statistical sample plan development process within the framework of the Tribal TANF plan development process would unnecessarily complicate this process.

VI. Part 287—Native Employment Works (NEW) Program Provisions

Discussion of Selected Regulatory Provisions

The following is a discussion of selected NEW regulatory provisions. It is divided into two sections. In the first section, we summarize each subpart of Part 287 and provide background or additional explanatory information if it is helpful for clarification of the Final Rules. In the second section, we address the following program areas in detail: client eligibility, work activities and coordination.

Overview of Comments

Seventeen entities commented on the NEW provisions, including twelve Tribes. Of those twelve, nine were NEW grantees and two of the grantees have incorporated NEW under a Pub.L. 102–477 demonstration project. Several Tribal and State coalition organizations also provided comments, as well as three states. No federal agencies submitted comments.

In general, the NEW proposed rule received strong support for providing broad flexibility in: conducting NEW Programs, determining service populations and areas, formatting plans, designing programs, defining work activities, providing services and allowing job creation activities. There was also praise for supporting incorporation of the NEW Program into Pub.L. 102–477 demonstration projects and preserving the concept of a single plan and report.

Several comments addressed issues beyond the department's control, such as providing additional program funding, amending the program to include other Tribes, and changing the basis of NEW funding from the FY 94 funding level.

Comment: One state commented that states should not have to count tribal members that receive TANF benefits in the state's participation rate.

Response: According to § 261.25 of the State TANF regulations, states have the option to include tribal families receiving assistance under a tribal TANF or work program in calculating the State's participation rates under § 261.22 and 261.24. Issues related to providing services to tribal families by State TANF programs fall under the purview of State TANF regulations.

Comment: Some commenters assumed that the purpose of the NEW Program was identical to that of the Tribal Job Opportunities and Basic Skills (JOBS) Training Program.

Response: Although NEW replaced the Tribal JOBS Program, its purpose and scope are different, with the NEW legislation authorizing a program to provide work activities. The statute allows Tribes the autonomy to determine service population, service area and work activities.

Comments: Comments from several states indicated a concern that the NEW regulations are not overly supportive of TANF requirements, and do not specifically target TANF recipients.

Response: The regulations do not target TANF recipients because the statute does not require them to do so.

We believe the law provides the opportunity for eligible Tribes to design programs to create work activities for their participants. The tribal work program is a new program with a different purpose than the old Tribal JOBS Program. The funding is a separate appropriation and not from the state TANF allocation. Even though NEW Programs are not mandated to serve TANF recipients, an overwhelming majority of NEW grantees do.

Comment: Several commenters asked that we permit a grantee operating both NEW and Tribal TANF programs to submit a single, comprehensive program plan. They suggested the statute does not prohibit this action, that it would eliminate unnecessary administrative paperwork, emphasize that the NEW Program is a natural complement to Tribal TANF, and encourage the coordination of NEW and Tribal TANF programs.

Response: Regardless of whether a grantee operates the NEW Program or both the NEW and Tribal TANF programs, the grantee must meet the separate statutory requirements of each program. There is no provision in the statute that permits a Tribe to meet a different set of provisions if it operates both programs.

Because the statutory requirements of the NEW and Tribal TANF programs are significantly different, we believe it would be inefficient to develop and maintain procedures for submission of joint plans. Through the plan, the grantee provides information to establish that the Tribe is committed to meeting the statutory requirements of the program. It establishes that the grantee intends to fulfill the requirements of the law and has implemented operational procedures by which the Tribe will operate a program in compliance with the statute. Because

of the significant difference in the statutory requirements for NEW and Tribal TANF, the requirements related to plan content must of necessity reflect these different requirements. For example, the statute requires numerous data reporting requirements that are applicable to Tribal TANF grantees and not to NEW Program grantees. These varying requirements are reflected in different plan structures and outlines for the two programs.

In addition, NEW and Tribal TANF programs have different funding sources. These sources do not merge when a Tribe receives funding for operation of the programs, unless a Tribe is operating under the 102–477 Demonstration Project. The programs remain distinct when they enter into a Tribe's funding stream. With programs having separate funding sources, the grantee must report program operations and financial activities that are unique to each program. The Tribe must keep separate and distinct information about each of the programs in terms of activities and services and provide an accounting of funds in accordance with regulatory requirements and Departmental policies.

Because a grantee must meet the statutory requirements of each program, we do not believe a significant reduction in paperwork would result by having a single plan. As noted above, even if a single plan were used, it would still be necessary to include documentation about each program's purpose, structure, objectives, operational procedures, services and benefits and reporting requirements.

Development and maintenance of separate plans when a Tribe operates both NEW and Tribal TANF programs does not necessarily result in a loss of a Tribe's ability to coordinate activities of the two programs. It could also serve to emphasize the flexibility a grantee has to design and integrate programs that will complement each other in providing effective services to its service population.

We made a technical correction to § 287.160(b) to clarify language regarding the deadline for submission of the financial report (SF–269A).

Other commenters addressed coordination factors, language, and report due dates. Responses are provided for those specific comments organized by subparts and sections, following the order of the regulatory text.

Subpart A—General NEW Provisions (Sections 287.1–287.10)

Part 287 contains our Final Rule for implementation of section 412(a)(2) of the Act, as enacted by PRWORA. The statute provides flexibility to the Tribes in the implementation and operation of the NEW Program, which is to provide work activities. Not only do we highlight this factor as an intent of the statute, we express that Tribes have the opportunity to create a program that will serve a Tribe's most vulnerable and needy population.

This is also the portion of the Final Rule where we indicate the start date and define terms in part 287 that have special meanings or need clarification to ensure a common understanding. Although a term may be defined in this subpart, that definition may be repeated in a section if the term is uncommon or used in a special way. We chose not to define every term used in the statute and in these Final Rules. We believe that excessive definitions may unduly and unintentionally limit Tribal flexibility in designing programs.

Section 287.5 What is the Purpose and Scope of the NEW Program?

Comments: Several commenters suggested clarification of the purpose and scope of the tribal work program that ACF has designated as the NEW Program. Since the NEW Program replaced the Tribal JOBS Program, the commenters' expectations were that the two programs would have similar purposes.

Response: Unlike the Tribal JOBS Program, which served only AFDC clients, the purpose for the tribal work program is to make work activities available to the populations and areas the Tribe specifies.

Comment: One commenter indicated the scope of the program, as stated in the proposed regulations at § 287.5, extended beyond the statutory language.

Response: In order to conform the scope of the program with the statute, we have deleted § 287.5(b).

Comment: One State suggested designing a program more supportive of TANF requirements.

Response: The statute does not require the tribal work program to supplement the TANF program. Requiring grantees to design their programs to support TANF requirements would impinge upon the Tribe's sovereignty and program flexibility. Section 287.115 of the regulations does, however, require coordination between NEW Programs and TANF agencies in cases where the NEW Program has decided to serve TANF recipients.

Subpart B—Eligible Tribes (Sections 287.15–287.30)

Funding to operate a NEW Program is only available to those grantees who are defined as ''eligible Indian tribes'' in the statute. An eligible Indian tribe is an Indian tribe or Alaska Native organization that operated a Job Opportunities and Basic Skills Training (JOBS) program in fiscal year (FY) 1995. When PRWORA was enacted, seventy-six Indian tribes and Alaska Native organizations comprised the universe of eligible Indian tribes.

A consortium of eligible Indian tribes may receive NEW Program funding. Where the consortium operated a JOBS program in FY 1995, the Tribes may apply again as a consortium for NEW Program funds, or a Tribe that is a member of the consortium may apply for individual funding.

If a consortium should break up or any Tribe withdraws from a consortium, remaining funds and future grants must be divided among the Tribes that were members of the consortium, if each individual Tribe obtains ACF approval to continue to operate a NEW Program.

Public Law 102–477 allows Tribal governments to coordinate federally funded programs that provide employment, training and related services into a single, comprehensive program. The 102–477 grantees may include the NEW Program in their plan.

Section 287.15 Which Tribes are Eligible to Apply for NEW Program Grants?

Comment: One commenter on this section suggested that NEW needs to be amended to include Tribes who have not previously operated the JOBS program.

Response: ACF recognizes the potential benefits of having NEW Programs operate in additional tribal areas. However, section 412(a)(2) of the Act explicitly specifies those Tribes and Alaska Native Organizations who are eligible for NEW Program funding. Only ''eligible Tribes'' qualify to receive funding. The law clearly indicates that it was Congressional intent to establish a limited work activities program, one that would allow only those Tribes who had previously and most recently operated a JOBS program to continue operation of the replacement work activities program.

Section 287.25 May Tribes Form a Consortium to Operate a NEW Program?

Comment: In the proposed rule, ACF proposed at § 287.25(c) to require that the program plan submitted by a newly formed consortium include a copy of a

resolution from each Tribe indicating its membership in the consortium and authorizing the consortium to act on its behalf in regard to administering a NEW Program. One commenter suggested that we add that for Alaska Native Organizations grantees that form a consortium, a supporting resolution from their executive board is sufficient to satisfy this requirement.

Response: We incorporated the suggestion.

Section 287.30 If an Eligible Consortium Breaks up, What Happens to the NEW Program Grant?

Comments: Two commenters suggested that only those grantees who operated a JOBS Program in FY 1995 should continue to receive NEW funding at the FY 1994 funding level, regardless of a change in service area.

Response: Statutory provisions governing the NEW Program provide that funding for an eligible Tribe shall not be affected by a change in its service area. PRWORA authorizes funds for operation of the NEW Program for six fiscal years (FY 1997–FY 2002). The amount of each eligible Tribe's grant is fixed for each of those six years and is equal to the amount of the JOBS grant the eligible Tribe received in FY 1994.

Subpart C—NEW Program Funding (Sections 287.35–287.65)

With the creation of the TANF block grant, the JOBS programs, including Tribal JOBS, were terminated. However, funding was continued to those Tribes who operated a Tribal JOBS Program in fiscal year 1995 for the purpose of providing work activities. The NEW Program provides funding for Tribes and inter-tribal consortia to administer NEW Programs in FYs 1997 through 2002. The funding level is set by the statute to remain at $7,638,474 for each FY, the FY 1994 Tribal JOBS funding level. This is the sole basis for the funding amounts. The FY 1994 JOBS grant amounts were originally based on agreements between Tribal JOBS grantees and their respective States regarding the ratio of Tribe to State adult AFDC recipients. Recipient counts and agreements are not now required, since the NEW Program grants are fixed amounts. There are no matching fund requirements for NEW. To apply for funding, an eligible grantee must submit a plan that establishes it will operate a program in accordance with the statute. Funds must be used to operate programs that make work activities available to such population and service area as the grantees specify. Work activities may include supportive and job retention services necessary for assisting NEW Program participants in preparing for, obtaining and/or retaining employment. Grantees are required to adhere to applicable financial reporting and auditing requirements.

Some Tribes expressed an interest in being able to carry forward any unexpended NEW funds to the next year. Section 404(e) of the Act allows States to reserve amounts paid to the State for any FY for the purpose of providing TANF assistance without FY limitation. This section 404(e) of the statute is not applicable to Tribal TANF or NEW Programs. Section 412(a)(2) is silent on an obligation period for NEW Program funds. The absence in the statute of a specific provision authorizing carryover of NEW Program funds means that such carryover is not permissible. Carryover authority may not be implied, but must be specifically granted by Congress. Unauthorized carryover of appropriated funds violates 31 U.S.C. 1301(c)(2), which states that an appropriation may be construed to be permanent or available continuously only if the appropriation expressly provides that it is available after the fiscal year covered by the law in which it appears.

Section 287.35 What Grant Amounts are Available Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) for the NEW Program?

Comment: One commenter observed that to base NEW Program funding on the FY 1994 funding level is inaccurate due to population increases, economic inflation, and similar factors.

Response: ACF is unable to change the manner in which the NEW Program is funded. The statute specifies that each eligible Tribe shall receive a grant each fiscal year in the amount of its fiscal year 1994 tribal JOBS grant. The grants are fixed amounts. Congress chose not to link the funding to additional factors.

Section 287.55 What Time Frames and Guidelines Apply Regarding the Obligation and Liquidation Periods for NEW Program Funds?

Comment: One Tribe requested that we clarify the terms ''fiscal year'' and ''program year.'' It was stated that the terms are confusing and misleading. The commenter also noted that because of the financial procedures related to obligating and liquidating funds, it is important that the terms are clearly defined in the regulations.

Response: In accordance with provisions of section 116(a)(1) of Title I of PRWORA, funding for the NEW Program became available on July 1, 1997. NEW Program funds are issued for each fiscal year thereafter. The grants are annual grants. The definition of fiscal year found at section 419 of the Act is applicable to the NEW Program. A fiscal year is the twelve-month period that begins October 1 and ends September 30. The definitions of fiscal year and program year are contained in § 287.10.

Because of the provisions of PRWORA and fiscal policies governing the use of annual grants, we determined that funds provided for a fiscal year are for use during the twelve-month period July 1 through June 30. We call this twelve-month period for use of program funds the program year. The program year, therefore, represents the annual program operations year.

Possible confusion between the two terms is minimized by recalling that funds for a fiscal year for operation of a NEW Program are not available at the beginning of a FY, October 1, but are first available on July 1. For example, NEW funds appropriated for FY 1998 (October 1, 1997–September 1998) were first available on July 1, 1998, for operation of the 1998 NEW Program year. The 1998 NEW Program year began July 1, 1998, and ended June 30, 1999.

Comment: ACF was asked to explain the time frames and guidelines that apply regarding obligation and liquidation periods for NEW Program funds.

Response: Funds allocated for a FY are for use during the corresponding program year, the period that begins July 1 of the FY and ends June 30 of the following FY. Since the funds are annual grant awards, they must be obligated by June 30, the end of the funding period or program year. Unobligated funds will be returned to the Federal government through the issuance of negative grant awards. Eligible Tribes are required to report any unobligated funds on the SF–269A within 30 days after the funding period, *i.e.* by July 30.

The liquidation period is the one-year period after the end of the obligation period. This means a Tribe must liquidate all obligations incurred under the NEW Program grant award not later than June 30 of the following FY. For example, funds provided for FY 1998 must be obligated no later than June 30, 1999. All obligations for operation of the program must then be liquidated no later than June 30, 2000, one year after the end of the obligation period. Eligible Tribes are required to report any unliquidated funds on the SF–269A within 90 days after the conclusion of

the program year or of the liquidation period.

Comment: Numerous comments were received regarding the proposed prohibition on carry over of unobligated NEW grant funds into future program years.

Response: While ACF is sensitive to the fact that carry-over of funds is permitted in other Federal Indian work programs, we have nonetheless determined that specific legislative authorization is needed to allow NEW grantees to reserve grant funds for future program years. Tribal NEW grants are fixed for each fiscal year at the amount received by the Indian tribe in fiscal year 1994 under section 482(i) (as in effect during fiscal year 1994). Thus, the statute determines that NEW grant funds are ''one-year'' monies. This means that NEW grant funds must be obligated for the needs of the current program year. ACF has determined that specific statutory authorization would be needed to permit NEW grantees to reserve or carry over NEW grant funds without fiscal year limitation.

Section 287.65 What OMB Circulars Apply to the NEW Program?

Comment: ACF received one comment to this section. The commenter noted that if a program is implemented by a nonprofit organization rather than a Tribe, OMB circular A–122, ''Cost Principles for Non-Profit Organizations'' would apply. Therefore, the list of circulars applicable to the NEW Program should include OMB Circular A–122.

Response: We concur with the commenter's suggestion. In a limited number of instances, the administrative unit qualifying to receive NEW Program funds on behalf of an eligible Tribe or a consortium of eligible Tribes is a non-profit agency or organization. We have revised the final regulations to indicate OMB Circular A–122 may apply to the NEW Program.

Subpart D—Plan Requirements (Sections 287.70–287.100)

The submission of a NEW plan is to document the establishment and operation of a Tribe's NEW Program. Through this document the Tribe requests funding for its program, as outlined. The requirement for submission of a NEW Program plan also applies to a Tribe if it operates a Tribal TANF program.

For operation of a NEW Program for the first year in which funds were available, FY 1997, we required a one year interim preprint. This allowed Tribes the opportunity to structure their initial NEW Program around a shorter planning cycle. Guidance for preprint submittal to operate a FY 1997 NEW Program was issued in the document entitled, ''Native Employment Works Program: Abbreviated Preprint.'' Issued through a program instruction (NEW–ACF–PI–97–1, dated July 17, 1997), it also included instructions for Tribes operating Pub. L. 102–477 programs.

After the first year of operation, a Tribe will be able to develop a long range planning document that takes into consideration the positive and negative aspects of the interim preprint. We will require the ongoing plan, including certifications, to cover a three-year period. The requirement that a NEW Program plan cover a three-year period is consistent with the Tribal TANF plan requirement. We will issue program instructions to provide guidance for submission and approval of future NEW plans and any subsequent modifications.

In general, Tribes who had previously consolidated their JOBS program into a Pub. L. 102–477 plan submitted a letter indicating that the NEW Program was incorporated into their 102–477 plan where there were no substantive changes between the Tribal JOBS Program and the NEW Program. However, a 102–477 plan modification will be required if substantive changes are made in the future.

We considered a number of factors in deciding on the funding period for the NEW Program. We noted that PRWORA first made funds available on July 1, 1997, for the operation of the NEW Program. Yet, the law refers to funding the program for FYs and defines FY in the usual manner. We believe a correct interpretation of the statute is to have the NEW Program begin on July 1 of each year and run through June 30 of the following year.

Section 287.70 What Are the Plan Requirements for the NEW Program?

Comments: Several commenters suggested that the description of the NEW Program plan exclude the description of client services because it was duplicative of the description of work activities to be provided.

Response: The elements grantees are required to describe in the plan were taken directly from the NEW planning guidance. Upon further review, we determined that the applicable section of the guide was requesting information to determine client eligibility and a process for prioritizing clients to receive services. Thus, the information requested is different and not duplicative. As a result, we did not change that section.

Comment: One state commented that the Tribes should be required to describe the NEW Program as states are required to.

Response: We believe the commenter was confused because states don't have work programs per se, and § 287.70 does list plan requirements for Tribes.

Section 287.75 When Does the Plan Become Effective?

The Secretary required Tribes to submit an interim Tribal preprint, the ''Native Employment Works Program Abbreviated Preprint,'' if they were offering NEW Program services effective July 1, 1997. The preprint became operative July 1, 1997, and remained in effect until the end of the program year, June 30, 1998. Subsequent three-year plans must be submitted to the Secretary by a deadline to be established. The 1998 plan covered program years 1998, 1999, and 2000.

Section 287.85 How Is a NEW Plan Amended?

Comments: Comments were received suggesting a word change in proposed § 287.85(c) that any substantial change in plan content or operations be ''submitted'' rather than ''reported'' to ACF.

Response: We have made that change to the regulatory language.

Comment: A commenter suggested that an amendment to a NEW plan become effective the first day of the quarter in which the amendment is submitted.

Response: Such an action would make the amendment retroactive. If for some reason the amendment was disapproved, there may be a negative consequence if the grantee had already implemented the change. A quarterly time frame is essentially meaningless for NEW operations and reports.

Subpart E—Program Design and Operations (Sections 287.105–287.145)

In this subpart, we require Tribes to indicate who the program will serve, what activities and services will be provided, the coordination required to promote program effectiveness and program outcomes. Each Tribe will have to give careful consideration to the populations most in need of services to help them avoid long-term dependency and chronic unemployment. Opportunities for work may not be readily available on reservations and the surrounding economic conditions vary greatly. Consequently, we are allowing grantees the option of using program funds to encourage economic development initiatives leading to job creation. Additionally, we support the

alternative of encouraging traditional subsistence and other culturally relevant activities.

Generally, the need for services exceeds the demand. Consequently, an intake prioritization procedure may need to be instituted to determine the order of serving clients. NEW Programs should be tailored to fit the needs of its designated population and can be designed to serve a variety of clients, including General Assistance, TANF clients, other target groups, such as, teen parents, non-custodial parents, seasonal workers, unemployed parents and veterans, ex-offenders, *etc.*

It is not only important to coordinate with other tribal programs to develop a comprehensive service delivery system, but State programs, social service agencies, non-profit organizations, private industry and any other entity which can provide resources or opportunities for the benefit of NEW clients and their families. It is common practice to combine activities and services from different programs to provide seamless services to individual clients and their families. This may be very appropriate in the delivery of services to TANF clients who are obligated to participate in prescribed work activities. NEW Program activities may supplement TANF work activities in order to meet TANF work requirements. In some cases States are counting NEW Program participation in fulfillment of participation rate requirements, where possible.

By allowing Tribes flexibility in determining measures of program outcome, we do not intend to imply that this is not an important area. Because each NEW Program grantees' goals, objectives, population and economic conditions will be different, we anticipate that Tribes will develop different program standards and measures to realistically reflect achievable outcomes and evaluate program performance.

It is crucial for NEW Program grantees to establish at the outset of program operations their goals, expected outcomes, and outcome measures. Only with such information will program administrators be able to reasonably evaluate to what extent a NEW Program is successful.

There was one technical change. The word ''tribal'' was added to the regulatory text, at § 287.115(d), regarding TANF participation rates because this section pertains to Tribal and State TANF programs.

Section 287.110 Who is Eligible to Receive Assistance or Services Under a Tribe's NEW Program?

Comment: One comment suggested that all welfare recipients on the reservation be eligible for the NEW Program.

Response: The statute as amended stipulates each grantee ''shall use the grant for the purpose of operating a program to make work activities available to such population and such service area or areas as the Tribe specifies.'' Each grantee has the autonomy to determine client eligibility. Whether or not to serve TANF recipients is a decision to be made by each tribal grantee.

Section 287.115 When a NEW Grantee Serves TANF Recipients, What Coordination Should Take Place With the Tribal or State TANF Agency?

Comments: Conflicting comments were received on this section. Some commenters wanted the factors upon which coordination should occur to be reduced to only the essential ones. Other commenters wanted more guidance on coordination when a NEW Program serves TANF recipients.

Response: The Final Rule stipulates coordination should occur, not must occur. While some areas of coordination are more important than others, each factor listed represents a sound management practice. The language presented in no way discourages tribal-state negotiations and presents more options for tribal-state collaboration. It is ACF's intent to insure that each grantee evaluate the need for various coordination activities based on its program structure and operations.

Comment: It was recommended that ACF mandate Tribe/State agreements to delineate roles, responsibilities, and services.

Response: While ACF would advocate such a practice, this is an area left to tribal/state discretion. Consequently, the suggestion was not incorporated.

Section 287.120 What Work Activities May be Provided Under the NEW Program?

Comment: There was a comment that Tribes be able to include work activities for their TANF recipients.

Response: Section 287.120 allows Tribes to define their own work activities to best address their clients' needs. The Tribes may include whatever work activities they deem appropriate to their service populations. Those listed in the rules are merely examples and not all-inclusive. The rule was not changed to include more examples.

Comment: One commenter expressed the importance of including traditional and tribal relevant activities as allowable work activities. The commenter further suggested that NEW participants be allowed to comply with work participation requirements.

Response: Since ''traditional subsistence activities'' is listed in § 287.120, that activity is already identified as an allowable activity. However, the listed activities are examples and grantees are not limited to the list. Regarding the second comment, it should be noted that there are no work activity requirements under the NEW Program. The commenter may be referring to TANF work participation requirements. It is left to the discretion of the NEW grantee what work activities are to be provided. Negotiations and agreement with the TANF agency (and applicable TANF rules) will determine whether NEW work activities can be counted toward a TANF agency's participation rate.

Section 287.130 Can NEW Program Activities Include Job Market Assessments, Job Creation and Economic Development Activities?

Comments: Some commenters suggested that the term ''job market assessments'' be eliminated from the list of activities allowable under the NEW Program. Another commenter categorized this section as good for offering guidance on maximizing their program services.

Response: This proposed activity was recommended by one of the of NEW Program directors and has validity for the grantees that choose to conduct such activity. ACF would rather be inclusive and provide a greater range rather than be exclusive for those grantees interested in conducting such activity. This is an allowable, not mandatory activity. The suggested change was not made.

Section 287.140 With Whom Should the Tribe Coordinate in the Operation of its Work Activities and Services?

Comment: It was suggested that the Indian and Native American Welfare-to-Work (INAWTW) program be specifically mentioned as a program to coordinate NEW with in § 287.140.

Response: Often Federal programs are not reauthorized, or are authorized with different names and/or revised scopes. For that reason, in the proposed rules we opted not to name specific programs. Consequently the suggestion was not incorporated.

Section 287.145 What Measures Will be Used to Determine NEW Program Outcomes?

Comments: Several comments were received urging ACF to allow grantees the ability to define their own standards and measures.

Response: That was the intent of the proposed rules and remains so in the Final Rule. According to the NEW Program Planning Guidance, each NEW grantee is to develop at least two program standards. The guidance states ''the Tribe is encouraged to develop its own standards.'' The Final Rule supports and encourages each grantee to develop its own standards. Several examples are provided in the regulations due to the many inquiries that were received for guidance in this area. If more standards are developed and achieved by the NEW grantee, the successful program elements will provide further evidence of positive program performance.

Subpart F—Data Collection and Reporting Requirements Sections 287.150—287.170)

Although not specified in PRWORA for the NEW Program, it is necessary to outline the minimum data gathering and reporting obligations for any grantee receiving Federal funding. The particular nature of the program services offered within the NEW Program require the granting authority to set forth some uniform standards for appropriate accountability and service definitions and to insure the availability of information necessary for public oversight and evaluation.

Through considerable consultation and discussion with advocacy groups and many eligible Tribes, the Secretary has elected to develop minimum reporting and data collection requirements. This minimum reporting requirement will be evident in the shift from quarterly reporting, which was required under the Tribal JOBS Program, to annual program and fiscal reporting. We expect NEW grantees to simply maintain certain case information on file rather than regularly submitting formal reports of these records to the Federal government.

We will require NEW Program grantees to submit a report covering program operations and a report covering financial expenditures. These reports must also be submitted by NEW Program grantees who operate a TANF program.

The program operations report will provide information essential for monitoring and measuring program performance. It also includes data elements to assist management in evaluating program objectives, performance measures and allocation of resources.

The NEW Program operations report is an annual report. The report will be due September 28, which is 90 days after the close of the NEW Program year. The report is based on data collected from the current program year. The report must be submitted to the appropriate ACF Regional Administrator and a copy forwarded to the ACF, Office of Community Services, Division of Tribal Services, Attention: Data Reporting Team.

Under the Public Law 102–477 initiative, all services are integrated under a single 102–477 program plan; funds from the programs are commingled under a single budget; and activities are reported under a single reporting system. In general, the 102–477 Tribes deal only with the lead Federal agency, the Bureau of Indian Affairs (BIA). The report is submitted annually to BIA and shared with the Departments of Health and Human Services and Labor.

The program operations report was developed by the Secretary in consultation with NEW Program grantees and other interested parties. For simplicity and consistency the NEW report was formatted very similar to the 102–477 report.

For Tribes that operate both the NEW and TANF programs, we considered developing a single reporting instrument. However, we believe that a single report is not feasible nor would it reduce the amount of reporting. There are TANF reporting requirements in the law which are not required for NEW Program grantees. Also, the reporting cycles could be different for a Tribe operating TANF and NEW Programs and to report program operations with different reporting periods on a single form could be more complicated and confusing than if separate reports were used. In addition, we may obtain data which is not comparable if we require Tribes who operate only a NEW Program to report one set of data while requiring Tribes that operate TANF and NEW Programs to report on different or fewer data elements.

Grantees must report NEW financial activities annually on a Standard Form SF–269A. This form is required for reporting NEW Program expenditures if a Tribe operates both NEW and TANF programs. 102–477 grantees also report financial data on the SF–269A.

Comment: It was suggested that we give grantees at least a 12-month grace period before data section reporting requirements are implemented.

Response: We believe a delay in submitting financial and operations reports is unwarranted for several reasons. First, submission of the required reports in accordance with the time frames set forth in the regulations provide both the agency and the grantees with essential management information required to access how the newly instituted work activities programs are meeting their goals and objectives. Second, grantees must meet time frames for submission of forms regarding financial activities in accordance with applicable regulations and Departmental policies. Finally, reporting requirements for the NEW Program are minimal. Only an annual financial activities report and an annual program operations report are required.

Section 287.160 What Reports Must a Grantee File Regarding Financial Operations?

Comment: Several commenters objected to requiring submission of the annual fiscal report on September 28 rather than September 30. The commenters note that while September 28 may be literally 90 days from the end of the NEW Program year, an end-of-the-quarter date of September 30 would be much easier for tribal staff to remember and be consistent with other deadlines that commonly fall either at the beginning or the end of a calendar month.

Response: Regulations at 45 CFR 92.41(4) require that grantees submit annual reports 90 days after the end of the reporting quarter. For the NEW Program, the end of the reporting quarter is June 30. The 90 days after June 30 is September 28. Consequently, ACF is unable to change the due date of the fiscal reports to September 30.

Section 287.165 What are the Data Collection and Reporting Requirements for Public Law 102–477 Tribes That Consolidate a NEW Program With Other Programs?

Comment: It was suggested that ACF needs to begin identifying a process with Pub.L. 102–477 Tribes to reduce reporting requirements while maintaining the efficiencies and opportunities offered under Pub. L. 102–477.

Response: The operation of work programs under a Pub.L. 102–477 plan affords Tribes the opportunity to consolidate the administrative, operational and reporting activities of these programs into a single system. The NEW Program is eligible for inclusion under a Pub.L. 102–477 plan. We encourage eligible Tribes to consider the benefits of operating under this

demonstration program. Minimal reporting requirements are already in place for 102–477 Tribes. If a Tribe incorporates NEW under a Pub.L. 102–477 demonstration program, only the Pub.L. 102–477 annual report is due to BIA. There are no separate or additional NEW reporting requirements.

Comment: One commenter stated it was unclear what reports are due when Tribes operate under Pub.L. 102–477 and suggested that flexibility should be maximized to the greatest extent possible by carrying the objectives of Pub.L. 102–477 into data reporting.

Response: The BIA administers the Pub.L. 102–477 demonstration programs and establishes guidelines regarding data collection and reporting requirements. Currently, only an annual operations report and an annual fiscal report are required for Tribes that operate under Pub.L. 102–477. For Tribes operating Pub.L. 102–477 programs, we will obtain information on NEW Program operations and fiscal activities through the Pub.L. 102–477 reporting system.

Section 287.170 What are the Data Collection and Reporting Requirements for a Tribe That Operates Both the NEW Program and a Tribal TANF Program?

Comment: Several commenters stated that separate data collection and reporting requirements for Tribes that operate both TANF and NEW Programs are burdensome and unnecessary. One commenter noted that requiring reports for both programs exacerbates the already cumbersome proposed reporting requirements for TANF.

Response: ACF believes that a single report for Tribes operating both Tribal TANF and NEW Programs would not reduce the amount of reporting but would more likely make the reporting requirements more burdensome and complex. There are TANF reporting requirements in the law which are not required for NEW Program grantees. Also, the reporting cycles could be different for a Tribe operating TANF and NEW Programs, and to report program operations with different reporting periods on a single form could be more confusing and complicated than if separate reports were used. In addition, we may obtain data which is not comparable if we require Tribes who operate only a NEW Program to report one set of data while requiring Tribes that operate TANF and NEW Programs to report on different data elements.

Discussion of Program Areas

Client Eligibility

Section 412(a)(2)(C) of the Act, as amended, allows for NEW grantees to define their population and service area(s) for the NEW Program. This eligibility requirement is different and much broader than the Tribal JOBS Program, where the purpose was to provide Tribal members receiving AFDC with education, training and employment services.

There has been some discussion between ACF and the Tribes on how and who the NEW Program should supplement or support. Should NEW be an adaptable, independent program addressing client needs; should it support the Tribal TANF program if a Tribe were to choose to operate its own TANF program; should it be a supplement to State TANF programs, acting as a safety net for those that don't qualify for TANF or who have met the TANF time limits; or should the program be a combination of these options? We believe each NEW grantee should make these determinations, for they are in the best position to respond to the needs of their reservation and to allocate Tribal program resources to meet those needs.

In light of scarce Tribal resources, unnecessary restrictions and rules may prevent Tribes from using their NEW Programs as safety nets for families ineligible for other programs or who have met the time limits under TANF. Some Tribes are beginning to struggle with the issue of Tribal families having met the time limits in States where shorter time limits were established under waivers.

Moreover, the Indian and Native American Welfare-to-Work program, which all NEW grantees are eligible to apply for, makes available funding to serve categories of hard-to-employ TANF recipients. Duplication of services should be avoided. NEW grantees have the option of supplementing work activities and services provided by TANF and Welfare-to-Work programs to TANF clients or providing work activities and services to other needy clients. A grantee may also choose to serve both TANF and non-TANF clients. The decisions are left to Tribal discretion and not dictated by these rules.

When an eligible Tribe elects to receive NEW Program funds, but not to operate the Tribal TANF program, individuals receiving State TANF assistance must participate in State TANF work activities. If a NEW Program elects to serve individuals who are State TANF recipients, then it should do so as an addition to or extension of the State TANF work activities to avoid duplication of services and provide maximum benefits to the families served. There will need to be close coordination between the TANF agency and the NEW Program to provide comprehensive services to the families jointly served.

During our consultation phase, our Tribal partners overwhelmingly recommended that they be allowed maximum flexibility as reflected in PRWORA, including defining their service population and area(s) and designing and operating effective programs. Restrictive program rules on client eligibility and program expenditures would create barriers to providing comprehensive, seamless service delivery to needy Tribal families. Consequently, in keeping with the intent of the law and Tribal sovereignty, we have chosen to allow maximum flexibility in NEW client eligibility requirements, program design and operations.

Work Activities

Section 412(a)(2)(C) of the Act, as amended, describes the use of the NEW grant. Each Indian tribe to which a grant is made under this paragraph must use the grant for the purpose of operating a program to make work activities available to such population and service area(s) as the Tribe specifies.

ACF supports Tribal autonomy in defining what constitutes work activities. The statutory language for NEW contrasts notably with the statute for the now repealed Tribal JOBS Program. JOBS required that Tribes have the following mandatory work components: Educational activity; job skills training; job readiness; and job development and job placement activity. In addition, a Tribe was required to have at least one of the following components: group and individual job search; on-the-job training; community work experience; work supplementation; or alternative education, training and employment activities.

Section 407(d) defines work activities for the TANF program as: Unsubsidized employment; subsidized private or public sector employment; work experience; on-the-job training; job search and job readiness; community service programs; vocational educational training; job skills training; education; satisfactory attendance; and provision of child care.

In order to determine how work activities should be defined under NEW, we reviewed allowable activities under JOBS, TANF and Welfare-to-Work. Again we consulted our Tribal partners and other interested parties regarding both the Tribal TANF and the NEW Programs.

The first question posed was: ''What relationship should there be between work activities as defined in section 407 of the Act and the work activity that is required to be made available by section 412(a)(2)?'' The consensus was that NEW Program grantees should define ''work activities'' and that section 407 should serve as a guideline for them. Tribes stated that they should be allowed to use culturally relevant activities to solve unique problems. In order to give Tribes as much flexibility as possible we have included the activities listed in section 407 as examples of NEW work activities. In addition, we have added job creation, economic development, and traditional subsistence activities, such as hunting and fishing.

The second question posed was: ''What is the interconnection between NEW work activities and work activity participation to the State or Tribal TANF program?'' Some felt that requiring NEW Programs to ''mirror'' TANF work activities would facilitate Tribe/State coordination and simplify program administration. However, certain educational and training assistance which may accrue to the clients would be lost in the process, possibly eliminating client options which are more practical, available or needed. NEW Programs can provide work activities above and beyond what can be provided under TANF or WtW programs, thus broadening the clients' opportunities and options.

States and Tribes should coordinate closely to ensure that NEW and TANF work activities are best arranged in a complimentary fashion to advance the TANF client's employability goals.

Coordination

The Family Support Act of 1988 created the opportunity for Indian tribes and Alaska Native organizations to conduct JOBS programs. Operating a Tribal JOBS Program required coordination with State programs to ensure that the necessary interfaces between the Tribal JOBS Programs and State title IV–A programs were in place. It also required that a Tribe and a State be able to exchange information regarding such things as eligibility status, child care services, changes in employment status, and participation status.

Under the JOBS program, coordination was necessary in order to prevent duplication of services, assure the maximum level of services was available to participants and ensure that costs of other program services for which welfare recipients were eligible were not shifted to the JOBS program. Coordination between TANF and NEW is still needed for some of these same reasons.

All work activities required as a condition of eligibility to receive temporary public assistance are now prescribed by the TANF program administered by the States and, at their option, Tribes. There is some misunderstanding that NEW Programs should serve all State tribal TANF recipients. With 74 percent of all NEW grants being below $100,000, it is unrealistic to expect NEW Programs to be able to meet such demands. The Tribe and State should negotiate an agreement if the Tribe plans to serve all Tribal TANF clients, which may necessitate the need for supplementary funding from the State. Additional State funds would allow Tribes to: increase the availability of activities and services; provide additional activities and services so that clients could meet the State's participation rate; or serve more clients.

Congress did not replace the Tribal JOBS Program with another tribal work program of identical focus. Individuals who receive TANF assistance, regardless of Native American or Alaska Native heritage, have to participate in work activities as prescribed by the State TANF program (unless the Tribe elects to operate its own TANF program) in order to continue to be eligible to receive TANF assistance. Under these circumstances then, what are the requirements for coordination between a NEW Program and a State TANF program?

For participants in the NEW Program, coordination efforts should be designed to best fulfill the participants' self-sufficiency goals. It is critical that any TANF client referred to NEW be placed in activities leading to fulfillment of their employment goal or a job as soon as possible. Otherwise the client may consume valuable time. Since TANF is time limited any TANF client not able to receive immediate services should be sent back to the referring agency. Clients in work activities under a State TANF program may be required to participate for a minimum number of hours per week to remain eligible for TANF assistance, and the State maintains responsibility for the costs of that participation. If a NEW Program elects to serve individuals who are participating in State TANF work activities, it should do so as an addition or extension to the State TANF work activities. This will avoid duplication of services, extend the range of work activities and services provided, and assure that costs of State TANF work activities are not shifted inappropriately to the NEW Program. In order to provide these assurances, initial and ongoing coordination between the NEW Program and the State TANF agency will be necessary. Also, the responsibility of meeting the TANF reporting requirements must be coordinated when serving TANF clients.

Moreover, local NEW and TANF case workers need to be aware of each program's requirements and procedures to offer the best mix of services to joint clients. For example, bonuses, stipends, and performance awards are allowed under NEW. However, depending on the rules of a Tribal or State TANF program, such payments made from NEW Program funds may be counted as income in determining and maintaining TANF eligibility. Rules of other need-based programs may also require that such payments be counted as income in the eligibility and payment determinations. NEW Program operators would want to take such information into consideration when determining what services to provide and the affect on their clients' situations.

For a Tribe that previously operated a JOBS program and elects to also conduct a TANF program, many of the coordination and collaboration relationships will be internal within the Tribe. This would also be true if a grantee had responsibility for the DOL or BIA employment programs. The importance of developing and maintaining those relationships is amplified by the additional responsibilities that come with operating a public assistance program. Many contracted work sites, for example, used by a State may also be available to Tribal TANF programs.

Section 407(b)(4) of the Act, as amended by the Balanced Budget Act of 1997, expands the State option to include individuals receiving assistance from a Tribal TANF program in the State's work participation rate calculation to also include individuals receiving assistance from a Tribal NEW Program. Unlike the Tribal JOBS Program, this is a State option, and as such Tribes do not have authority to exempt NEW/TANF program participants from State TANF program work requirements. The statute is silent (exception at section 412(h) noted) regarding comparability of programs. However, the statute prescribes minimum work participation rates for State TANF programs and the minimum number of hours necessary to qualify as engaged in work, and we would expect that agreements on respective roles and responsibilities will be established between States and Tribes operating NEW Programs.

VII. Regulatory Impact Analyses

A. Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. This rulemaking implements statutory authority based on broad consultation and coordination. It reflects our response to comments received on the NPRM that we issued on July 22, 1998.

The Executive Order encourages agencies, as appropriate, to provide the public with meaningful participation in the regulatory process. As described elsewhere in the preamble, ACF consulted with Tribal, State and local officials and their representative organizations, as well as a broad range of advocacy groups, researchers and others to obtain their views prior to the publication of the NPRM. We also considered comments received in response to the NPRM.

We respond to the comments that we received in the discussions of individual regulatory provisions within the preamble. These rules reflect the comments that we received in response to the NPRM. They also reflect the intent of PRWORA to achieve a balance between granting Indian tribes the flexibility they need to develop and operate effective and responsive programs and ensuring that the objectives of the statute are met. In addition, these rules recognize the differences that must and will exist between Tribal and State TANF programs.

Under the new law, tribal flexibility is achieved by giving Tribes the opportunity to develop, design and administer their own TANF block grants; and for the NEW grantees, they have great flexibility in the design of their NEW Programs. Ensuring that program goals are accomplished is achieved through the provisions on plan content, penalty provisions, and data collection.

We support tribal flexibility in various ways—such as giving Tribes the ability to define key program terms; and supporting the negotiation of minimum work participation requirements and time limits for each Tribal TANF program. We support the achievement of program goals by ensuring that we capture key information on what is happening under both the Tribal TANF and NEW Programs and maintaining the integrity of the work and other penalty provisions of the TANF program.

We take care to protect against negative impacts on needy families receiving assistance from Tribal TANF grantees by including three provisions not required by the statute, using the regulatory authority given to us by the statute. One of these provisions is the provision for retrocession; the second provision is the limit on administrative expenditures. Retrocession can be found at § 286.30, and the limitation on administrative expenditures can be found at § 286.50.

The third provision we included to protect against negative impacts on needy families is the provision for the replacement of amounts withheld from a tribal Family Assistance Grant due to the imposition of a penalty. We considered not including this provision; however, we believe that the benefits and protections this policy brings to the needy families being served by a Tribal TANF program outweigh the potential cost to the Tribe.

One of our key goals in developing the Tribal TANF penalty rules was to ensure tribal performance in the key areas provided under statute—including work participation, the proper use of Federal TANF funds, and data reporting. The law specified that we should enforce tribal actions in these areas and also specified the penalty for each failure. Through the ''reasonable cause'' and ''corrective compliance'' provisions in the rules we give some consideration to special circumstances within a Tribe to help ensure that neither the Tribe nor needy families served by the Tribe will be unfairly penalized for circumstances beyond their control.

In the work and penalty areas, this rulemaking provides information to the Tribes that will help them understand our specific expectations and take the steps necessary to avoid penalties. These rules may ultimately affect the number and size of penalties that are imposed on Tribes, but the basic expectations on Tribes are statutory.

The financial impacts to the Federal government of these rules are minimal for three reasons. First, the level of funding provided for both the block grant and the NEW Program is fixed. Second, the amount of a Tribe's TANF block grant is deducted from the State TANF block grant of the State in which the Tribe is located; thus, no additional Federal outlays are necessary beyond the amount needed for State Family Assistance Grants. And third, Tribal TANF grantees are not eligible for either the contingency fund or performance bonuses; thus, there are no additional outlays required for these two items.

A Tribe's TANF grant could be affected by the penalty decisions made under the law and these rules. Otherwise, we do not believe that the rulemaking will affect the overall level of funding or expenditures. However, it could have minor impacts on the nature and distribution of such expenditures.

These rules could have a minimal financial impact on State governments. This is due to the statutory requirement that State data be used to determine the amount of a Tribal Family Assistance Grant. The actual impact to any one State is difficult to determine as it is not known how many Tribes will apply to administer a TANF program. There are some States that have federally-recognized Tribes within their borders; yet there are many that do not have any federally-recognized Tribes within their borders.

In the area of TANF data collection, the statutory requirements are specific and extensive—especially with respect to case-record or disaggregated data. These rules also include data reporting with respect to program expenditures. They expand upon the expenditure data explicitly mentioned by the statute in order to ensure that: needy families continue to receive assistance and services; monies go for the intended purposes; and the financial integrity of the program is maintained.

The NEW Program grantees must report participant characteristics and program outcome date that the Secretary and others will use to determine the impact of the program. Only an annual operations report and an annual financial activities report are required.

The impacts of these rules on needy individuals and families will depend on the choices that a Tribe makes in implementing the new law. Our data collection should enable tracking of these effects over time and across Tribes. Overall, our assessment of these rules indicates that they represent the least burdensome approach consistent with the regulatory objectives.

The Department has determined that this rule is significant under the Executive Order. The Office of Management and Budget has reviewed the rule.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities. Small entities are defined in the Act to include small businesses, small non-profit organizations, and small governmental entities. This rule will affect only

federally-recognized Indian tribes and Alaska Native organizations. Therefore, the Secretary certifies that this rule will not have a significant impact on small entities.

C. Family Impact Assessment

We certify that we have made an assessment of this rule's impact on the well-being of families, as required under section 654 of The Treasury and General Government Appropriations Act of 1999. The purpose of the TANF program is to strengthen the economic and social stability of families, in part by supporting the formation and maintenance of two-parent families and reducing out-of-wedlock child-bearing. As required by statute, this rule gives flexibility to Tribes to design programs that can best serve this purpose.

D. Paperwork Reduction Act

This rule contains information collection activities that have been reviewed and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA). (OMB has already approved an Interim Tribal TANF Data Report, Form ACF–343, Control No. 0970–0176. OMB has also approved a NEW Program data reporting form, ''The Native Employment Works (NEW) Program Plan Guidance and Report Requirements,'' Control No. 0970–0174). Under this Act, no persons are required to respond to a collection of information unless it displays a valid OMB control number. If you have any comments on these information collection requirements, please submit them to OMB within thirty days. The address is: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street NW, Washington, DC 20503, Attn: ACF/DHHS Desk Officer. The public will have an opportunity to provide comments before OMB makes a final decision.

The following discussion incorporates our response to comments regarding information collection that we received on the NPRM and the Paperwork Notice published on July 22, 1998. This rule contains provisions covering two quarterly reports (one program data, the other financial) and one annual report for the Tribal TANF program. The proposed reports were attached to the proposed rule as an Appendix. We will revise these instruments based on the comments we have received, and will issue them to Tribes through the ACF policy issuance system after they have been cleared through OMB. We have, however, responded to the comments received elsewhere in the preamble of this Final Rule.

Quarterly Data and Financial Reports

The two quarterly reports are the Tribal TANF Data Report (Appendices A through C) and the Tribal TANF Financial Report (Appendix D). The Tribal TANF Data Report consists of three sections. Two of these three sections consist of disaggregated case-record data elements, and one consists of aggregated data elements.

We need this information collection to meet the requirements of section 411(a) and to implement other sections of the Act, including sections 407 (work participation requirements), 409 (penalties), and 411(b) (Annual Report to Congress).

The Tribal TANF Financial Report consists of one form. (See Appendix D.) We need this report to meet the requirements of sections 411(a)(2), 411(a)(3), and 411(a)(5), and to carry out our other financial management and oversight responsibilities. These include providing information that could be used in determining whether Tribes are subject to penalties under section 409(a)(1), tracking the reasonableness of our definition of ''assistance'; learning the extent to which recipients of benefits and services are covered by program requirements, and helping to validate the disaggregated data we receive on TANF cases.

Annual Reports

We are also requiring an annual report in order to collect the data required by section 411(b). This report requires the submission of information about the characteristics of each tribal program; the design and operation of the program; the services, benefits, and assistance provided; the Tribe's eligibility criteria; and the Tribe's definition of work activities. At its option, each Tribe may also include a description of any unique features, accomplishments, innovations, or additional information appropriate for inclusion in the Department's annual report to the Congress.

Instructions pertaining to submission of the annual NEW Program operations report are contained in the NEW Program guidance document, ''The Native Employment Works (NEW) Program Plan Guidance and Report Requirements.'' This document will be distributed through ACF's program instruction system.

Changes in the Estimate of Burden

In the NPRM we estimated that only 18 Tribes would have approved Tribal TANF plans and would therefore be respondents. Based both on the number of Tribes currently operating TANF and those who are actively preparing Tribal TANF plans, we have increased those estimates.

Burden Estimates

The respondents for the Tribal TANF Data Reports and the Reasonable Cause/Corrective Action documentation process are the Tribes that have approved Tribal TANF plans.

In estimating the reporting burden in the NPRM, we pointed out that this reporting burden will be new to the Tribes. Unlike States, many Tribes do not have the electronic capacity for meeting the reporting requirements. However, Tribal TANF programs will not be required to submit all of the data required for State TANF programs because some provisions for which data are being collected apply only to States. In addition, the number of families on which the Tribal TANF grantees will have to report will be substantially lower than the number of families on which States will be reporting.

In calculating the estimates of the reporting burden, we assumed that not all Tribal TANF grantees would collect the data by means of a review sample because their caseloads will not support a valid sample. However, we believe that a number of Tribal TANF grantees will eventually choose to undertake the one-time burden and cost of developing or modifying their systems to provide the required data directly from their automated systems, thus substantially reducing or eliminating the ongoing annual burden and cost reflected in these estimates.

The annual burden estimates include any time involved pulling records from files, abstracting information, returning records to files, assembling any other material necessary to provide the requested information, and transmitting the information.

The annual burden estimates for the Tribal TANF data collections are:

Instrument or requirement	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Tribal TANF Data Report—§ 286.255(b)	[1] 36	4	451	64,944

Instrument or requirement	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Tribal TANF Annual Report—§ 286.275	[2] 36	1	40	1,440
Reasonable Cause/ Corrective Action Documentation Process—§ 286.225	[3] 36	1	60	2,160

Estimated Total Annual Burden Hours: 68,544

The annual burden estimates for the NEW data collections are:

Instrument or requirement	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
NEW Program Operations Report	[4] 78	1	16	1,248

As indicated above, we have made a substantial upward adjustment in the number of respondents and total burden hours.

We considered comments by the public on these collections of information in:

- Evaluating whether the collections are necessary for the proper performance of our functions, including whether the information will have practical utility;
- Evaluating the accuracy of our estimate of the burden of the collections of information, including the validity of the methodology and assumptions used, and the frequency of collection;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, *e.g.,* the electronic submission of responses.

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small government that may be significantly or uniquely impacted by the rule.

We have determined that the rules will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small government.

F. Congressional Review of Regulations

This Final Rule is not a ''major'' rule as defined in Chapter 8 of 5 U.S.C.

G. Executive Order 13132

Executive Order 13132 on Federalism applies to policies that have federalism implications, defined as ''regulations, legislative comments or proposed legislation, and other policy statements or actions that 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.'' This rule does not have federalism implications for State or local governments as defined in the Executive Order.

List of Subjects in 45 CFR Parts 286 and 287

Administrative practice and procedure, Day Care, Employment, Grant programs— social programs, Indian tribes, Loan programs—social programs, Manpower training programs, Penalties, Public Assistance programs, Reporting and record keeping requirements, Vocational education.

(Catalogue of Federal Domestic Assistance Programs: 93.558 TANF programs—Tribal Family Assistance Grants; 93.559—Loan Fund; 93.594—Native Employment Works Program; 93.595—Welfare Reform Research, Evaluations and National Studies)

Dated: January 28, 2000.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: February 7, 2000.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, we are amending 45 CFR chapter II by adding parts 286 and 287 to read as follows:

PART 286—TRIBAL TANF PROVISIONS

Sec.

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286.80 What information on minimum work participation requirements must a Tribe include in its Tribal Family Assistance Plan?
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286.90 How many hours per week must an adult or minor head-of-household participate in work-related activities to count in the numerator of the work participation rate?
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286.125 Does the receipt of TANF benefits under a State or other Tribal TANF program count towards a Tribe's TANF time limit?
286.130 Does the receipt of Welfare-to-Work (WtW) cash assistance count towards a Tribe's TANF time limit?
286.135 What information on penalties against individuals must be included in a Tribal Family Assistance Plan?
286.140 What special provisions apply to victims of domestic violence?
286.145 What is the penalty if an individual refuses to engage in work activities?
286.150 Can a family, with a child under age 6, be penalized because a parent refuses to work because (s)he cannot find child care?
286.155 May a Tribe condition eligibility for Tribal TANF assistance on assignment of child support to the Tribe?
286.160 What are the applicable time frames and procedures for submitting a Tribal Family Assistance Plan?
286.165 How is a Tribal Family Assistance Plan amended?
286.170 How may a Tribe petition for administrative review of disapproval of a TFAP or amendment?
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286.180 What is the process for developing the comparability criteria that are required in Alaska?
286.185 What happens when a dispute arises between the State of Alaska and the Tribal TANF eligible entities in the State related to the comparability criteria?
286.190 If the Secretary, the State of Alaska, or any of the Tribal TANF eligible entities in the State of Alaska want to amend the comparability criteria, what is the process for doing so?

Subpart D—Accountability and Penalties

286.195 What penalties will apply to Tribes?
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286.245 What data collection and reporting requirements apply to Tribal TANF programs?
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286.260 May Tribes use sampling and electronic filing?
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Authority: 42 U.S.C. 612

Subpart A—General Tribal TANF Provisions

§ 286.1 What does this part cover?

Section 412 of the Social Security Act allows Indian tribes to apply to operate a Tribal Family Assistance program. This part implements section 412. It specifies:

(a) who can apply to operate a Tribal Family Assistance program;

(b) the requirements for the submission and contents of a Tribal Family Assistance Plan;

(c) the determination of the amount of a Tribal Family Assistance Grant; and

(d) other program requirements and procedures.

§ 286.5 What definitions apply to this part?

The following definitions apply under this part:

ACF means the Administration for Children and Families.

Act means the Social Security Act, unless otherwise specified.

Administrative cost means costs necessary for the proper administration of the TANF program.

(1) It excludes the direct costs of providing program services.

(i) For example, it excludes costs of providing diversion benefits and services, providing program information to clients, screening and assessments, development of employability plans, work activities, post-employment services, work supports, information on and referral to Medicaid, Child Health Insurance Program (CHIP), Food Stamp and Native Employment Works (NEW) programs and case management.

(ii) It excludes the salaries and benefit costs for staff providing program services and the direct administrative costs associated with providing the services, such as the costs for supplies, equipment, travel, postage, utilities, rental of office space and maintenance of office space, and

(iii) It excludes information technology and computerization needed for tracking and monitoring.

(2) It includes the costs for general administration and coordination of this program, including contract costs for these functions and indirect (or overhead) costs. Some examples of administrative costs include, but are not limited to:

(i) Salaries and benefits and all other direct costs not associated with providing program services to individuals, including staff performing administrative and coordination functions;

(ii) Preparation of program plans, budgets, and schedules;

(iii) Monitoring of programs and projects;

(iv) Fraud and abuse units;

(v) Procurement activities;

(vi) Public relations;

(vii) Services related to accounting, litigation, audits, management of property, payroll, and personnel;

(viii) Costs for the goods and services required for administration of the program such as the costs for supplies, equipment, travel, postage, utilities, and rental of office space and maintenance of office space, provided that such costs are not excluded as a direct administrative cost for providing program services under paragraph (1) of this definition;

(ix) Travel costs incurred for official business and not excluded as a direct

administrative cost for providing program services under paragraph (1) of this definition;

(x) Management information systems not related to the tracking and monitoring of TANF requirements (*e.g.,* for a personnel and payroll system for Tribal staff); and

(xi) Preparing reports and other documents related to program requirements.

Adult means an individual who is not a ''minor child,'' as defined below.

Alaska Tribal TANF entity means the twelve Alaska Native regional nonprofit corporations in the State of Alaska and the Metlakatla Indian Community of the Annette Islands Reserve.

Assistant Secretary means the Assistant Secretary for Children and Families, Department of Health and Human Services.

Cash assistance, when provided to participants in the Welfare-to-Work program, has the meaning specified at § 286.130.

Comparability means similarity between State and Tribal TANF programs in the State of Alaska. Comparability, when defined related to services provided, does not necessarily mean identical or equal services.

Consortium means a group of Tribes working together for the same identified purpose and receiving combined TANF funding for that purpose.

The Department means the Department of Health and Human Services.

Duplicative Assistance means the receipt of services/ assistance from two or more TANF programs for the same purpose.

Eligible families means all families eligible for TANF funded assistance under the Tribal TANF program funded under section 412(a), including:

(1) All U.S. citizens who meet the Tribe's criteria for Tribal TANF assistance;

(2) All qualified aliens, who meet the Tribe's criteria for Tribal TANF assistance, who entered the U.S. before August 22, 1996;

(3) All qualified aliens, who meet the Tribe's criteria for Tribal TANF assistance, who entered the U.S. on or after August 22, 1996, who have been in the U.S. for at least 5 years beginning on the date of entry into the U.S. with a qualified alien status, are eligible beginning 5 years after the date of entry into the U.S. There are exceptions to this 5-year bar for qualified aliens who enter on or after August 22, 1996, and the Tribal TANF program must cover these excepted individuals:

(a) An alien who is admitted to the U.S. as a refugee under section 207 of the Immigration and Nationality Act;

(b) An alien who is granted asylum under section 208 of such Act;

(c) An alien whose deportation is being withheld under section 243(h) of such Act; and

(d) An alien who is lawfully residing in any State and is a veteran with an honorable discharge, is on active duty in the Armed Forces of the U.S., or is the spouse or unmarried dependent child of such an individual;

(4) All permanent resident aliens who are members of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act;

(5) All permanent resident aliens who have 40 qualifying quarters of coverage as defined by Title II of the Act.

Eligible Indian tribe means any Tribe or intertribal consortium that meets the definition of Indian tribe in this section and is eligible to submit a Tribal TANF plan to ACF.

Family Violence Option (or FVO) means the provision at section 402(a)(7) of the Act made available to Tribes under which a Tribe may certify in its Tribal TANF plan that it has elected the option to implement comprehensive strategies for identifying and serving victims of domestic violence.

Fiscal year means the 12-month period beginning on October 1 of the preceding calendar year and ending on September 30.

FY means fiscal year.

Good cause domestic violence waiver means a waiver of one or more program requirements granted by a Tribe to a victim of domestic violence under the FVO, as described in § 286.140(a)(3).

Grant period means the period of time that is specified in the Tribal TANF grant award document.

Indian, Indian tribe and Tribal Organization have the same meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), except that the term ''Indian tribe'' means, with respect to the State of Alaska, only the Metlakatla Indian Community of the Annette Islands Reserve and the following Alaska Native regional nonprofit corporations:

(1) Arctic Slope Native Association;

(2) Kawerak, Inc.;

(3) Maniilaq Association;

(4) Association of Village Council Presidents;

(5) Tanana Chiefs Council;

(6) Cook Inlet Tribal Council;

(7) Bristol Bay Native Association;

(8) Aleutian and Pribilof Island Association;

(9) Chugachmuit;

(10) Tlingit Haida Central Council;

(11) Kodiak Area Native Association; and

(12) Copper River Native Association.

Indian country has the meaning given the term in 18 U.S.C. 1151.

Minor child means an individual who:

(1) Has not attained 18 years of age; or

(2) Has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

Minor Head-of-Household means an individual under age 18, or 19 and a full-time student in a secondary school, who is the custodial parent of a minor child.

PRWORA means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Qualified Aliens has the same meaning given the term in 8 U.S.C. 1641 except that it also includes members of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act, who are lawfully admitted under 8 U.S.C. 1359.

Retrocession means the process by which a Tribe voluntarily terminates and cedes back (or returns) a Tribal TANF program to the State which previously served the population covered by the Tribal TANF plan. Retrocession includes the voluntary relinquishment of the authority to obligate previously awarded grant funds before that authority would otherwise expire.

Secretary means the Secretary of the Department of Health and Human Services.

Scientifically acceptable sampling method means a probability sampling method in which every sampling unit has a known, non-zero chance to be included in the sample and the sample size requirements are met.

SFAG or State Family Assistance Grant means the amount of the block grant funded under section 403(a) of the Act for each eligible State.

SFAP or State Family Assistance Plan is the plan for implementation of a State TANF program under PRWORA.

State means, except as otherwise specifically provided, the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.

TANF means the Temporary Assistance for Needy Families Program, which is authorized under title IV–A of the Social Security Act.

TANF funds mean funds authorized under section 412(a) of the Act.

TFAG or Tribal Family Assistance Grant means the amount of the block

grant funded under section 412(a) of the Act for each eligible Tribe.

TFAP or Tribal Family Assistance Plan means the plan for implementation of the Tribal TANF program under section 412(b) of the Act.

Title IV–A refers to the title of the Social Security Act that now includes TANF, but previously included AFDC and EA. For the purpose of the TANF program regulations, this term does not include child care programs authorized and funded under section 418 of the Act, or their predecessors, unless we specify otherwise.

Title IV–F refers to the title of the Social Security Act that was eliminated with the creation of TANF and previously included the Job Opportunities and Basic Skills Training Program (JOBS).

Tribal TANF expenditures means expenditures of TANF funds, within the Tribal TANF program.

Tribal TANF program means a Tribal program subject to the requirements of section 412 of the Act that is funded by TANF funds on behalf of eligible families.

Victim of domestic violence means an individual who is battered or subject to extreme cruelty under the definition at section 408(a)(7)(C)(iii) of the Act.

We (and any other first person plural pronouns) refers to The Secretary of Health and Human Services, or any of the following individuals or organizations acting in an official capacity on the Secretary's behalf: the Assistant Secretary for Children and Families, the Regional Administrators for Children and Families, the Department of Health and Human Services, and the Administration for Children and Families.

Welfare-related services means all activities, assistance, and services funded under Tribal TANF provided to an eligible family. See definition of ''Assistance'' in § 286.10.

Welfare-to-Work means the program for funding work activities at section 412(a)(2)(C) of the Act.

WtW means Welfare-to-Work.

WtW cash assistance, when provided to participants in the Welfare-to-Work program, has the meaning specified at § 286.130.

§ 286.10 What does the term ''assistance'' mean?

(a) The term ''assistance'' includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (*i.e.,* for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(1) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service or any other work activity.

(2) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) It excludes:

(1) Nonrecurring, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (*i.e.,* payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, information on and referral to Medicaid, Child Health Insurance Program (CHIP), Food Stamp and Native Employment Works (NEW) programs, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.

(c) The definition of the term assistance specified in paragraphs (a) and (b) of this section does not preclude a Tribe from providing other types of benefits and services consistent with the purposes of the TANF program.

§ 286.15 Who is eligible to operate a Tribal TANF program?

(a) An Indian tribe that meets the definition of Indian tribe given in § 286.5 is eligible to apply to operate a Tribal Family Assistance Program.

(b) In addition, an intertribal consortium of eligible Indian tribes may develop and submit a single TFAP.

Subpart B—Tribal TANF Funding

§ 286.20 How is the amount of a Tribal Family Assistance Grant (TFAG) determined?

(a) We will request and use data submitted by a State to determine the amount of a TFAG. The State data that we will request and use are the total Federal payments attributable to State expenditures, including administrative costs (which includes systems costs) for fiscal year 1994 under the former Aid to Families With Dependent Children, Emergency Assistance and Job Opportunities and Basic Skills Training programs, for all Indian families residing in the geographic service area or areas identified in the Tribe's letter of intent or Tribal Family Assistance Plan.

(1) A Tribe must indicate its definition of ''Indian family'' in its Tribal Family Assistance Plan. Each Tribe may define ''Indian family'' according to its own criteria.

(2) When we request the necessary data from the State, the State will have 30 days from the date of the request to submit the data.

(i) If we do not receive the data requested from the State at the end of the 30-day period, we will so notify the Tribe.

(ii) In cases where data is not received from the State, the Tribe will have 45 days from the date of the notification in which to submit relevant information. Relevant information may include, but is not limited to, Census Bureau data, data from the Bureau of Indian Affairs, data from other Federal programs, and Tribal records. In such a case, we will use the data submitted by the Tribe to assist us in determining the amount of the TFAG. Where there are inconsistencies in the data, follow-up discussions with the Tribe and the State will ensue.

(b) We will share the data submitted by the State under paragraph (a)(2)(i) of this section with the Tribe. The Tribe must submit to the Secretary a notice as to the Tribe's agreement or disagreement with such data no later than 45 days after the date of our notice transmitting the data from the State. During this 45-day period we will help resolve any questions the Tribe may have about the State-submitted data.

(c) We will notify each Tribe that has submitted a TFAP of the amount of the TFAG. At this time, we will also notify the State of the amount of the reduction in its SFAG.

(d) We will prorate TFAGs that are initially effective on a date other than October 1 of any given Federal fiscal

year, based on the number of days remaining in the Federal fiscal year.

§ 286.25 How will we resolve disagreements over the State-submitted data used to determine the amount of a Tribal Family Assistance Grant?

(a) If a Tribe disagrees with the data submitted by a State, the Tribe may submit additional relevant information to the Secretary. Relevant information may include, but is not limited to, Census Bureau data, data from the Bureau of Indian Affairs, data from other Federal programs, and Tribal records.

(1) The Tribe must submit any relevant information within 45 days from the date it notifies the Secretary of its disagreement with State submitted data under § 286.20(b).

(2) We will review the additional relevant information submitted by the Tribe, together with the State-submitted data, in order to make a determination as to the amount of the TFAG. We will determine the amount of the TFAG at the earliest possible date after consideration of all relevant data.

§ 286.30 What is the process for retrocession of a Tribal Family Assistance Grant?

(a) A Tribe that wishes to terminate its TFAG prior to the end of its three-year plan must—

(1) Notify the Secretary and the State in writing of the reason(s) for termination no later than 120 days prior to the effective date of the termination, or

(2) Notify the Secretary in writing of the reason(s) for termination no later than 30 days prior to the effective date of the termination, where such effective data is mutually agreed upon by the Tribe and the affected State(s).

(b) The effective date of the termination must coincide with the last day of a calendar month.

(c) For a Tribe that retrocedes, the provisions of 45 CFR part 92 will apply with regard to closeout of the grant. All unobligated funds will be returned by the Tribe to the Federal government.

(d) The SFAG will be increased by the amount of the TFAG available for the subsequent quarterly installment.

(e) A Tribe's application to implement a TANF program subsequent to its retrocession will be treated as any other application to operate a TANF program, except that we may take into account when considering approval—

(1) Whether the circumstances that the Tribe identified for termination of its TANF program remain applicable and the extent to which—

(i) The Tribe has control over such circumstances, and

(ii) Such circumstances are reasonably related to program funding accountability, and

(2) Whether any outstanding funds and penalty amounts are repaid.

(f) A Tribe which retrocedes a Tribal TANF program is responsible for:

(1) Complying with the data collection and reporting requirements and all other program requirements for the period before the retrocession is effective;

(2) Any applicable penalties (see subpart D) for actions occurring prior to retrocession; the provisions of 45 CFR Part 92 and OMB Circulars A–87 and A–133;

(3) compliance with other Federal statutes and regulations applicable to the TANF program; and

(4) any penalties resulting from audits covering the period before the effective date of retrocession.

§ 286.35 What are proper uses of Tribal Family Assistance Grant funds?

(a) Tribes may use TFAGs for expenditures that:

(1) Are reasonably calculated to accomplish the purposes of TANF, including, but not limited to, the provision to low income households with assistance in meeting home heating and cooling costs; assistance in economic development and job creation activities, the provision of supportive services to assist needy families to prepare for, obtain, and retain employment; the provision of supportive services to prevent of out-of-wedlock pregnancies, and assistance in keeping families together, or

(2) Were an authorized use of funds under the State plans for Parts A or F of title IV of the Social Security Act, as such parts were in effect on September 30, 1995.

§ 286.40 May a Tribe use the Tribal Family Assistance Grant to fund IDAs ?

(a) If the Tribe elects to operate an IDA program, it may use Federal TANF funds or WtW funds to fund IDAs for individuals who are eligible for TANF assistance and may exercise flexibility within the limits of Federal regulations and the statute.

(b) The following restrictions apply to IDA funds:

(1) A recipient may deposit only earned income into an IDA.

(2) A recipient's contributions to an IDA may be matched by, or through, a qualified entity.

(3) A recipient may withdraw funds only for the following reasons:

(i) To cover post-secondary education expenses, if the amount is paid directly to an eligible educational institution;

(ii) For the recipient to purchase a first home, if the amount is paid directly to the person to whom the amounts are due and it is a qualified acquisition cost for a qualified principal residence by a qualified first-time buyer; or

(iii) For business capitalization, if the amounts are paid directly to a business capitalization account in a federally insured financial institution and used for a qualified business capitalization expense.

(c) To prevent recipients from withdrawing funds held in an IDA improperly, Tribes may do the following:

(1) Count withdrawals as earned income in the month of withdrawal, unless already counted as income,

(2) Count withdrawals as resources in determining eligibility, or

(3) Take such other steps as the Tribe has established in its Tribal plan or written Tribal policies to deter inappropriate use.

§ 286.45 What uses of Tribal Family Assistance Grant funds are improper?

(a) A Tribe may not use Tribal Family Assistance Grant funds to provide assistance to:

(1) Families or individuals that do not otherwise meet the eligibility criteria contained in the Tribal Family Assistance Plan (TFAP); or

(2) For more than the number of months as specified in a Tribe's TFAP (unless covered by a hardship exemption); or

(3) Individuals who are not citizens of the United States or qualified aliens or who do not otherwise meet the definition of ''eligible families'' at § 286.5.

(b) Tribal Family Assistance Grant funds may not be used to contribute to or to subsidize non-TANF programs.

(c) A Tribe may not use Tribal Family Assistance Grant funds for services or activities prohibited by OMB Circular A–87.

(d) All provisions in OMB Circular A–133 and in 45 CFR part 92 are applicable to the Tribal TANF program.

(e) Tribal TANF funds may not be used for the construction or purchase of facilities or buildings.

(f) Tribes must use program income generated by the Tribal Family Assistance grant for the purposes of the TANF program and for allowable TANF services, activities and assistance.

§ 286.50 Is there a limit on the percentage of a Tribal Family Assistance Grant that can be used for administrative costs?

(a) ACF will negotiate a limitation on administrative costs with each Tribal TANF applicant individually for the

first year of a program's operation based on the applicant's proposed administrative cost allocation. No Tribal TANF grantee may expend more than 35 percent of its Tribal Family Assistance Grant for administrative costs during the first year.

(b) ACF will negotiate a limitation on administrative costs with each Tribal TANF applicant individually for the second year of a program's operation based on the applicant's proposed administrative cost allocation. No Tribal TANF grantee may expend more than 30 percent of its TFAG for administrative costs during the second year.

(c) ACF will negotiate a limitation on administrative costs with each Tribal TANF applicant individually for the third and all subsequent years of a program's operation based on the applicant's proposed administrative cost allocation. As negotiated, a Tribal TANF grantee may not expend more than 25 percent of its TFAG for administrative costs during any subsequent grant period.

(1) For the purposes of determining administrative costs, Tribes with approved plans who have been operating Tribal TANF programs prior to the effective date of this regulation will be able to negotiate a reasonable adjustment in their approved administrative cost rate, not to exceed the limitations in the Final Rule delineated above.

(2) [Reserved]

(d) ACF will negotiate limitations on administrative costs based on, but not limited to, a Tribe's TANF funding level, economic conditions, and the resources available to the Tribe, the relationship of the Tribe's administrative cost allocation proposal to the overall purposes of TANF, and a demonstration of the Tribe's administrative capability.

§ 286.55 What types of costs are subject to the administrative cost limit on Tribal Family Assistance Grant funds?

(a) Activities that fall within the definition of ''administrative costs'' at § 286.5 are subject to the limit determined under § 286.50.

(b) Information technology and computerization for tracking, data entry and monitoring, including personnel and other costs associated with the automation activities needed for Tribal TANF monitoring, data entry and tracking purposes, are excluded from the administrative cost cap, even if they fall within the definition of ''administrative costs.''

(c) Designing, administering, monitoring, and controlling a sample are not inherent parts of information technology and computerization and, thus, costs associated with these tasks must be considered administrative costs.

(d) Indirect Costs negotiated by BIA, the Department's Division of Cost Allocation, or another federal agency must be considered to be part of the total administrative costs.

§ 286.60 Must Tribes obligate all Tribal Family Assistance Grant funds by the end of the fiscal year in which they are awarded?

(a) No. A Tribe may reserve amounts awarded to it, without fiscal year limitation, to provide assistance under the Tribal TANF program.

(b) A Tribe may expend funds beyond the fiscal year in which awarded only on benefits that meet the definition of assistance at § 286.10 or on the administrative costs directly associated with providing that assistance.

Subpart C—Tribal TANF Plan Content and Processing

§ 286.65 How can a Tribe apply to administer a Tribal Temporary Assistance For Needy Families (TANF) Program?

(a) Any eligible Indian tribe, Alaska Native organization, or intertribal consortium that wishes to administer a Tribal TANF program must submit a three-year TFAP to the Secretary of the Department of Health and Human Services. The original must be submitted to the appropriate ACF Regional Office with a copy to the ACF Central Office.

(b) A Tribe currently operating a Tribal TANF program must submit to the appropriate ACF Regional Office, with a copy to the ACF Central Office, no later than 120 days prior to the end of the three-year grant period, either—

(1) A letter of intent, with a copy to the affected State or States, which specifies they do not intend to continue operating the program beyond the end of the three-year grant period; or

(2) A letter of intent, with a copy to the affected State or States, which specifies they intend to continue program operations with no changes to the geographic service area or service population; or

(3) A new three-year plan which indicates a change in either the geographic service area or service population.

(c) For Tribes choosing option (b)(2) above, a new three-year plan must be submitted to the appropriate ACF Regional Office, with a copy to the ACF Central Office, no later than 60 days before the end of the current three-year grant period.

§ 286.70 Who submits a Tribal Family Assistance Plan?

(a) A TFAP must be submitted by the chief executive officer of the Indian tribe and be accompanied by a Tribal resolution supporting the TFAP.

(b) A TFAP from a consortium must be forwarded under the signature of the chief executive officer of the consortium and be accompanied by Tribal resolutions from all participating Tribes that demonstrate each individual Tribe's support of the consortium, the delegation of decision-making authority to the consortium's governing board, and the Tribe's recognition that matters involving operation of the Tribal TANF consortium are the express responsibility of the consortium's governing board.

(c) When one of the participating Tribes in a consortium wishes to withdraw from the consortium, the Tribe needs to both notify the consortium and the Secretary of this fact.

(1) This notification must be made at least 120 days prior to the effective date of the withdrawal.

(2) The time frame in paragraph (c)(i) of this section is applicable only if the Tribe's withdrawal will cause a change to the service area or population of the consortium.

(d) When one of the participating Tribes in a consortium wishes to withdraw from the consortium in order to operate its own Tribal TANF program, the Tribe needs to submit a Tribal TANF plan that follows the requirements at § 286.75 and § 286.165.

§ 286.75 What must be included in the Tribal Family Assistance Plan?

(a) The TFAP must outline the Tribe's approach to providing welfare-related services for the three-year period covered by the plan, including:

(1) Information on the general eligibility criteria the Tribe has established, which includes a definition of ''needy family,'' including income and resource limits and the Tribe's definition of ''Tribal member family'' or ''Indian family.''

(2) A description of the assistance, services, and activities to be offered, and the means by which they will be offered. The description of the services, assistance, and activities to be provided includes whether the Tribe will provide cash assistance, and what other assistance, services, and activities will be provided.

(3) If the Tribe will not provide the same services, assistance, and activities in all parts of the service area, the TFAP must indicate any variations.

(4) If the Tribe opts to provide different services to specific populations, including teen parents and individuals who are transitioning off TANF assistance, the TFAP must indicate whether any of these services will be provided and, if so, what services will be provided.

(5) The Tribe's goals for its TANF program and the means of measuring progress towards those goals;

(6) Assurance that a 45-day public comment period on the Tribal TANF plan concluded prior to the submission of the TFAP.

(7) Assurance that the Tribe has developed a dispute resolution process to be used when individuals or families want to challenge the Tribe's decision to deny, reduce, suspend, sanction or terminate assistance.

(8) Tribes may require cooperation with child support enforcement agencies as a condition of eligibility for TANF assistance. Good cause and other exceptions to cooperation shall be defined by the Tribal TANF program.

(b) The TFAP must identify which Tribal agency is designated by the Tribe as the lead agency for the overall administration of the Tribal TANF program along with a description of the administrative structure for supervision of the TANF program.

(c) The TFAP must indicate whether the services, assistance and activities will be provided by the Tribe itself or through grants, contracts or compacts with inter-Tribal consortia, States, or other entities.

(d) The TFAP must identify the population to be served by the Tribal TANF program.

(1) The TFAP must identify whether it will serve Tribal member families only, or whether it will serve all Indian families residing in the Tribal TANF service area.

(2) If the Tribe wishes to serve any non-Indian families (and thus include non-Indians in its service population), an agreement with the State TANF agency must be included in the TFAP. This agreement must provide that, where non-Indians are to be served by Tribal TANF, these families are subject to Tribal TANF program rules.

(e) The TFAP must include a description of the geographic area to be served by the Tribal TANF program, including a specific description of any ''near reservation'' areas, as defined at 45 CFR 20.1(r), or any areas beyond ''near reservation'' to be included in the Tribal TANF service area.

(1) In areas beyond those defined as ''near reservation'', the TFAP must demonstrate the Tribe's administrative capacity to serve such areas and the State(s)', and if applicable, other Tribe(s)' concurrence with the proposed defined boundaries.

(2) A Tribe cannot extend its service area boundaries beyond the boundaries of the State(s) in which the reservation and BIA near-reservation designations are located.

(3) For Tribes in Oklahoma, if the Tribe defines its service area as other than its ''tribal jurisdiction statistical area'' (TJSA), the Tribe must include an agreement with the other Tribe(s) reflecting agreement to the service area. TJSAs are areas delineated by the Census Bureau for each federally-recognized Tribe in Oklahoma without a reservation.

(f) The TFAP must provide that a family receiving assistance under the plan may not receive duplicative assistance from other State or Tribal TANF programs and must include a description of the means by which the Tribe will ensure duplication does not occur.

(g) The TFAP must identify the employment opportunities in and near the service area and the manner in which the Tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan, consistent with any applicable State standards. This should include:

(1) A description of the employment opportunities available, in both the public and private sector, within and near the Tribal service area; and

(2) A description of how the Tribe will work with public and private sector employers to enhance the opportunities available for Tribal TANF recipients.

(h) The TFAP must provide an assurance that the Tribe applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

§ 286.80 What information on minimum work participation requirements must a Tribe include in its Tribal Family Assistance Plan?

(a) To assess a Tribe's level of success in meeting its TANF work objectives, a Tribe that submits a TFAP must negotiate with the Secretary minimum work participation requirements that will apply to families that receive Tribal TANF assistance that includes an adult or minor head of household receiving such assistance.

(b) A Tribe that submits a TFAP must include in the plan the Tribe's proposal for minimum work participation requirements, which includes the following:

(1) For each fiscal year covered by the plan, the Tribe's proposed participation rate(s) for all families, for all families and two-parent families, or for one-parent families and two-parent families;

(2) For each fiscal year covered by the plan, the Tribe's proposed minimum number of hours per week that adults and minor heads of household will be required to participate in work activities;

(i) If the Tribe elects to include reasonable transportation time to and from the site of work activities in determining the hours of work participation, it must so indicate in its TFAP along with a definition of ''reasonable'' for purposes of this subsection, along with:

(A) An explanation of how the economic conditions and/or resources available to the Tribe justify inclusion of transportation time in determining work participation hours; and

(B) An explanation of how counting reasonable transportation time is consistent with the purposes of TANF;

(3) The work activities that count towards these work requirements;

(4) Any exemptions, limitations and special rules being established in relation to work requirements; and

(5) The Tribe must provide rationale for the above, explaining how the proposed work requirements relate to and are justified based on the Tribe's needs and conditions.

(i) The rationale must address how the proposed work requirements are consistent with the purposes of TANF and with the economic conditions and resources of the Tribe.

(ii) Examples of the information that could be included to illustrate the Tribe's proposal include, but are not limited to: poverty, unemployment, jobless and job surplus rates; education levels of adults in the service area; availability of and/or accessibility to resources (educational facilities, transportation) to help families become employable and find employment; and employment opportunities on and near the service area.

§ 286.85 How will we calculate the work participation rates?

(a) Work participation rate(s) will be the percentage of families with an adult or minor head-of-household receiving TANF assistance from the Tribe who are participating in a work activity approved in the TFAP for at least the minimum number of hours approved in the TFAP.

(b) The participation rate for a fiscal year is the average of the Tribe's

participation rate for each month in the fiscal year.

(c) A Tribe's participation rate for a month is expressed as the following ratio:

(1) The number of families receiving TANF assistance that include an adult or a minor head-of-household who is participating in activities for the month (numerator), divided by

(2) The number of families that include an adult or a minor head-of-household receiving TANF assistance during the month excluding:

(i) Families that were penalized for non-compliance with the work requirements in that month as long as they have not been sanctioned for more than three months (whether or not consecutively) out of the last 12 months; and

(ii) Families with children under age one, if the Tribe chooses to exempt these families from participation requirements.

(d) If a family receives assistance for only part of a month or begins participating in activities during the month, the Tribe may count it as a month of participation if an adult or minor head-of-household in the family is participating for the minimum average number of hours in each full week that the family receives assistance or participates in that month.

(e) Two-parent families in which one of the parents is disabled are considered one-parent families for the purpose of calculating a Tribe's participation rate.

§ 286.90 How many hours per week must an adult or minor head-of-household participate in work-related activities to count in the numerator of the work participation rate?

During the month, an adult or minor head-of-household must participate in work activities for at least the minimum average number of hours per week specified in the Tribe's approved Tribal Family Assistance Plan.

§ 286.95 What, if any, are the special rules concerning counting work for two-parent families?

Parents in a two-parent family may share the number of hours required to be considered as engaged in work.

§ 286.100 What activities count towards the work participation rate?

(a) Activities that count toward a Tribe's participation rate may include, but are not limited to, the following:

(1) Unsubsidized employment;

(2) Subsidized private sector employment;

(3) Subsidized public sector employment;

(4) Work experience;

(5) On-the-job training (OJT);

(6) Job search and job readiness assistance; (see § 286.105)

(7) Community service programs;

(8) Vocational educational training; (see § 286.105)

(9) Job skills training directly related to employment;

(10) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;

(11) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, if a recipient has not completed secondary school or received such a certificate;

(12) Providing child care services to an individual who is participating in a community service program; and

(13) Other activities that will help families achieve self-sufficiency.

(b) [Reserved]

§ 286.105 What limitations concerning vocational education, job search and job readiness assistance exist with respect to the work participation rate?

(a) Tribes are not required to limit vocational education for any one individual to a period of 12 months.

(b) There are two limitations concerning job search and job readiness:

(1) Job search and job readiness assistance only count for 6 weeks in any fiscal year.

(2) If the Tribe's unemployment rate in the Tribal TANF service area is at least 50 percent greater than the United States' total unemployment rate for that fiscal year, then an individual's participation in job search or job readiness assistance counts for up to 12 weeks in that fiscal year.

(c) If job search or job readiness is an ancillary part of another activity, then there is no limitation on counting the time spent in job search/job readiness.

§ 286.110 What safeguards are there to ensure that participants in Tribal TANF work activities do not displace other workers?

(a) An adult or minor head-of-household taking part in a work activity outlined in § 286.100 cannot fill a vacant employment position if:

(1) Any other individual is on layoff from the same or any substantially equivalent job; or

(2) The employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction in its work force in order to fill the vacancy with the TANF participant.

(b) A Tribe must establish and maintain a grievance procedure to resolve complaints of alleged violations of this displacement rule.

(c) This regulation does not preempt or supersede Tribal laws providing greater protection for employees from displacement.

§ 286.115 What information on time limits for the receipt of assistance must a Tribe include in its Tribal Family Assistance Plan?

(a) The TFAP must include the Tribe's proposal for:

(1) Time limits for the receipt of Tribal TANF assistance;

(2) Any exceptions to these time limits; and

(3) The percentage of the caseload to be exempted from the time limit due to hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.

(b) The Tribe must also include the rationale for its proposal in the plan. The rationale must address how the proposed time limits are consistent with the purposes of TANF and with the economic conditions and resources of the Tribe.

(1) Examples of the information that could be included to illustrate the Tribe's proposal include, but are not limited to: Poverty, unemployment, jobless and job surplus rates; education levels of adults in the service area; availability of and/or accessibility to resources (educational facilities, transportation) to help families become employable and find employment; and employment opportunities on and near the service area.

(c) We may require that the Tribe submit additional information about the rationale before we approve the proposed time limits.

(d) Tribes must not count towards the time limit:

(1) Any month of receipt of assistance to a family that does not include an adult head-of-household;

(2) A family that does not include a pregnant minor head-of-household, minor parent head-of-household, or spouse of such a head-of-household; and

(3) Any month of receipt of assistance by an adult during which the adult lived in Indian country or in an Alaskan Native Village in which at least 50 percent of the adults were not employed.

(e) A Tribe must not use any of its TFAG to provide assistance (as defined in § 286.10) to a family that includes an adult or minor head-of-household who has received assistance beyond the number of months (whether or not consecutive) that is negotiated with the Tribe.

§ 286.120 Can Tribes make exceptions to the established time limit for families?

(a) Tribes have the option to exempt families from the established time limits for:

(1) Hardship, as defined by the Tribe, or

(2) The family includes someone who has been battered or has been subject to extreme cruelty.

(b) If a Tribe elects the hardship option, the Tribe must specify in its TFAP the maximum percent of its average monthly caseload of families on assistance that will be exempt from the established time limit under paragraph (a) of this section.

(c) If the Tribe proposes to exempt more than 20 percent of the caseload under paragraph (a) of this section, the Tribe must include a rationale in the plan.

§ 286.125 Does the receipt of TANF benefits under a State or other Tribal TANF program count towards a Tribe's TANF time limit?

Yes, the Tribe must count prior months of TANF assistance funded with TANF block grant funds, except for any month that was exempt or disregarded by statute, regulation, or under any experimental, pilot, or demonstration project approved under section 1115 of the Act.

§ 286.130 Does the receipt of Welfare-to-Work (WtW) cash assistance count towards a Tribe's TANF time limit?

(a) For purposes of an individual's time limit for receipt of TANF assistance as well as the penalty provision at § 286.195(a)(1), WtW cash assistance counts towards a Tribe's TANF time limit only if:

(1) Such assistance satisfies the definition at § 286.10; and

(2) Is directed at ongoing basic needs.

(b) Only cash assistance provided in the form of cash payments, checks, reimbursements, electronic funds transfers, or any other form that can legally be converted to currency is subject to paragraph (a) of this section.

§ 286.135 What information on penalties against individuals must be included in a Tribal Family Assistance Plan?

(a) The TFAP must include the Tribe's proposal for penalties against individuals who refuse to engage in work activities. The Tribe's proposal must address the following:

(1) Will the Tribe impose a pro rata reduction, or more at Tribal option, or will it terminate assistance to a family?

(2) After consideration of the provision specified at § 286.150, what will be the proposed Tribal policies related to a single custodial parent, with a child under the age of 6, who refuses to engage in work activities because of a demonstrated inability to obtain needed child care?

(3) What good cause exceptions, if any, does the Tribe propose that will allow individuals to avoid penalties for failure to engage in work?

(4) What other rules governing penalties does the Tribe propose?

(5) What, if any, will be the Tribe's policies related to victims of domestic violence consistent with § 286.140?

(b) The Tribe's rationale for its proposal must also be included in the TFAP.

(1) The rationale must address how the proposed penalties against individuals are consistent with the purposes of TANF, consistent with the economic conditions and resources of the Tribe, and how they relate to the requirements of section 407(e) of the Act.

(2) Examples of the information that could be included to illustrate the Tribe's proposal include, but are not limited to; poverty, unemployment, jobless and job surplus rates; education levels of adults in the service area; availability of and/or accessibility to resources (educational facilities, transportation) to help families become employable and find employment; and employment opportunities on and near the service area.

(c) We may require a Tribe to submit additional information about the rationale before we approve the proposed penalties against individuals.

§ 286.140 What special provisions apply to victims of domestic violence?

(a) Tribes electing the Family Violence Option (FVO) must certify that they have established and are enforcing standards and procedures to:

(1) Screen and identify individuals receiving TANF assistance with a history of domestic violence, while maintaining the confidentiality of such individuals;

(2) Refer such individuals to counseling and supportive services; and

(3) Provide waivers, pursuant to a determination of good cause, of TANF program requirements to such individuals for so long as necessary in cases where compliance would make it more difficult for such individuals to escape domestic violence or unfairly penalize those who are or have been victimized by such violence or who are at risk of further domestic violence.

(b) Tribes have broad flexibility to grant waivers of TANF program requirements, but such waivers must:

(1) Identify the specific program requirement being waived;

(2) Be granted based on need as determined by an individualized assessment by a person trained in domestic violence and redeterminations no less than every six months;

(3) Be accompanied by an appropriate services plan that:

(i) Is developed in coordination with a person trained in domestic violence;

(ii) Reflects the individualized assessment and any revisions indicated by any redetermination; and

(iii) To the extent consistent with paragraph (a)(3) of this section, is designed to lead to work.

(c) If a Tribe wants us to take waivers that it grants under this section into account in deciding if it has reasonable cause for failing to meet its work participation rates or comply with the established time limit on TANF assistance, has achieved compliance or made significant progress towards achieving compliance with such requirements during a corrective compliance period, the waivers must comply with paragraph (b) of this section.

(d) We will determine that a Tribe has reasonable cause for failing to meet its work participation rates or to comply with established time limits on assistance if—

(1) Such failures were attributable to good cause domestic violence waivers granted to victims of domestic violence;

(2) In the case of work participation rates, the Tribe provides evidence that it achieved the applicable rates except with respect to any individuals who received a domestic violence waiver of work participation requirements. In other words, the Tribe must demonstrate that it met the applicable rates when such waiver cases are removed from the calculation of work participation rate;

(3) In the case of established time limits on assistance, the Tribe provides evidence that it granted good cause domestic violence waivers to extend time limits based on the need for continued assistance due to current or past domestic violence or the risk of further domestic violence, and individuals and their families receiving assistance beyond the established time limit under such waivers do not exceed 20 percent of the total number of families receiving assistance.

(e) We may take good cause domestic violence waivers of work participation or waivers which extend the established time limits for assistance into consideration in deciding whether a Tribe has achieved compliance or made significant progress toward achieving compliance during a corrective compliance period.

(f) Tribes electing the FVO must submit the information specified at § 286.275(b)(7).

§ 286.145 What is the penalty if an individual refuses to engage in work activities?

If an individual refuses to engage in work activities in accordance with the minimum work participation requirements specified in the approved TFAP, the Tribe must apply to the individual the penalties against individuals that were established in the approved TFAP.

§ 286.150 Can a family, with a child under age 6, be penalized because a parent refuses to work because (s)he cannot find child care?

(a) If the individual is a single custodial parent caring for a child under age six, the Tribe may not reduce or terminate assistance based on the parent's refusal to engage in required work if he or she demonstrates an inability to obtain needed child care for one or more of the following reasons:

(1) Appropriate child care within a reasonable distance from the home or work site is unavailable;

(2i) Informal child care by a relative or under other arrangements is unavailable or unsuitable; or

(3) Appropriate and affordable formal child care arrangements are unavailable.

(b) Refusal to work when an acceptable form of child care is available is not protected from sanctioning.

(c) The Tribe will determine when the individual has demonstrated that he or she cannot find child care, in accordance with criteria established by the Tribe. These criteria must:

(1) Address the procedures that the Tribe uses to determine if the parent has a demonstrated inability to obtain needed child care;

(2) Include definitions of the terms ''appropriate child care,'' ''reasonable distance,'' ''unsuitability of informal care,'' and ''affordable child care arrangements''; and

(3) Be submitted to us.

(d) The Tribal TANF agency must inform parents about:

(1) The penalty exception to the Tribal TANF work requirement, including the criteria and applicable definitions for determining whether an individual has demonstrated an inability to obtain needed child care;

(2) The Tribe's procedures (including definitions) for determining a family's inability to obtain needed child care, and any other requirements or procedures, such as fair hearings, associated with this provision; and

(3) The fact that the exception does not extend the time limit for receiving Federal assistance.

§ 286.155 May a Tribe condition eligibility for Tribal TANF assistance on assignment of child support to the Tribe?

(a) Tribes have the option to condition eligibility for Tribal TANF assistance on assignment of child support to the Tribe consistent with paragraph (b) of this section.

(b) For Tribes choosing to condition eligibility for Tribal TANF assistance on assignment of child support to the Tribe, the TFAP must address the following—

(1) Procedures for ensuring that child support collections, if any, in excess of the amount of Tribal TANF assistance received by the family must be paid to the family; and,

(2) How any amounts generated under an assignment and retained by the Tribe will be used to further the Tribe's TANF program, consistent with § 286.45(f).

§ 286.160 What are the applicable time frames and procedures for submitting a Tribal Family Assistance Plan?

(a) A Tribe must submit a Tribal TANF letter of intent and/or a TFAP to the Secretary according to the following time frames:

Implementation date:	Letter of intent due to ACF and the State:	Formal plan due to ACF:	ACF notification to the State due:
January 1, February 1 or March 1	July 1 of previous year	September 1 of previous year	October 1 of previous year.
April 1, May 1 or June 1	October 1 of previous year	December 1 of previous year	January 1 of same year.
July 1, August 1 or September 1	January 1 of same year	March 1 of same year	April 1 of same year.
October 1, November 1 or December 1.	April 1 of same year	June 1 of same year	July 1 of same year.

(b) A Tribe that has requested and received data from the State and has resolved any issues concerning the data more than six months before its proposed implementation date is not required to submit a letter of intent.

(c) The effective date of the TFAP must be the first day of any month.

(d) The original TFAP must be sent to the appropriate ACF Regional Administrator, with a copy sent to the Division of Tribal Services, Office of Community Services, Administration for Children and Families.

(e) A Tribe that submits a TFAP or an amendment to an existing plan that cannot be approved by the Secretary will be given the opportunity to make revisions in order to make the TFAP, or an amendment, approvable.

(f) Tribes operating a consolidated Public Law 102–477 program must submit a TFAP plan to the Secretary for review and approval prior to the consolidation of the TANF program into the Public Law 102–477 plan.

§ 286.165 How is a Tribal Family Assistance Plan amended?

(a) An amendment to a TFAP is necessary if the Tribe makes any substantial changes to the plan, including those which impact an individual's eligibility for Tribal TANF services or participation requirements, or any other program design changes which alter the nature of the program.

(b) A Tribe must submit a plan amendment(s) to the Secretary no later than 30 days prior to the proposed implementation date. Proposed implementation dates shall be the first day of any month.

(c) We will promptly review and either approve or disapprove the plan amendment(s).

(d) Approved plan amendments are effective no sooner than 30 days after date of submission.

(e) A Tribe whose plan amendment is disapproved may petition for an administrative review of such disapproval under § 286.170 and may appeal our final written decision to the Departmental Appeals Board no later than 30 days from the date of the disapproval. This appeal to the Board should follow the provisions of the rules under this subpart and those at 45 CFR part 16, where applicable.

§ 286.170 How may a Tribe petition for administrative review of disapproval of a TFAP or amendment?

(a) If, after a Tribe has been provided the opportunity to make revisions to its TFAP or amendment, the Secretary determines that the TFAP or amendment cannot be approved, a written Notice of Disapproval will be

sent to the Tribe. The Notice of Disapproval will indicate the specific grounds for disapproval.

(b) A Tribe may request reconsideration of a disapproval determination by filing a written Request for Reconsideration to the Secretary within 60 days of receipt of the Notice of Disapproval. If reconsideration is not requested, the disapproval is final and the procedures under paragraph (f) of this section must be followed.

(1) The Request for Reconsideration must include—

(i) All documentation that the Tribe believes is relevant and supportive of its TFAP or amendment; and

(ii) A written response to each ground for disapproval identified in the Notice of Disapproval indicating why the Tribe believes that its TFAP or amendment conforms to the statutory and regulatory requirements for approval.

(c) Within 30 days after receipt of a Request for Reconsideration, the Secretary or designee will notify the Tribe of the date and time a hearing for the purpose of reconsideration of the Notice of Disapproval will be held. Such a hearing may be conducted by telephone conference call.

(d) A hearing conducted under § 286.170(c) must be held not less than 30 days nor more than 60 days after the date of the notice of such hearing is furnished to the Tribe, unless the Tribe agrees in writing to an extension.

(e) The Secretary or designee will make a written determination affirming, modifying, or reversing disapproval of the TFAP or amendment within 60 days after the conclusion of the hearing.

(f) If a TFAP or amendment is disapproved, the Tribe may appeal this final written decision to the Departmental Appeals Board (the Board) within 30 days after such party receives notice of determination. The party's appeal to the Board should follow the provisions of the rules under this section and those at 45 CFR part 16, where applicable.

§ 286.175 What special provisions apply in Alaska?

A Tribe in the State of Alaska that receives a TFAG must use the grant to operate a program in accordance with program requirements comparable to the requirements applicable to the State of Alaska's Temporary Assistance for Needy Families program. Comparability of programs must be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and the Tribes in Alaska. The State of Alaska has authority to waive the program comparability requirement based on a request by an Indian tribe in the State.

§ 286.180 What is the process for developing the comparability criteria that are required in Alaska?

We will work with the Tribes in Alaska and the State of Alaska to develop an appropriate process for the development and amendment of the comparability criteria.

§ 286.185 What happens when a dispute arises between the State of Alaska and the Tribal TANF eligible entities in the State related to the comparability criteria?

(a) If a dispute arises between the State of Alaska and the Tribes in the State on any part of the comparability criteria, we will be responsible for making a final determination and notifying the State of Alaska and the Tribes in the State of the decision.

(b) Any of the parties involved may appeal our decision, in whole or in part, to the HHS Departmental Appeals Board (the Board) within 60 days after such party receives notice of determination. The party's appeal to the Board should follow the provisions of the rules under this section and those at 45 CFR part 16, where applicable.

§ 286.190 If the Secretary, the State of Alaska, or any of the Tribal TANF eligible entities in the State of Alaska want to amend the comparability criteria, what is the process for doing so?

(a) At such time that any of the above parties wish to amend the comparability document, the requesting party should submit a request to us, with a copy to the other parties, explaining the requested change(s) and supplying background information in support of the change(s).

(b) After review of the request, we will make a determination on whether or not to accept the proposed change(s).

(c) If any party wishes to appeal the decision regarding the adoption of the proposed amendment, they may appeal using the appeals process pursuant to § 286.165.

Subpart D—Accountability and Penalties

§ 286.195 What penalties will apply to Tribes?

(a) Tribes will be subject to fiscal penalties and requirements as follows:

(1) If we determine that a Tribe misused its Tribal Family Assistance Grant funds, including providing assistance beyond the Tribe's negotiated time limit under § 286.115, we will reduce the TFAG for the following fiscal year by the amount so used;

(2) If we determine that a Tribe intentionally misused its TFAG for an unallowable purpose, the TFAG for the following fiscal year will be reduced by an additional five percent;

(3) If we determine that a Tribe failed to meet the minimum work participation rate(s) established for the Tribe, the TFAG for the following fiscal year will be reduced. The amount of the reduction will depend on whether the Tribe was under a penalty for this reason in the preceding year. If not, the penalty reduction will be a maximum of five percent. If a penalty was imposed on the Tribe in the preceding year, the penalty reduction will be increased by an additional 2 percent, up to a maximum of 21 percent. In determining the penalty amount, we will take into consideration the severity of the failure and whether the reasons for the failure were increases in the unemployment rate in the TFAG service area and changes in TFAG caseload size during the fiscal year in question; and

(4) If a Tribe fails to repay a Federal loan provided under section 406 of the Act, we will reduce the TFAG for the following fiscal year by an amount equal to the outstanding loan amount plus interest.

(b) In calculating the amount of the penalty, we will add together all applicable penalty percentages, and the total is applied to the amount of the TFAG that would have been payable if no penalties were assessed against the Tribe. As a final step, we will subtract other (non-percentage) penalty amounts.

(c) When imposing the penalties in paragraph (a) of this section, we will not reduce an affected Tribe's grant by more than 25 percent. If the 25 percent limit prevents the recovery of the full penalty imposed on a Tribe during a fiscal year, we will apply the remaining amount of the penalty to the TFAG payable for the immediately succeeding fiscal year.

(1) If we reduce the TFAG payable to a Tribe for a fiscal year because of penalties that have been imposed, the Tribe must expend additional Tribal funds to replace any such reduction. The Tribe must document compliance with this provision on its TANF expenditure report.

(2) We will impose a penalty of not more than 2 percent of the amount of the TFAG on a Tribe that fails to expend additional Tribal funds to replace amounts deducted from the TFAG due to penalties. We will apply this penalty to the TFAG payable for the next succeeding fiscal year, and this penalty cannot be excused (see § 286.235).

(d) If a Tribe retrocedes the program, the Tribe will be liable for any penalties incurred for the period the program was in operation.

§ 286.200 How will we determine if Tribal Family Assistance Grant funds were misused or intentionally misused?

(a) We will use the single audit or Federal review or audit to determine if a Tribe should be penalized for misusing Tribal Family Assistance Grant funds under § 286.195(a)(1) or intentionally misusing Tribal Family Assistance Grant funds under § 286.195(a)(2).

(b) If a Tribe uses the TFAG in violation of the provisions of the Act, the provisions of 45 CFR part 92, OMB Circulars A–87 and A–133, or any Federal statutes and regulations applicable to the TANF program, we will consider the funds to have been misused.

(c) The Tribe must show, to our satisfaction, that it used the funds for purposes that a reasonable person would consider to be within the purposes of the TANF program (as specified at § 286.35) and the provisions listed in § 286.45.

(d) We will consider the TFAG to have been intentionally misused under the following conditions:

(1) There is supporting documentation, such as Federal guidance or policy instructions, indicating that TANF funds could not be used for that purpose; or

(2) After notification that we have determined such use to be improper, the Tribe continues to use the funds in the same or similarly improper manner.

(e) If the single audit determines that a Tribe misused Federal funds in applying the negotiated time limit provisions under § 286.115, the amount of the penalty for misuse will be limited to five percent of the TFAG amount.

(1) This penalty shall be in addition to the reduction specified under § 286.195(a)(1).

(2) [Reserved]

§ 286.205 How will we determine if a Tribe fails to meet the minimum work participation rate(s)?

(a) We will use the Tribal TANF Data Reports required under § 286.255 to determine if we will assess the penalty under § 286.195(a)(3) for failure to meet the minimum participation rate(s) established for the Tribe.

(b) Each Tribal TANF Grantee's quarterly reports (the TANF Data Report and the Tribal TANF Financial Report) must be complete and accurate and filed by the due date. The accuracy of the reports are subject to validation by us.

(1) For a disaggregated data report, ''a complete and accurate report'' means that:

(i) The reported data accurately reflect information available to the Tribal TANF grantee in case records, financial records, and automated data systems;

(ii) The data are free from computational errors and are internally consistent (*e.g.*, items that should add to totals do so);

(iii) The Tribal TANF grantee reports data for all required elements (*i.e.*, no data are missing);

(iv) The Tribal TANF grantee provides data on all families; or

(v) If the Tribal TANF grantee opts to use sampling, the Tribal TANF grantee reports data on all families selected in a sample that meets the specification and procedures in the TANF Sampling Manual (except for families listed in error); and

(vi) Where estimates are necessary (*e.g.*, some types of assistance may require cost estimates), the Tribal TANF grantee uses reasonable methods to develop these estimates.

(2) For an aggregated data report, ''a complete and accurate report'' means that:

(i) The reported data accurately reflect information available to the Tribal TANF grantee in case records, financial records, and automated data systems;

(ii) The data are free from computational errors and are internally consistent (*e.g.*, items that should add to totals do so);

(iii) The Tribal TANF grantee reports data on all applicable elements; and

(iv) Monthly totals are unduplicated counts for all families (*e.g.*, the number of families and the number of out-of-wedlock births are unduplicated counts).

(3) For the Tribal TANF Financial Report, a ''complete and accurate report'' means that:

(i) The reported data accurately reflect information available to the Tribal TANF grantee in case records, financial records, and automated data systems;

(ii) The data are free from computational errors and are internally consistent (*e.g.*, items that should add to totals do so);

(iii) The Tribal TANF grantee reports data on all applicable elements; and

(iv) All expenditures have been made in accordance with 45 CFR part 92 and all relevant OMB circulars.

(4) We will review the data filed in the quarterly reports to determine if they meet these standards. In addition, we will use audits and reviews to verify the accuracy of the data filed by the Tribal TANF grantee.

(c) Tribal TANF grantees must maintain records to adequately support any report, in accordance with 45 CFR part 92 and all relevant OMB circulars.

(d) If we find reports so significantly incomplete or inaccurate that we seriously question whether the Tribe has met its participation rate, we may apply the penalty under § 286.195(a)(3).

§ 286.210 What is the penalty for a Tribe's failure to repay a Federal loan?

(a) If a Tribe fails to repay the amount of principal and interest due at any point under a loan agreement:

(1) The entire outstanding loan balance, plus all accumulated interest, becomes due and payable immediately; and

(2) We will reduce the TFAG payable for the immediately succeeding fiscal year quarter by the outstanding loan amount plus interest.

(b) Neither the reasonable cause provisions at § 286.225 nor the corrective compliance plan provisions at § 286.230 apply when a Tribe fails to repay a Federal loan.

§ 286.215 When are the TANF penalty provisions applicable?

(a) A Tribe may be subject to penalties, as described in § 286.195(a)(1), § 286.195(a)(2) and § 286.195(a)(4), for conduct occurring on and after the first day of implementation of the Tribe's TANF program.

(b) A Tribe may be subject to penalties, as described in § 286.195(a)(3), for conduct occurring on and after the date that is six months after the Tribe begins operating the TANF program.

(c) We will not apply the regulations retroactively. We will judge Tribal actions that occurred prior to the effective date of these rules and expenditures of funds received prior to the effective date only against a reasonable interpretation of the statutory provisions in title IV-A of the Act.

(1) To the extent that a Tribe's failure to meet the requirements of the penalty provisions is attributable to the absence of Federal rules or guidance, Tribes may qualify for reasonable cause, as discussed in § 286.225.

(2) [Reserved]

§ 286.220 What happens if a Tribe fails to meet TANF requirements?

(a) If we determine that a Tribe is subject to a penalty, we will notify the Tribe in writing. This notice will:

(1) Specify what penalty provision(s) are in issue;

(2) Specify the amount of the penalty;

(3) Specify the reason for our determination;

(4) Explain how and when the Tribe may submit a reasonable cause justification under § 286.225 and/or a corrective compliance plan under § 286.230(d) for those penalties for

which reasonable cause and/or corrective compliance plan apply; and

(5) Invite the Tribe to present its arguments if it believes that the data or method we used were in error or were insufficient, or that the Tribe's actions, in the absence of Federal regulations, were based on a reasonable interpretation of the statute.

(b) Within 60 days of receipt of our written notification, the Tribe may submit a written response to us that:

(1) Demonstrates that our determination is incorrect because our data or the method we used in determining the penalty was in error or was insufficient, or that the Tribe acted prior to June 19, 2000, on a reasonable interpretation of the statute;

(2) Demonstrates that the Tribe had reasonable cause for failing to meet the requirement(s); and/or

(3) Provides a corrective compliance plan as discussed in § 286.230.

(c) If we find that the Tribe was correct and that a penalty was improperly determined, or find that a Tribe had reasonable cause for failing to meet a requirement, we will not impose the related penalty and so notify the Tribe in writing within two weeks of such a determination.

(d) If we determine that the Tribe has not demonstrated that our original determination was incorrect or that it had reasonable cause, we will notify the Tribe of our decision in writing.

(e) If we request additional information from a Tribe, it must provide the information within thirty days of the date of our request.

§ 286.225 How may a Tribe establish reasonable cause for failing to meet a requirement that is subject to application of a penalty?

(a) We will not impose a penalty against a Tribe if it is determined that the Tribe had reasonable cause for failure to meet the requirements listed at § 286.195(a)(1), § 286.195(a)(2), or § 286.195(a)(3). The general factors a Tribe may use to claim reasonable cause include, but are not limited to, the following:

(1) Natural disasters, extreme weather conditions, and other calamities (*e.g.*, hurricanes, earthquakes, fire, and economic disasters) whose disruptive impact was so significant that the Tribe failed to meet a requirement.

(2) Formally issued Federal guidance which provided incorrect information resulting in the Tribe's failure or prior to the effective date of these regulations, guidance that was issued after a Tribe implemented the requirements of the Act based on a different, but reasonable, interpretation of the Act.

(3) Isolated, non-recurring problems of minimal impact that are not indicative of a systemic problem.

(4) Significant increases in the unemployment rate in the TFAG service area and changes in the TFAG caseload size during the fiscal year being reported.

(b) We will grant reasonable cause to a Tribe that:

(1) Clearly demonstrates that its failure to submit complete, accurate, and timely data, as required at § 286.245, for one or both of the first two quarters of FY 2000, is attributable, in significant part, to its need to divert critical system resources to Year 2000 compliance activities; and

(2) Submits complete and accurate data for the first two quarters of FY 2000 by November 15, 2000.

(c) In addition to the reasonable cause criteria specified above, a Tribe may also submit a request for a reasonable cause exemption from the requirement to meet its work participation requirements in the following situation:

(1) We will consider that a Tribe has reasonable cause if it demonstrates that its failure to meet its work participation rate(s) is attributable to its provisions with regard to domestic violence as follows:

(i) To demonstrate reasonable cause, a Tribe must provide evidence that it achieved the applicable work rates, except with respect to any individuals receiving good cause waivers of work requirements (*i.e.*, when cases with good cause waivers are removed from the calculation in § 286.85); and

(ii) A Tribe must grant good cause waivers in domestic violence cases appropriately, in accordance with the policies in the Tribe's approved Tribal Family Assistance Plan.

(2) [Reserved]

(d) In determining reasonable cause, we will consider the efforts the Tribe made to meet the requirements, as well as the duration and severity of the circumstances that led to the Tribe's failure to achieve the requirement.

(e) The burden of proof rests with the Tribe to fully explain the circumstances and events that constitute reasonable cause for its failure to meet a requirement.

(1) The Tribe must provide us with sufficient relevant information and documentation to substantiate its claim of reasonable cause.

(2) [Reserved]

§ 286.230 What if a Tribe does not have reasonable cause for failing to meet a requirement?

(a) To avoid the imposition of a penalty under § 286.195(a)(1), § 286.195(a)(2), or § 286.195(a)(3), under the following circumstances a Tribe must enter into a corrective compliance plan to correct the violation:

(1) If a Tribe does not claim reasonable cause for failing to meet a requirement; or

(2) If we found that a Tribe did not have reasonable cause.

(b) A Tribe that does not claim reasonable cause will have 60 days from receipt of the notice described in § 286.220(a) to submit its corrective compliance plan to us.

(c) A Tribe that does not demonstrate reasonable cause will have 60 days from receipt of the second notice described in § 286.220(d) to submit its corrective compliance plan to us.

(d) In its corrective compliance plan the Tribe must outline:

(1) Why it failed to meet the requirements;

(2) How it will correct the violation in a timely manner; and

(3) What actions, outcomes and time line it will use to ensure future compliance.

(e) During the 60-day period beginning with the date we receive the corrective compliance plan, we may, if necessary, consult with the Tribe on modifications to the plan.

(f) A corrective compliance plan is deemed to be accepted if we take no action to accept or reject the plan during the 60-day period that begins when the plan is received.

(g) Once a corrective compliance plan is accepted or deemed accepted, we may request reports from the Tribe or take other actions to confirm that the Tribe is carrying out the corrective actions specified in the plan.

(1) We will not impose a penalty against a Tribe with respect to any violation covered by that plan if the Tribe corrects the violation within the time frame agreed to in the plan.

(2) We must assess some or all of the penalty if the Tribe fails to correct the violation pursuant to its corrective compliance plan.

§ 286.235 What penalties cannot be excused?

(a) The penalties that cannot be excused are:

(1) The penalty for failure to repay a Federal loan issued under section 406.

(2) The penalty for failure to replace any reduction in the TFAG resulting from other penalties that have been imposed.

(b) [Reserved]

§ 286.240 How can a Tribe appeal our decision to take a penalty?

(a) We will formally notify the Tribe of a potential reduction to the Tribe's

TFAG within five days after we determine that a Tribe is subject to a penalty and inform the Tribe of its right to appeal to the Departmental Appeals Board (the Board) established in the Department of Health and Human Services. Such notification will include the factual and legal basis for taking the penalty in sufficient detail for the Tribe to be able to respond in an appeal.

(b) Within 60 days of the date it receives notice of the penalty, the Tribe may file an appeal of the action, in whole or in part, to the Board.

(c) The Tribe must include all briefs and supporting documentation when it files its appeal. A copy of the appeal and any supplemental filings must be sent to the Office of General Counsel, Children, Families and Aging Division, Room 411–D, 200 Independence Avenue, SW, Washington, DC 20201.

(d) ACF must file its reply brief and supporting documentation within 45 days after receipt of the Tribe's submission under paragraph (c) of this section.

(e) The Tribe's appeal to the Board must follow the provisions of this section and those at §§ 16.2, 16.9, 16.10, and 16.13 through 16.22 of this title to the extent they are consistent with this section.

(f) The Board will consider an appeal filed by a Tribe on the basis of the documentation and briefs submitted, along with any additional information the Board may require to support a final decision. Such information may include a hearing if the Board determines that it is necessary. In deciding whether to uphold an adverse action or any portion of such action, the Board will conduct a thorough review of the issues.

(g) The filing date shall be the date materials are received by the Board in a form acceptable to it.

(h) A Tribe may obtain judicial review of a final decision by the Board by filing an action within 90 days after the date of such decision with the district court of the United States in the judicial district where the Tribe or TFAG service area is located.

(1) The district court will review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by 5 U.S.C. 706(2). The court's review will be based on the documents and supporting data submitted to the Board.

(2) [Reserved]

(i) No reduction to the Tribe's TFAG will occur until a final disposition of the matter has been made.

Subpart E—Data Collection and Reporting Requirements

§ 286.245 What data collection and reporting requirements apply to Tribal TANF programs?

(a) Section 412(h) of the Act makes section 411 regarding data collection and reporting applicable to Tribal TANF programs. This section of the regulations explains how we will collect the information required by section 411 of the Act and information to implement section 412(c) (work participation requirements).

(b) Each Tribe must collect monthly and file quarterly data on individuals and families as follows:

(1) Disaggregated data collection and reporting requirements in this part apply to families receiving assistance and families no longer receiving assistance under the Tribal TANF program; and

(2) Aggregated data collection and reporting requirements in this part apply to families receiving, families applying for, and families no longer receiving assistance under the Tribal TANF program.

(c) Each Tribe must file in its quarterly TANF Data Report and in the quarterly TANF Financial Report the specified data elements.

(d) Each Tribe must also submit an annual report that contains specified information.

(e) Each Tribe must submit the necessary reports by the specified due dates.

§ 286.250 What definitions apply to this subpart?

(a) Except as provided in paragraph (b) of this section, the general TANF definitions at §§ 286.5 and 286.10 apply to this subpart.

(b) For data collection and reporting purposes only, ''TANF family'' means:

(1) All individuals receiving assistance as part of a family under the Tribe's TANF program; and

(2) The following additional persons living in the household, if not included under paragraph (b)(1) of this section:

(i) Parent(s) or caretaker relative(s) of any minor child receiving assistance;

(ii) Minor siblings of any child receiving assistance; and

(iii) Any person whose income or resources would be counted in determining the family's eligibility for or amount of assistance.

§ 286.255 What quarterly reports must the Tribe submit to us?

(a) *Quarterly reports.* Each Tribe must collect on a monthly basis, and file on a quarterly basis, the data specified in the Tribal TANF Data Report and the Tribal TANF Financial Report.

(b) *Tribal TANF Data Report.* The Tribal TANF Data Report consists of three sections. Two sections contain disaggregated data elements and one section contains aggregated data elements.

(1) *TANF Data Report: Disaggregated Data—Sections one and two.* Each Tribe must file disaggregated information on families receiving TANF assistance (section one) and families no longer receiving TANF assistance (section two). These two sections specify identifying and demographic data such as the individual's Social Security Number; and information such as the type and amount of assistance received, educational level, employment status, work participation activities, citizenship status, and earned and unearned income. These reports also specify items pertaining to child care and child support. The data requested cover adults (including non-custodial parents who are participating in work activities) and children.

(2) *TANF Data Report: Aggregated Data—Section three.* Each Tribe must file aggregated information on families receiving, applying for, and no longer receiving TANF assistance. This section of the Report asks for aggregate figures in the following areas: the total number of applications and their disposition; the total number of recipient families, adult recipients, and child recipients; the total number of births, out-of-wedlock births, and minor child heads-of-households; the total number of non-custodial parents participating in work activities; and the total amount of TANF assistance provided.

(c) *The Tribal TANF Financial Report.* Each Tribe must file quarterly expenditure data on the Tribe's use of Tribal Family Assistance Grant funds, any Tribal fund expenditures which are being substituted for TFAG funds withheld due to a penalty, and any State contributions. The report must be submitted on a form prescribed by ACF.

§ 286.260 May Tribes use sampling and electronic filing?

(a) Each Tribe may report disaggregated data on all recipient families (universal reporting) or on a sample of families selected through the use of a scientifically acceptable sampling method. The sampling method must be approved by ACF in advance of submitting reports.

(1) Tribes may not use a sample to generate the aggregated data.

(2) [Reserved]

(b) ''Scientifically acceptable sampling method'' means a probability

sampling method in which every sampling unit has a known, non-zero chance to be included in the sample, and the sample size requirements are met.

(c) Each Tribe may file quarterly reports electronically, based on format specifications that we will provide. Tribes who do not have the capacity to submit reports electronically may submit quarterly reports on a disk or in hard copy.

§ 286.265 When are quarterly reports due?

(a) Upon a Tribe's initial implementation of TANF, the Tribe shall begin collecting data for the TANF Data Report as of the date that is six months after the initial effective date of its TANF program. The Tribe shall begin collecting financial data for the TANF Financial Report as of the initial effective date of its TANF program.

(b) Each Tribe must submit its TANF Data Report and TANF Financial Report within 45 days following the end of each quarter. If the 45th day falls on a weekend or on a national, State or Tribal holiday, the reports are due no later than the next business day.

§ 286.270 What happens if the Tribe does not satisfy the quarterly reporting requirements?

(a) If we determine that a Tribe has not submitted to us a complete and accurate Tribal TANF Data Report within the time limit, the Tribe risks the imposition of a penalty at § 286.205 related to the work participation rate targets since the data from the Tribal TANF Data Report is required to calculate participation rates.

(b) Non-reporting of the Tribal TANF Financial Report may give rise to a penalty under § 286.200 since this Report is used to demonstrate compliance with provisions of the Act, the provisions of 45 CFR part 92, OMB Circulars A–87 and A–133, or any Federal statutes and regulations applicable to the TANF program.

§ 286.275 What information must Tribes file annually?

(a) Each Tribal TANF grantee must file an annual report containing information on its TANF program for that year. The report may be filed as:

(1) An addendum to the fourth quarter TANF Data Report; or

(2) A separate annual report.

(b) Each Tribal TANF grantee must provide the following information on its TANF program:

(1) The Tribal TANF grantee's definition of each work activity;

(2) A description of the transitional services provided to families no longer receiving assistance due to employment; and

(3) A description of how a Tribe will reduce the amount of assistance payable to a family when an individual refuses to engage in work without good cause pursuant to § 286.145.

(4) The average monthly number of payments for child care services made by the Tribal TANF grantee through the use of disregards, by the following types of child care providers:

(i) Licensed/regulated in-home child care;

(ii) Licensed/regulated family child care;

(iii) Licensed/regulated group home child care;

(iv) Licensed/regulated center-based child care;

(v) Legally operating (*i.e.*, no license category available in Tribal TANF grantee's locality) in-home child care provided by a nonrelative;

(vi) Legally operating (*i.e.*, no license category available in Tribal TANF grantee's locality) in-home child care provided by a relative;

(vii) Legally operating (*i.e.*, no license category available in Tribal TANF grantee's locality) family child care provided by a nonrelative;

(viii) Legally operating (*i.e.*, no license category available in Tribal TANF grantee's locality) family child care provided by a relative;

(ix) Legally operating (*i.e.*, no license category available in Tribal TANF grantee's locality) group child care provided by a nonrelative;

(x) Legally operating (*i.e.*, no license category available in Tribal TANF grantee's locality) group child care provided by a relative; and

(xi) Legally operating (*i.e.,* no license category available in Tribal TANF grantee's locality) center-based child care.

(5) A description of any nonrecurring, short-term benefits provided, including:

(i) The eligibility criteria associated with such benefits, including any restrictions on the amount, duration, or frequency of payments;

(ii) Any policies that limit such payments to families that are eligible for TANF assistance or that have the effect of delaying or suspending a family's eligibility for assistance; and

(iii) Any procedures or activities developed under the TANF program to ensure that individuals diverted from assistance receive information about, referrals to, or access to other program benefits (such as Medicaid and food stamps) that might help them make the transition from Welfare-to-Work; and

(6) A description of the procedures the Tribal TANF grantee has established and is maintaining to resolve displacement complaints, pursuant to § 286.110. This description must include the name of the Tribal TANF grantee agency with the lead responsibility for administering this provision and explanations of how the Tribal TANF grantee has notified the public about these procedures and how an individual can register a complaint.

(7) Tribes electing the FVO must submit a description of the strategies and procedures in place to ensure that victims of domestic violence receive appropriate alternative services, as well as an aggregate figure for the total number of good cause domestic waivers granted.

(c) If the Tribal TANF grantee has submitted the information required in paragraph (b) of this section in the TFAP, it may meet the annual reporting requirements by reference in lieu of re-submission. Also, if the information in the annual report has not changed since the previous annual report, the Tribal TANF grantee may reference this information in lieu of re-submission.

(d) If a Tribal TANF grantee makes a substantive change in certain data elements in paragraph (b) of this section, it must file a copy of the change either with the next quarterly data report or as an amendment to its TFAP. The Tribal TANF grantee must also indicate the effective date of the change. This requirement is applicable to paragraphs (b)(1), (b)(2), and (b)(3) of this section.

§ 286.280 When are annual reports due?

(a) The annual report required by § 286.275 is due 90 days after the end of the Fiscal Year which it covers.

(b) The first annual report for a Tribe must include all months of operation since the plan was approved.

§ 286.285 How do the data collection and reporting requirements affect Public Law 102–477 Tribes?

(a) A Tribe that consolidates its Tribal TANF program into a Public-Law 102–477 plan is required to comply with the TANF data collection and reporting requirements of this section.

(b) A Tribe that consolidates its Tribal TANF program into a Public-Law 102–477 plan may submit the Tribal TANF Data Reports and the Tribal TANF Financial Report to the BIA, with a copy to us.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix A.—TANF Disaggregated Data Collection for Families Receiving Assistance Under the TANF Program—ACTIVES

Instructions and Definitions

General:

• The Tribal grantee should collect and report data for each data element. The data must be complete (unless explicitly instructed to leave the field blank) and accurate (*i.e.,* correct).

• An ''Unknown'' code may appear only on four sets of data elements ([#32 and #67] Date of Birth, [#33 and #68] Social Security Number, [#41 and #74] Educational Level, and [#42 and #75] Citizenship/Alienage). For these data elements, unknown is not an acceptable code for individuals who are members of the eligible family (*i.e.,* family affiliation code ''1'').

• There are five data elements for which Tribes have the option to report based on either the budget month or the reporting month. These are: #16 Amount of Food Stamps Assistance; #19 Amount of Child Support; #20 Amount of Families Cash Resources; #64 Amount of Earned Income; and [#35 and #76] Amount of Unearned Income. Whichever choice the Tribe selects must be used for all families reported each month and must be used for all months in the fiscal year.

1. State FIPS Code: Tribal grantees should enter ''00'' or leave blank.

2. County FIPS Code: Tribal grantees should leave this field blank.

3. Tribal Code: For Tribal grantees, enter the three-digit Tribal code that represents your Tribe. See Appendix E of the TANF Sampling and Statistical Methods Manual for a complete listing of Tribal Codes. If there appears to be no code for your Tribe, immediately contact the Director, Division of Tribal Services, Office of Community Services. Newly formed consortiums must contact the Division to obtain a code. State agencies should leave this field blank.

4. Reporting Month: Enter the four-digit year and two-digit month codes that identify the year and month for which the data are being reported.

5. Stratum:

Guidance: If a Tribe opts to provide data for its entire caseload, it may use this for its own coding purposes as long as a two-digit numerical code is specified.

Instruction: Enter any two-digit numerical code.

Family-Level Data

Definition: For reporting purposes, the TANF family means:

(a) All individuals receiving assistance as part of a family under the Tribe's TANF Program; and

(b) The following additional persons living in the household, if not included under (a) above:

(1) Parent(s) or caretaker relative(s) of any minor child receiving assistance;

(2) Minor siblings of any child receiving assistance; and

(3) Any person whose income or resources would be counted in determining the family's eligibility for or amount of assistance.

6. Case Number—TANF:

Guidance: If the case number is less than the allowable eleven characters, Tribes may use lead zeros to fill in the number. This number will be used to refer back to the Tribal records concerning the case if a question about the data arises.

Instruction: Enter the number assigned by the Tribal grantee to uniquely identify the case.

7. ZIP Code: Enter the five-digit ZIP code for the TANF family's place of residence for the reporting month.

8. Funding Stream:

Guidance: Tribal grantees are not to report data on families which do not receive any assistance, in at least part, from Federal TANF funds. The only applicable code for Tribes is ''1''.

Instructions: Enter code ''1''.

9. Disposition:

Guidance: If a Tribe opts to report on its entire caseload, the only applicable code for the Tribe is ''1''.

Instructions: Enter code ''1''.

10. New Applicant:

Guidance: A newly-approved applicant means the current reporting month is the first month in which the TANF family receives TANF assistance (and thus has had a chance to be reported on). This may be either the first month that the TANF family has ever received assistance or the first month of a new spell on assistance. A TANF family that is reinstated from a suspension is not a newly, approved applicant.

Instruction: Enter the one-digit code that indicates whether or not the TANF family is a newly-approved applicant.

1=Yes, a newly-approved application.

2=No.

11. Number of Family Members:

Instruction: Enter two digits that represent the number of members in the family receiving assistance under the Tribe's TANF Program during the reporting month. Include in the number of family members, the noncustodial parent who the Tribe has opted to include as part of the eligible family, who is receiving assistance as defined in Sec. 260.31, or who is participating in work activities as defined for Tribes in their approved plan.

12. Type of Family for Work Participation:

Guidance: This data element will be used in conjunction with other data elements (dependent on the approved Tribal plan) to determine work participation rates.

A family with a minor child head-of-household should be coded as either a single-parent family or two-parent family, whichever is appropriate.

If the family receiving assistance includes a custodial and noncustodial parent, then, if neither parent is disabled, the family should be coded as a two-parent family. A noncustodial parent is defined in section 260.30 as a parent who lives in the State or States (in which the Tribal Service area is located) and does not live with his/her child(ren). The Tribe must report information on the noncustodial parent if the noncustodial parent: (1) Is receiving assistance as defined in Sec. 260.31; (2) is participating in work activities as defined in the Tribal plan; or (3) has been designated by the Tribe as a member of a family receiving assistance.

Instruction: Enter the one-digit code that represents the type of family

1=One parent family.

2=Two-Parent Family.

3=Family excluded from both the overall and two-parent work participation rates (no adult receiving assistance).

13. Receives Subsidized Housing:

Guidance: Subsidized housing refers to housing for which money was paid by the Federal, State, or local government or through a private social service agency to the family or to the owner of the housing to assist the family in paying rent. Two families sharing living expenses does not constitute subsidized housing.

Instruction: Enter the one-digit code that indicates whether or not the TANF family received subsidized housing for the reporting month.

1=Public housing.

2=Rent subsidy.

3=No housing subsidy.

14. Receives Medical Assistance:

Instruction: Enter ''1'' if, for the reporting month, any TANF family member is enrolled in Medicaid and thus eligible to receive medical assistance under the State plan approved under Title XIX or ''2'' if no TANF family member is enrolled in Medicaid.

1=Yes, enrolled in Medicaid.

2=No.

15. Receives Food Stamps:

Instruction: Enter the one-digit code that indicates whether or not the TANF family is receiving food stamp assistance.

1=Yes, receives food stamp assistance.

2=No.

16. Amount of Food Stamp Assistance:

Guidance: For situations in which the food stamp household differs from the TANF family, code this element in a manner that most accurately reflects the resources available to the TANF family. One acceptable method for calculating the amount of food stamp assistance available to the TANF family is to prorate the amount of food stamps equally among each food stamp recipient then add together the amounts belonging to the TANF recipients to get the total amount for the TANF family.

Instruction: Enter the TANF family's authorized dollar amount of food stamp assistance for the reporting month or for the month used to budget for the reporting month.

17. Receives Subsidized Child Care:

Instruction: If the TANF family receives subsidized child care for the reporting month, enter code ''1'' or ''2'', whichever is appropriate. Otherwise, enter code ''3''.

1=Yes, receives child care funded entirely or in part with Federal funds (*e.g.,* receives TANF, CCDF, SSBG, or other federally funded child care).

2=Yes, receives child care funded entirely under a State, Tribal, and/or local program (*i.e.*, no Federal funds used).

3=No subsidized child care received.

18. Amount of Subsidized Child Care:

Guidance: Subsidized child care means a grant by the Federal, State, Tribal, or local government to or on behalf of a parent (or caretaker relative) to support, in part or

whole, the cost of child care services provided by an eligible provider to an eligible child. The grant may be paid directly to the parent (or caretaker relative) or to a child care provider on behalf of the parent (or caretaker relative).

Instruction: Enter the total dollar amount of subsidized child care from all sources (*e.g.,* CCDF, TANF, SSBG, State, Tribal, local, etc.) that the TANF family has received for services in the reporting month. If the TANF family did not receive any subsidized child care for services in the reporting month, enter ''0''.

19. Amount of Child Support:

Instruction: Enter the total dollar value of child support received on behalf of the TANF family in the reporting month or for the month used to budget for the reporting month. This includes current payments, arrearages, recoupment, and pass-through amounts whether paid to the State or the family.

20. Amount of the Family's Cash Resources:

Instruction: Enter the total dollar amount of the TANF family's cash resources as the State defines them for determining eligibility and/or computing benefits for the reporting month or for the month used to budget for the reporting month.

Amount of Assistance Received and the Number of Months That the Family Has Received Each Type of Assistance under the Tribal TANF Program.

Guidance: The term ''assistance'' includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (*i.e.*, for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses). It includes such benefits even when they are provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients and conditioned on their participation in work experience, community service, or other work activities.

Except where excluded as indicated in the following paragraph, it also includes supportive services such as transportation and child care provided to families who are not employed.

The term ''assistance'' excludes:

(1) Nonrecurrent, short-term benefits (such as payments for rent deposits or appliance repairs) that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (*i.e.,* payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under an Access to Jobs or Reverse Commute project, pursuant to section 404(k) of the Act, to an individual who is not otherwise receiving assistance.

The exclusion of nonrecurrent, short-term benefits under (1) of this paragraph also covers supportive services for recently employed families, for temporary periods of unemployment, in order to enable continuity in their service arrangements.

Instruction: For each type of assistance provided under the Tribal TANF Program, enter the dollar amount of assistance that the TANF family received or that was paid on behalf of the TANF family for the reporting month and the number of months that the TANF family has received assistance under the Tribe's TANF program. For TANF Child Care also enter the number of children covered by the dollar amount of child care. If, for a ''type of assistance'', no dollar amount of assistance was provided during the reporting month, enter ''0'' as the amount. If, for a ''type of assistance'', no assistance has been received (since the Tribe began its TANF Program or since the effective date of the final regulations) by the TANF eligible family, enter ''0'' as the number of months of assistance.

21. Cash and Cash Equivalents:

A. Amount.

B. Number of Months.

22. TANF Child Care:

Guidance: For TANF Child Care, enter the dollar amount, the number of children covered by the dollar amount of child care, and the total number of months that the family has received TANF child care assistance for families not employed. For example, a TANF family may receive a total of $500.00 in TANF child care assistance for two children for the reporting month. Furthermore, the family may have received TANF child care for one or more child(ren) for a total of six months under the State (Tribal) TANF Program. In this example, the State (Tribe) would code 500, 2, and 6 for the amount, number of children and number of months respectively. Include only the child care funded directly by the Tribal TANF Program. Do not include child care funded under the Child Care and Development Fund, even though some of the funds were transferred to the CCDF from the TANF program.

A. Amount.

B. Number of Children Covered.

C. Number of Months.

23. Transportation:

A. Amount.

B. Number of Months.

24. Transitional Services:

A. Amount.

B. Number of Months.

25. Other:

A. Amount.

B. Number of Months.

26. Reason for and Amount of Reductions in Assistance:

Instruction: The amount of assistance received by a TANF family may have been reduced for one or more of the following reasons. For each reason listed below, indicate whether the TANF family received a reduction in assistance. Enter the total dollar value of the reduction(s) for each group of reasons for the reporting month. If for any reason there was no reduction in assistance, enter ''0''.

a. Sanctions:

i. Total Dollar Amount of Reductions due to Sanctions:

Enter the total dollar value of reduction in assistance due to sanctions.

ii. Work Requirements Sanction:

1=Yes.

2=No.

iii. Family Sanction for an Adult with No High School Diploma or Equivalent:

1=Yes.

2=No.

iv. Sanction for Teen Parent not Attending School:

1=Yes.

2=No.

v. Non-Cooperation with Child Support:

1=Yes.

2=No.

vi. Failure to Comply with an Individual Responsibility Plan:

1=Yes.

2=No.

vii. Other Sanction:

1=Yes.

2=No.

b. Recoupment of Prior Overpayment:

Enter the total dollar value of reduction in assistance due to recoupment of a prior overpayment.

c. Other:

i. Total Dollar Amount of Reductions due to Other Reasons (exclude amounts for sanctions and recoupment): Enter the total dollar value of reduction in assistance due to reasons other than sanctions and recoupment.

ii. Family Cap:

1=Yes.

2=No.

iii. Reduction Based on Family Moving into the Tribal service area from a State or another Tribal area:

1=Yes.

2=No.

iv. Reduction Based on Length of Receipt of Assistance:

1=Yes.

2=No.

v. Other, Non-sanction:

1=Yes.

2=No.

27. Waiver Evaluation Experimental and Control Groups:

Guidance: This data element is not applicable to Tribes. Tribes should leave it blank.

28. Is the TANF Family Exempt during the reporting month from the Tribal Time-Limit Provisions:

Guidance: Under TANF rules, an eligible family that does not include a recipient who is an adult head-of-household, a spouse of the head-of-household, or a minor child head-of-household who has received federally-funded assistance for countable months up to the Tribal Time limit may continue to receive assistance. A countable month is a month of assistance for which the adult head-of-household, the spouse of the head-of-household, or the minor child head-of-household is not exempt from the Tribal

time-limit provisions. Families with an adult head-of-household, a spouse of a head-of-house, or minor child head-of-household who have received countable months of assistance up to the Tribal time limit, may be exempt from termination of assistance. Exemptions from termination of assistance include a hardship exemption (as defined by the Tribal plan). Also, if, in the reporting month, the Family lives in Indian country or in an Alaskan native village where the percent of adults not employed is 50 percent or more, the month of assistance is exempt from being counted (is disregarded).

Instruction: If the TANF family has no exemption from the Tribal time limit, enter code ''01''. If the TANF family does not include an adult head-of-household, a spouse of the head-of-household, or a minor child head-of-household who has received federally-funded assistance for the maximum number of countable months or is otherwise exempt from accrual of months of assistance or termination of assistance under the Tribal time limit for the reporting month, enter ''02''. If the TANF family includes an adult head-of-household, a spouse of the head-of-household, or minor child head-of-household who has not received federally-funded assistance for the maximum number of countable months or is otherwise exempt from accrual of months of assistance or termination of assistance under the Tribal time limit for the reporting month, enter ''03'', ''04'', or ''05'', whichever is appropriate. If the TANF family includes an adult head-of-household, a spouse of the head-of-household, or minor child head-of-household who has received assistance for the maximum countable months and the family is exempt from termination of assistance, enter code ''06'', ''07'', ''08'', ''09'', ''10'', or ''11'', whichever is appropriate.

01=Family is not exempt from Federal time limit.

Family does not include an adult head-of-household, a spouse of the head-of-household, or minor child head-of-household who has received federally-funded assistance for the maximum number of countable months:

02=Family is exempt from accrual of months and termination of assistance under the Federal five-year time limit for the reporting month because no adult head-of-household, a spouse of the head-of-household, or minor child head-of-household in the eligible family is receiving assistance.

Family includes an adult head-of-household, a spouse of the head-of-household, or minor child head-of-household, but has accrued less than the maximum number of months of assistance:

03=Not to be used by Tribes.

04=Family is exempt from accrual of months under the Tribal time limit for the reporting month because the family is living in Indian country or an Alaskan native village, where at least 50 percent of the adults living in the Indian country or Alaskan native village are not employed.

05=Not to be used by Tribes.

Family includes an adult head-of-household, a spouse of the head-of-household, or minor child head-of-household who has received federally-funded assistance for the maximum number of countable months:

06=Not to be used by Tribes.

07=Family is exempt from termination of assistance under the Tribal time limit for the reporting month due to a hardship exemption, battery, or extreme cruelty.

08=Family is exempt from termination of assistance under Tribal policy for the reporting month based on a federally recognized good cause domestic violence waiver of time limits.

09=Family is exempt from termination of assistance under the Federal five-year time limit for the reporting month because the adult head-of-household, the spouse of the head-of-household, or minor child head-of-household is living in Indian country or an Alaskan native village, where at least 50 percent of whose adults are not employed.

10=Not to be used by Tribes.

11=Not to be used by Tribes.

29. Is the TANF Family A New Child-Only Family?

Guidance: A child-only family is a TANF family that does not include an adult or a minor child head-of-household who is receiving TANF assistance. For purposes of this data element, a new child-only family is a TANF family that: (a) has received TANF assistance for at least two months (*i.e.*, the reporting month and the month prior to the reporting month); (b) received benefits in the prior month, but not as a child-only case; and (c) is a child-only family for the reporting month. All other families—including those that are not a child-only case during the reporting month—are coded as ''not a new-child-only family'', *i.e.*, as code ''2''.

Instructions: If the TANF family is a new child-only family, enter code ''1''. Otherwise, enter code ''2''.

1=Yes, a new child-only family.

2=No, not a new child-only family.

Person-Level Data

Person-level data has two sections: (1) The adult and minor child head-of-household characteristic section and (2) the child characteristics section. Section 419 of the Act defines adult and minor child. An adult is an individual that is not a minor child. A minor child is an individual who (a) has not attained 18 years of age or (b) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

Detailed data elements must be reported on all individuals unless, for a specific data element, the instructions explicitly give Tribes an option to not report for a specific group of individuals.

Adult and Minor Child Head-of-Household Characteristics

This section allows for coding up to six adults (or a minor child who is either a head-of-household or married to the head-of-household and up to five adults) in the TANF family. A minor child who is either a head-of-household or married to the head-of-household should be coded as an adult and will hereafter be referred to as a ''minor child head-of-household''. For each adult (or minor child head-of-household) in the TANF family, complete the adult characteristics section. A noncustodial parent is defined in section 260.30 as a parent who lives in the State or States (in which the Tribal Service area is located) and does not live with his/her child(ren). The Tribe must report information on the noncustodial parent if the noncustodial parent: (1) Is receiving assistance as defined in Sec. 260.31; (2) is participating in work activities as defined in the Tribal Plan; or (3) has been designated by the Tribe as a member of a family receiving assistance.

The Tribe has the option to count a family with a noncustodial parent receiving assistance as a two-parent family for work participation rate purposes. As indicated below, reporting for certain specified data elements in this section is optional for certain individuals (whose family affiliation code is a 2, 3, or 5).

If there are more than six adults (or a minor child head-of-household and five adults) in the TANF family, use the following order to identify the persons to be coded: (1) The head-of-household; (2) parents in the eligible family receiving assistance; (3) other adults in the eligible family receiving assistance; (4) parents not in the eligible family receiving assistance; (5) caretaker relatives not in the eligible family receiving assistance; and (6) other persons whose income or resources count in determining eligibility for or amount of assistance of the eligible family receiving assistance, in descending order from the person with the most income to the person with least income (or resources if no income).

30. Family Affiliation:

Guidance: This data element is used both for (1) The adult and minor child head-of-household section and (2) the minor child section. The same coding schemes are used in both sections. Some of these codes may not be applicable for adults.

Instruction: Enter the one-digit code that shows the adult's (or minor child head-of-household's) relation to the eligible family receiving assistance.

1=Member of the eligible family receiving assistance.

Not in eligible family receiving assistance, but in the household:

2=Parent of minor child in the eligible family receiving assistance.

3=Caretaker relative of minor child in the eligible family receiving assistance.

4=Minor sibling of child in the eligible family receiving assistance.

5=Person whose income or resources are considered in determining eligibility for or amount of assistance for the eligible family receiving assistance.

31. Noncustodial Parent Indicator:

Guidance: A noncustodial parent is defined in section 260.30 as a parent who lives in the State or States (in which the Tribal Service area is located) and does not live with his/her child(ren). The Tribe must report information on the noncustodial parent if the noncustodial parent: (1) Is receiving assistance as defined in Sec. 260.31; (2) is participating in work activities as defined in the Tribal plan; or (3) has been designated by the Tribe as a member of a family receiving assistance.

Instruction: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) noncustodial parent status.

1=Yes, a noncustodial parent.

2=No.

32. Date of Birth: Enter the eight-digit code for date of birth for the adult (or minor child head-of-household) under the Tribal TANF Program in the format YYYYMMDD. If the adult's (or minor child head-of-household's) date of birth is unknown and the family affiliation code is not ''1'', enter the code ''99999999''.

33. Social Security Number: Enter the nine-digit Social Security Number for the adult (or minor child head-of-household) in the format nnnnnnnnn. If the social security number is unknown and the family affiliation code is not ''1'', enter ''999999999''.

34. Ethnicity:

Instruction: To allow for the multiplicity of race/ethnicity, please enter the one-digit code for each category of race and ethnicity of the TANF adult (or minor child head-of-household). Reporting of this data element is optional for individuals whose family affiliation code is 5.

Ethnicity:

a. Hispanic or Latino:

1=Yes, Hispanic or Latino.

2=No.

Race:

b. American Indian or Alaska Native:

1=Yes, American Indian or Alaska Native.

2=No.

c. Asian:

1=Yes, Asian.

2=No.

d. Black or African American:

1=Yes, Black or African American.

2=No.

e. Native Hawaiian or Other Pacific Islander:

1=Yes, Native Hawaiian or Pacific Islander.

2=No.

f. White:

1=Yes, White.

2=No.

35. Gender: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) gender:

1=Male.

2=Female.

36. Receives Disability Benefits: The Act specifies five types of disability benefits. For each type of disability benefits, enter the one-digit code that indicates whether or not the adult (or minor child head-of-household) received the benefit.

a. Receives Federal Disability Insurance Benefits Under the Social Security OASDI Program (Title II of the Social Security Act):

1=Yes, received Federal disability insurance.

2=No.

b. Receives Benefits Based on Federal Disability Status under Non-Social Security Act Programs: These programs include Veteran's disability benefits, Worker's disability compensation, and Black Lung Disease disability benefits.

1=Yes, received benefits based on Federal disability status.

2=No.

c. Receives Aid to the Permanently and Totally Disabled Under Title XIV–APDT of the Social Security Act:

1=Yes, received aid under Title XIV–APDT.

2=No.

d. Receives Aid to the Aged, Blind, and Disabled Under Title XVI–AABD of the Social Security Act:

1=Yes, received aid under Title XVI–AABD.

2=No.

e. Receives Supplemental Security Income under Title XVI–SSI of the Social Security Act:

1=Yes, received aid under Title XVI–SSI.

2=No.

37. Marital Status: Enter the one-digit code for the adult's (or minor child head-of-household's) marital status for the reporting month. Reporting of this data element is optional for individuals whose family affiliation code is 5.

1=Single, never married.

2=Married, living together.

3=Married, but separated.

4=Widowed.

5=Divorced.

38. Relationship to Head-of-Household:

Guidance: This data element is used both for (1) the adult or minor child head-of-household section and (2) the minor child section. The same coding schemes are used in both sections. Some of these codes may not be applicable for adults.

Instruction: Enter the two-digit code that shows the adult's relationship (including by marriage) to the head of the household, as defined by the Food Stamp Program or as determined by the State (Tribe) (*i.e.,* the relationship to the principal person of each person living in the household). If minor child head-of-household, enter code ''01''.

01=Head-of-household.

02=Spouse.

03=Parent.

04=Daughter or son.

05=Stepdaughter or stepson.

06=Grandchild or great grandchild.

07=Other related person (brother, niece, cousin).

08=Foster child.

09=Unrelated child.

10=Unrelated adult.

39. Parent With Minor Child in the Family:

Guidance: A parent with a minor child in the family may be a natural parent, adoptive parent, or step-parent of a minor child in the family. Reporting of this data element is optional for individuals whose family affiliation code is 3 or 5.

Instruction: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) parental status.

1=Yes, a parent with a minor child in the family and used in two-parent participation rate.

2=Yes, a parent with a minor child in the family, but not used in two-parent participation rate.

3=No.

40. Needs of a Pregnant Woman: Some States (Tribes) consider the needs of a pregnant woman in determining the amount of assistance that the TANF family receives. If the adult (or minor child head-of-household) is pregnant and the needs associated with this pregnancy are considered in determining the amount of assistance for the reporting month, enter a ''1'' for this data element. Otherwise enter a ''2'' for this data element. This data element is applicable only for individuals whose family affiliation code is 1.

1=Yes, additional needs associated with pregnancy are considered in determining the amount of assistance.

2=No.

41. Educational Level: Enter the two-digit code to indicate the highest level of education attained by the adult (or minor child head-of-household). Unknown is not an acceptable code for individuals whose family affiliation code is ''1''. Reporting of this data element is optional for individuals whose family affiliation code is 5.

01–11=Grade level completed in primary/secondary school including secondary level vocational school or adult high school.

12=High school diploma, GED, or National External Diploma Program.

13=Awarded Associate's Degree.

14=Awarded Bachelor's Degree.

15=Awarded graduate degree (Master's or higher).

16=Other credentials (degree, certificate, diploma, etc.).

98=No formal education.

99=Unknown.

42. Citizenship/Alienage:

Instruction: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) citizenship/alienage. Unknown is not an acceptable code for individuals whose family affiliation code is ''1''. Reporting of this data element is optional for individuals whose family affiliation code is 5.

1=U. S. citizen, including naturalized citizens.

2=Qualified alien.

9=Unknown.

43. Cooperation with Child Support: Enter the one-digit code that indicates if the adult (or minor child head-of-household) has cooperated with child support. Reporting of this data element is optional for individuals whose family affiliation code is 5.

1=Yes, adult (or minor child head-of-household) has cooperated with child support.

2=No.

9=Not applicable.

44. Number of Months Countable toward Federal Time Limit: Enter the number of months countable toward the adult's (or minor child head-of-household's) Tribal time limit based on the cumulative amount of time the individual has received TANF from both the State (Tribe) and other States or Tribes. Reporting of this data element is optional for individuals whose family affiliation code is 2, 3, or 5.

45. Number of Countable Months Remaining Under the Tribe's Time Limit: Enter the number of months that remain countable toward the adult's (or minor child head-of-household's) Tribal time limit. Reporting of this data element is optional for individuals whose family affiliation code is 2, 3, or 5.

46. Is Current Month Exempt from the State's (Tribe's) Time Limit: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) current exempt

status from Tribe's time limit. Reporting of this data element is optional for individuals whose family affiliation code is 2, 3, or 5.

1=Yes, adult (or minor child head-of-household) is exempt from the Tribe's time limit for the reporting month.

2=No.

47. Employment Status: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) employment status. Reporting of this data element is optional for individuals whose family affiliation code is 5.

1=Employed.

2=Unemployed, looking for work.

3=Not in labor force (*i.e.*, unemployed, not looking for work, includes discouraged workers).

48. Work Participation Status:

Guidance: This item is used in calculating the work participation rates. The following two definitions are used in reporting this item and in determining which families are included in and excluded from the calculations.

''Disregarded'' from the participation rate means the TANF family is not included in the calculation of the work participation rate.

''Exempt'' means that the individual will not be penalized for failure to engage in work (*i.e.*, good cause exception); however, the TANF family is included in the calculation of the work participation rate.

A Tribe is not required to disregard all families that could be disregarded. For example, a family with a single custodial parent with a child under 12 months (and the parent has not been disregarded for 12 months) may be disregarded. However, if the single custodial parent is meeting the work requirements, the Tribe may want to include the family in its work participation rate. In this situation, the Tribe should use work participation status code ''19'' rather than code ''01''.

Instruction: Enter the two-digit code that indicates the adult's (or minor child head-of-household's) work participation status. If the State chooses to include the noncustodial parent in the two-parent work participation rate, the State must code the data element ''Type of Family for Work Participation Rate'' with a ''2'' and enter the applicable code for this data element. If a State chooses to exclude the noncustodial parent from the two-parent work participation rate, the State must code the data element ''Type of Family for Work Participation'' with a ''1'' and code the data element ''Work Participation Status'' for the noncustodial parent with a ''99''. This data element is not applicable for individuals whose family affiliation code is 2, 3, 4, or 5 (*i.e.,* use code ''99'' or leave blank).

01=Disregarded from participation rate, single custodial parent with child under 12 months.

02=Disregarded from participation rate because all of the following apply: required to participate, but not participating; and sanctioned for the reporting month, but not sanctioned for more than 3 months within the preceding 12-month period (Note, this code should be used only in a month for which the family is disregarded from the participation rate. While one or more adults may be sanctioned in more than 3 months within the preceding 12-month period, the family may not be disregarded from the participation rate for more than 3 months within the preceding 12-month period).

03=Disregarded, family is part of an ongoing research evaluation (as a member of a control group or experimental group) approved under Section 1115 of the Social Security Act.

04=Not applicable to Tribes.

05=Not applicable to Tribes.

06=Exempt, single custodial parent with child under age 6 and child care unavailable.

07=Exempt, disabled.

08=Exempt, caring for a severely disabled child.

09=Exempt, under a federally recognized good cause domestic violence waiver.

10=Not applicable to Tribes.

11=Exempt, other.

12=Required to participate, but not participating; sanctioned for the reporting month; and sanctioned for more than 3 months within the preceding 12-month period.

13=Required to participate, but not participating; and sanctioned for the reporting month, but not sanctioned for more than 3 months within the preceding 12-month period.

14=Required to participate, but not participating; and not sanctioned for the reporting month.

15=Deemed engaged in work—single teen head-of-household or married teen who maintains satisfactory school attendance.

16=Deemed engaged in work—single teen head-of-household or married teen who participates in education directly related to employment for an average of at least 20 hours per week during the reporting month.

17=Deemed engaged in work—parent or relative (who is the only parent or caretaker relative in the family) with child under age 6 and parent engaged in work activities for at least 20 hours per week.

18=Required to participate and participating, but not meeting minimum participation requirements.

19=Required to participate and meeting minimum participation requirements.

99=Not applicable (*e.g.,* person living in household and whose income or resources are counted in determining eligibility for or amount of assistance of the family receiving assistance, but not in eligible family receiving assistance or noncustodial parent that the Tribe opted to exclude in determining participation rate).

Adult Work Participation Activities

Guidance: To calculate the average number of hours per week of participation in a work activity, add the number of hours of participation across all weeks in the month and divide by the number of weeks in the month. Round to the nearest whole number.

Some weeks have days in more than one month. Include such a week in the calculation for the month that contains the most days of the week (e.g., the week of July 27–August 2, 1997 would be included in the July calculation). Acceptable alternatives to this approach must account for all weeks in the fiscal year. One acceptable alternative is to include the week in the calculation for whichever month the Friday falls (*i.e.,* the JOBS approach). A second acceptable alternative is to count each month as having 4. 33 weeks.

During the first or last month of any spell of assistance, a family may happen to receive assistance for only part of the month. If a family receives assistance for only part of a month, the State (Tribe) may count it as a month of participation if an adult (or minor child head-of-household) in the family (both adults, if they are both required to work) is engaged in work for the minimum average number of hours for any full week(s) that the family receives assistance in that month.

Special Rules: Each adult (or minor child head-of-household) has a life-time limit for vocational educational training. Vocational educational training may only count as a work activity for a total of 12 months. For any adult (or minor child head-of-household) that has exceeded this limit, enter ''0'' as the average number of hours per week of participation in vocational education training, even if (s)he is engaged in vocational education training. The additional participation in vocational education training may be coded under ''Other''.

Limitations: The four limitations [1] concerning job search and job readiness are:

(1) Job search and job readiness assistance only count for 6 weeks in any fiscal year;

(2) An individual's participation in job search and job readiness assistance counts for no more than 4 consecutive weeks;

(3) If the Tribe's total unemployment rate for a fiscal year is at least 50 percent greater than the United States' total unemployment rate for that fiscal year, then an individual's participation in job search or job readiness assistance counts for up to 12 weeks in that fiscal year; and

(4) A State may count 3 or 4 days of job search and job readiness assistance during a week as a full week of participation, but only once for any individual. For each week in which an adult (or minor child head-of-household) exceeds any of these limitations, use ''0'' as the number of hours in calculating the average number of hours per week of job search and job readiness, even if (s)he may be engaged in job search or job readiness activities.

Instruction: For each work activity in which the adult (or minor child head-of-household) participated during the reporting month, enter the average number of hours per week of participation, except as noted above. For each work activity in which the adult (or minor child head-of-household) did not participate, enter zero as the average number of hours per week of participation. These work activity data elements are applicable only for individuals whose family affiliation code is 1.

49. Unsubsidized Employment.

50. Subsidized Private-Sector Employment.

51. Subsidized Public-Sector Employment.

52. Work Experience.

53. On-the-job Training.

54. Job Search and Job Readiness Assistance.

Instruction: As noted above, the statute limits participation in job search and job

[1] A Tribe, which has negotiated different limitations, should use their best judgment to determine which code to use.

readiness training in four ways. Enter, in this data element, the average number of hours per week of participation in job search and job readiness training that are within the statutory limitations.

Otherwise, count the additional hours of work participation under the work activity ''Other Work Activities''.

55. Community Service Programs.

56. Vocational Educational Training:

Instruction: As noted above, the statute contains special rules limiting an adult's (or minor child head-of-household's) participation in vocational educational training to twelve months. Enter, in this data element, the average number of hours per week of participation in vocational educational training that are within the statutory limits.

57. Job Skills Training Directly Related to Employment.

58. Education Directly Related to Employment for Individuals with no High School Diploma or Certificate of High School Equivalency.

59. Satisfactory School Attendance for Individuals with No High School Diploma or Certificate of High School Equivalency.

60. Providing Child Care Services to an Individual Who Is Participating in a Community Service Program.

61. This data element is not applicable for Tribes. If the Tribe's approved plan contains work activities not listed above, the total average hours for those activities should be reported in data element 62 ''Other Work Activities''.

62. Other Work Activities: Tribes should report total average hours for activities not elsewhere reported.

63. Required Hours of Work under Waiver Demonstration: Not applicable to Tribes. Leave blank.

64. Amount of Earned Income: Enter the dollar amount of the adult's (or minor child head-of-household's) earned income for the reporting month or for the month used to budget for the reporting month. Include wages, salaries, and other earned income in this item.

65. Amount of Unearned Income: Unearned income has five categories. For each category of unearned income, enter the dollar amount of the adult's (or minor child head-of-household's) unearned income for the reporting month or for the month used to budget for the reporting month.

a. Earned Income Tax Credit (EITC):

Guidance: Earned Income Tax Credit is a refundable Federal, State, or local tax credit for families and dependent children. EITC payments are received monthly (as advance payment through the employer), annually (as a refund from IRS), or both.

Instruction: Enter the total dollar amount of the Earned Income Tax Credit actually received, whether received as an advance payment or a single payment (*e.g.,* tax refund), by the adult (or minor child head-of-household) during the reporting month or the month used to budget for the reporting month. If the State counts the EITC as a resource, report it here as unearned income in the month received (i.e., reporting month or budget month, whichever the State is using). If the State assumes an advance payment is applied for and obtained, only report what is actually received for this item.

b. Social Security: Enter the dollar amount of Social Security benefits that the adult in the State (Tribal) TANF family has received for the reporting month or for the month used to budget for the reporting month.

c. SSI: Enter the dollar amount of SSI that the adult in the State (Tribal) TANF family has received for the reporting month or for the month used to budget for the reporting month.

d. Worker's Compensation: Enter the dollar amount of Worker's Compensation that the adult in the State (Tribal) TANF family has received for the reporting month or for the month used to budget for the reporting month.

e. Other Unearned Income:

Guidance: Other unearned income includes (but is not limited to) RSDI benefits, Veterans benefits, Unemployment Compensation, other government benefits, a housing subsidy, a contribution or income-in-kind, deemed income, Public Assistance or General Assistance, educational grants/scholarships/loans, and other. Do not include EITC, Social Security, SSI, Worker's Compensation, value of food stamp assistance, the amount of a Child Care subsidy, or the amount of Child Support.

Instruction: Enter the dollar amount of other unearned income that the adult in the State TANF family has received for the reporting month or for the month used to budget for the reporting month.

Child Characteristics

This section allows for coding the child characteristics for up to ten children in the TANF family. A minor child head-of-household should be coded as an adult, not as a child. The youngest child should be coded as the first child in the family, the second youngest child as the second child, and so on. If there are more than ten children in the TANF family, use the following order to identify the persons to be coded: (1) Children in the eligible family receiving assistance in order from youngest to oldest; (2) minor siblings of child in the eligible family receiving assistance from youngest to oldest; and (3) any other children.

66. Family Affiliation:

Guidance: This data element is used both for (1) the adult or minor child head-of-household section and (2) the minor child section. The same coding schemes are used in both sections. Some of these codes may not be applicable for children.

Instruction: Enter the one-digit code that shows the child's relation to the eligible family receiving assistance.

1=Member of the eligible family receiving assistance.

Not in eligible family receiving assistance, but in the household

2=Parent of minor child in the eligible family receiving assistance.

3=Caretaker relative of minor child in the eligible family receiving assistance.

4=Minor sibling of child in the eligible family receiving assistance.

5=Person whose income or resources are considered in determining eligibility for or amount of assistance for the eligible family receiving assistance.

67. Date of Birth: Enter the eight-digit code for date of birth for this child under the State (Tribal) TANF Program in the format YYYYMMDD. If the child's date of birth is unknown and the family affiliation code is not ''1'', enter the code ''99999999''.

68. Social Security Number: Enter the nine-digit Social Security Number for the child in the format nnnnnnnnn. Reporting of this data element is optional for individuals whose family affiliation code is 4. If the Social Security number is unknown and the family affiliation code is not ''1'', enter ''999999999''.

69. Race/Ethnicity:

Instruction: To allow for the multiplicity of race/ethnicity, please enter the one-digit code for each category of race and ethnicity of the TANF adult (or minor child head-of-household). Reporting of this data element is optional for individuals whose family affiliation code is 5.

Ethnicity:

a. Hispanic or Latino:

1=Yes, Hispanic or Latino.

2=No.

Race:

b. American Indian or Alaska Native:

1=Yes, American Indian or Alaska Native.

2=No.

c. Asian:

1=Yes, Asian.

2=No.

d. Black or African American:

1=Yes, Black or African American.

2=No.

e. Native Hawaiian or Other Pacific Islander:

1=Yes, Native Hawaiian or Pacific Islander.

2=No.

f. White:

1=Yes, White.

2=No.

70. Gender: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) gender:

1=Male.

2=Female.

71. Receives Disability Benefits: The Act specifies five types of disability benefits. Two of these types of disability benefits are applicable to children. For each type of disability benefits, enter the one-digit code that indicates whether or not the child received the benefit.

a. Receives Benefits Based on Federal Disability Status under Non-Social Security Act Programs: These programs include Veteran's disability benefits, Worker's disability compensation, and Black Lung Disease disability benefits.

1=Yes, received benefits based on Federal disability status.

2=No.

b. Receives Supplemental Security Income under Title XVI–SSI of the Social Security Act:

1=Yes, received aid under Title XVI-SSI.

2=No.

72. Relationship to Head-of-Household:

Guidance: This data element is used both for (1) the adult or minor child head-of-household section and (2) the minor child section. The same coding schemes are used in both sections. Some of these codes may not be applicable for children.

Instruction: Enter the two-digit code that shows the child's relationship (including by marriage) to the head of the household, as defined by the Food Stamp Program or as determined by the Tribe, (*i.e.*, the relationship to the principal person of each person living in the household.)

01=Head-of-household.
02=Spouse.
03=Parent.
04=Daughter or son.
05=Stepdaughter or stepson.
06=Grandchild or great grandchild.
07=Other related person (brother, niece, cousin).
08=Foster child.
09=Unrelated child.
10=Unrelated adult.

73. Parent With Minor Child in the Family:

Guidance: This data element is used both for (1) the adult or minor child head-of-household section and (2) the minor child section. The same coding schemes are used in both sections. Code ''1'' is not applicable for children. A parent with a minor child in the family may be a natural parent, adoptive parent, or step-parent of a minor child in the family. Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

Instruction: Enter the one-digit code that indicates the child's parental status.

1=Yes, a parent with a minor child in the family and used in two-parent participation rate.
2=Yes, a parent with a minor child in the family, but not used in two-parent participation rate.
3=No.

74. Educational Level: Enter the two-digit code to indicate the highest level of education attained by the child. Unknown is not an acceptable code for individuals whose family affiliation code is ''1''. Reporting of this data element is optional for individuals whose family affiliation code is 4.

01–11=Grade level completed in primary/secondary school including secondary level vocational school or adult high school.
12=High school diploma, GED, or National External Diploma Program.
13=Awarded Associate's Degree.
14=Awarded Bachelor's Degree.
15=Awarded graduate degree (Master's or higher).
16=Other credentials (degree, certificate, diploma, etc.).
98=No formal education.
99=Unknown.

75. Citizenship/Alienage:

Instruction: Enter the one-digit code that indicates the child's citizenship/alienage. Unknown is not an acceptable code for an individual whose family affiliation code is ''1''. Reporting of this data element is optional for individuals whose family affiliation code is ''4''.

1=U. S. citizen, including naturalized citizens.
2=Qualified alien.
9=Unknown.

76. Amount of Unearned Income: Unearned income has two categories. For each category of unearned income, enter the dollar amount of the child's unearned income.

a. SSI: Enter the dollar amount of SSI that the child in the State (Tribal) TANF family has received for the reporting month or for the month used to budget for the reporting month.

b. Other Unearned Income: Enter the dollar amount of other unearned income that the child in the State (Tribal) TANF family has received for the reporting month or for the month used to budget for the reporting month.

APPENDIX B.—TANF Disaggregated Data Collection for Families No Longer Receiving Assistance Under the TANF Program—Closed Cases

Instructions and Definitions

General Instruction: The Tribal grantee should collect and report data for each data element. The data must be complete (unless explicitly instructed to leave the field blank) and accurate (*i.e.,* correct).

An ''Unknown'' code may appear only on four data elements (#15 Date of Birth, #16 Social Security Number, #24 Educational Level, and #25 Citizenship/Alienage). For these data elements, unknown is not an acceptable code for individuals who are members of the eligible family (*i.e.*, family affiliation code ''1''). States are not expected to track closed cases in order to collect information on families for months after the family has left the rolls. Rather, States are to report based on the last month of assistance.

1. State FIPS Code: Tribal grantees should enter ''00'' or leave blank.

2. County FIPS Code: Tribal grantees should leave this field blank.

3. Tribal Code: For Tribal grantees, enter the three-digit Tribal code that represents your Tribe. See Appendix E of the TANF Sampling and Statistical Methods Manual for a complete listing of Tribal Codes. If there appears to be no code for your Tribe, immediately contact the Director, Division of Tribal Services, Office of Community Services. Newly formed consortiums must contact the Division to obtain a code. State agencies should leave this field blank.

4. Reporting Month: Enter the four-digit year and two-digit month code that identifies the year and month for which the data are being reported.

5. Stratum:

Guidance: If a Tribe opts to provide data for its entire caseload (*i.e.*, does not select a sample of cases to report on), the Tribe may use this data element for its own coding purposes as long as a two digit numerical code is specified.

Instruction: Enter any two-digit numerical code.

Family-Level Data

Definition: For reporting purposes, the TANF family means:

(a) All individuals receiving assistance as part of a family under the State's (Tribe's) TANF Program; and

(b) The following additional persons living in the household, if not included under (a) above:

(1) Parent(s) or caretaker relative(s) of any minor child receiving assistance;

(2) Minor siblings (including unborn children) of any child receiving assistance; and

(3) Any person whose income or resources would be counted in determining the family's eligibility for or amount of assistance.

6. Case Number—TANF:

Guidance: If the case number is less than the allowable eleven characters, a State may use lead zeros to fill in the number.

Instruction: Enter the number that was assigned by the State agency or Tribal grantee to uniquely identify the TANF family.

7. ZIP Code: Enter the five-digit ZIP code for the family's place of residence for the reporting month.

8. Disposition:

Guidance: If a Tribe opts to report on its entire caseload, the only applicable code for the Tribe is ''1''.

Instructions: Enter code ''1''.

9. Reason for Closure:

Guidance: A closed case is a family whose assistance was terminated for the reporting month, but received assistance under the State's TANF Program in the prior month. A temporarily suspended case is not a closed case. If there is more than one applicable reason for closure, determine the principal (*i.e.,* most relevant) reason. If two or more reasons are equally relevant, use the reason with the lowest numeric code. For example, when an adult marries, the income and resources of the new spouse are considered in determining eligibility. If, at the time of the marriage, the family becomes ineligible because of the addition of the spouse's income and/or resources, the case closure should be coded using code ''2''.

If the family did not become ineligible based on the income and resources at the time of the marriage, but rather due to an increase in earnings subsequent to the marriage, then the case closure should be coded using code ''1''.

Instruction: Enter the two-digit code that indicates the reason for the TANF family no longer receiving assistance.

01=Employment and/or excess earnings.
02=Marriage.
03=Not applicable to Tribes.
Sanctions:
04=Work-related sanction.
05=Child support sanction.
06=Teen parent failing to meet school attendance requirement.
07=Teen parent failing to live in an adult setting.
08=Failure to finalize an individual responsibility plan (*e.g.*, did not sign plan).
09=Failure to meet individual responsibility plan provision or other behavioral requirements (*e.g.*, immunize a minor child, attend parenting classes).
State (Tribal) Policies:
10=Tribal time limit reached.
11=Child support collected.
12=Excess unearned income (exclusive of child support collected).
13=Excess resources.
14=Youngest child too old to qualify for assistance.
15=Minor child absent from the home for a significant time period.
16=Failure to appear at eligibility/redetermination appointment, submit

required verification materials, and/or cooperate with eligibility requirements.

17=For Tribes, transfer to a State program, another program of the reporting Tribe or another Tribe's TANF program.

Other.

18=Family voluntarily closes the case.

99=Other.

10. Received Subsidized Housing:

Guidance: Subsidized housing refers to housing for which money was paid by the Federal, State, Tribal, or local government or through a private social service agency to the family or to the owner of the housing to assist the family in paying rent. Two families sharing living expenses does not constitute subsidized housing.

Instruction: Enter the one-digit code that indicates whether or not the TANF family received subsidized housing for the reporting month (or for the last month of TANF assistance).

1=Public housing.

2=Rent subsidy.

3=No housing subsidy.

11. Received Medical Assistance: Enter ''1'' if, for the reporting month (or for the last month of TANF assistance), any TANF family member was enrolled in Medicaid and, thus eligible to receive medical assistance under the State plan approved under Title XIX or ''2''' if no TANF family member was enrolled in Medicaid.

1=Yes, enrolled in Medicaid.

2=No.

12. Received Food Stamps: Enter the one-digit code that indicates whether or not the TANF family received food stamp assistance for the reporting month (or for the last month of TANF assistance).

1=Yes, received food stamp assistance.

2=No.

13. Received Subsidized Child Care:

Instruction: If the TANF family received subsidized child care for services in the reporting month (or for the last month of TANF assistance), enter code ''1'' or ''2'', whichever is appropriate. Otherwise, enter code ''3''.

1=Yes, received federally funded (entirely or in part) child care (e.g., receives either TANF, CCDF, SSBG, or other federally funded child care).

2=Yes, received child care funded entirely under a State, Tribal, and/or local program (*i.e.,* no Federal funds used).

3=No.

Person-Level Data

This section allows for coding up to sixteen persons in the TANF family. If there are more than sixteen persons in the TANF family, use the following order to identify the persons to be coded:

(1) the head-of-household;

(2) parents in the eligible family receiving assistance;

(3) children in the eligible family receiving assistance;

(4) other adults in the eligible family receiving assistance;

(5) parents not in the eligible family receiving assistance;

(6) caretaker relatives not in the eligible family receiving assistance;

(7) minor siblings of a child in the eligible family; and

(8) other persons, whose income or resources count in determining eligibility for or amount of assistance of the eligible family receiving assistance, in descending order from the person with the most income to the person with the least income (resources if no income).

As indicated below, reporting for certain specified data elements in this section is optional for certain individuals (whose family affiliation code is a 2, 3, 4, or 5).

14. Family Affiliation:

Instruction: Enter the one-digit code that shows the individual's relation to the eligible family receiving assistance.

1=Member of the eligible family receiving assistance. Not in eligible family receiving assistance, but in the household:

2=Parent of minor child in the eligible family receiving assistance.

3=Caretaker relative of minor child in the eligible family receiving assistance.

4=Minor sibling of child in the eligible family receiving assistance.

5=Person whose income or resources are considered in determining eligibility for or amount of assistance for the eligible family receiving assistance.

15. Date of Birth: Enter the eight-digit code for date of birth for this individual under TANF in the format YYYYMMDD. If the individual's date of birth is unknown and the individual's family affiliation code is not ''1,'' enter the code ''99999999''.

16. Social Security Number: Enter the nine-digit Social Security Number for the individual in the format nnnnnnnnn. If the social security number is unknown and the individual's family affiliation code is not ''1,'' enter ''999999999''.

17. Race/Ethnicity: Instructions: To allow for the multiplicity of race/ethnicity, please enter the one-digit code for each category of race and ethnicity of the TANF individual. Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

Ethnicity:

a. Hispanic or Latino:

1=Yes, Hispanic or Latino.

2=No.

Race:

b. American Indian or Alaska Native:

1=Yes, American Indian or Alaska Native.

2=No.

c. Asian:

1=Yes, Asian.

2=No.

d. Black or African American:

1=Yes, Black or African American.

2=No.

f. Native Hawaiian or Other Pacific Islander:

1=Yes, Native Hawaiian or Pacific Islander.

2=No.

g. White:

1=Yes, White.

2=No.

18. Gender: Enter the one-digit code that indicates the individual's gender.

1=Male.

2=Female.

19. Received Disability Benefits:

Instructions: The Act specifies five types of disability benefits. For each type of disability benefits, enter the one-digit code that indicates whether or not the individual received the benefit.

a. Received Federal Disability Insurance Benefits Under the Social Security OASDI Program (Title II of the Social Security Act):

Enter the one-digit code that indicates the adult received Federal disability insurance benefits for the reporting month (or the last month of TANF assistance). This item is not required to be coded for a child.

1=Yes, received Federal disability insurance.

2=No.

b. Receives Benefits Based on Federal Disability Status under Non-Social Security Act Programs: These programs include Veteran's disability benefits, Worker's disability compensation, and Black Lung Disease disability benefits. Enter the one-digit code that indicates the individual received benefits based on Federal disability status for the reporting month (or the last month of TANF assistance). This data element should be coded for each adult and child with family affiliation code ''1''.

1=Yes, received benefits based on Federal disability status.

2=No.

c. Received Aid to the Permanently and Totally Disabled Under Title XIV–APDT of the Social Security Act: Enter the one-digit code that indicates the adult received aid under a State plan approved under Title XIV for the reporting month (or the last month of TANF assistance). This item is not required to be coded for a child.

1=Yes, received aid under Title XIV–APDT.

2=No.

d. Received Aid to the Aged, Blind, and Disabled Under Title XVI–AABD of the Social Security Act: Enter the one-digit code that indicates the adult received aid under a State plan approved under Title XVI–AABD for the reporting month (or the last month of TANF assistance). This item is not required to be coded for a child.

1=Yes, received aid under Title XVI–AABD.

2=No.

e. Received Supplemental Security Income Under Title XVI–SSI of the Social Security Act: Enter the one-digit code that indicates the individual received aid under a State plan approved under Title XVI–SSI for the reporting month (or the last month of TANF assistance). This data element should be coded for each adult and child with family affiliation code ''1''.

1=Yes, received aid under Title XVI–SSI.

2=No.

20. Marital Status: Enter the one-digit code for the marital status of the adult recipient. Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

1=Single, never married.

2=Married, living together.

3=Married, but separated.

4=Widowed.

5=Divorced.

21. Relationship to Head-of-Household:

Instruction: Enter the two-digit code that shows the individual's relationship (including by marriage) to the head of the household, as defined by the Food Stamp

Program or as determined by the State (Tribe), (*i.e.,* the relationship to the principal person of each person living in the household.) If a minor child head-of-household, enter code ''01''.

01=Head-of-household.
02=Spouse.
03=Parent.
04=Daughter or son.
05=Stepdaughter or stepson.
06=Grandchild or great grandchild.
07=Other related person (brother, niece, cousin).
08=Foster child.
09=Unrelated child.
10=Unrelated adult.

22. Parent With Minor Child in the Family:

Guidance: A parent with a minor child in the family may be a natural parent, adoptive parent, or step-parent of a minor child in the family. Reporting of this data element is optional for individuals whose family affiliation code is 3, 4, or 5.

Instruction: Enter the one-digit code that indicates the individual's parental status.

1=Yes, a parent with a minor child in the family.
2=No.

23. Needs of a Pregnant Woman: Some States (Tribes) consider the needs of a pregnant woman in determining the amount of assistance that the TANF family receives. If the individual was pregnant and the needs associated with this pregnancy were considered in determining the amount of assistance for the last month of TANF assistance, enter a ''1'' for this data element. Otherwise enter a ''2'' for this data element. This data element is applicable only for individuals whose family affiliation code is 1.

1=Yes, additional needs associated with pregnancy were considered in determining the amount of assistance.
2=No.

24. Educational Level: Enter the two-digit code to indicate the highest level of education attained by the individual. Unknown is not an acceptable code for individuals whose family affiliation code is ''1''. Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

01—11=Grade level completed in primary/secondary school including secondary level vocational school or adult high school.
12=High school diploma, GED, or National External Diploma Program.
13=Awarded Associate's Degree.
14=Awarded Bachelor's Degree.
15=Awarded graduate degree (Master's or higher).
16=Other credentials (degree, certificate, diploma, etc.).
98=No formal education.
99=Unknown.

25. Citizenship/Alienage:

Instruction: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) citizenship/alienage. Unknown is not an acceptable code for an individual whose family affiliation code is ''1''. Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

1=U. S. citizen, including naturalized citizens.
2=Qualified alien.
9=Unknown.

26. Number of Months Countable toward Tribal Time Limit: Enter the number of months countable toward the adult's (or minor child head-of-household's) Tribal time limit based on assistance received from (1) the Tribe and (2) from other Tribes or from States. Reporting of this data element is optional for individuals whose family affiliation code is 2, 3, 4, or 5.

27. Number of Countable Months Remaining Under Tribe's Time Limit: Enter the number of months that remain countable toward the adult's (or minor child head-of-household's) Tribal time limit. Reporting of this data element is optional for individuals whose family affiliation code is 2, 3, 4, or 5.

28. Employment Status: Enter the one-digit code that indicates the adult's (or minor child head-of-household's) employment status. Leave this field blank for other minor children. Reporting of this data element is optional for individuals whose family affiliation code is 4 or 5.

1=Employed.
2=Unemployed, looking for work.
3=Not in labor force (*i.e.,* unemployed and not looking for work, includes discouraged workers).

29. Amount of Earned Income: Enter the amount of the adult's (or minor child head-of-household's) earned income for the last month on assistance or for the month used to budget for the last month on assistance.

30. Amount of Unearned Income: Enter the dollar amount of the individual's unearned income for the last month on assistance or for the month used to budget for the last month on assistance.

Appendix C—TANF Aggregated Data Collection for Families Applying for, Receiving, and No Longer Receiving Assistance Under the TANF Program

Instructions and Definitions

General Instruction: The State agency or Tribal grantee is to collect and report data for each data element, unless explicitly instructed to leave the field blank. Monthly caseload counts (*e.g.,* number of families, number of two-parent families, and number of closed cases) and number of recipients must be unduplicated monthly totals. States and Tribal grantees may use samples to estimate the monthly totals only for data elements #4, #5, #6, #15, #16, and #17.

1. State FIPS Code: Tribal grantees should enter ''00'' or leave blank.

2. Tribal Code: For Tribal grantees only, enter the three-digit Tribal code that represents your Tribe. See Appendix E of the TANF Sampling and Statistical Methods Manual for a complete listing of Tribal Codes. If there appears to be no code for your Tribe, immediately contact the Director, Division of Tribal Services, Office of Community Services. Newly formed consortiums must contact the Division to obtain a code. State agencies should leave this field blank.

3. Calendar Quarter: The four calendar quarters are as follows:

1=First quarter—January–March.
2=Second quarter—April–June.
3=Third quarter—July–September.
4=Fourth quarter—October–December.

Enter the four-digit year and one-digit quarter code (in the format YYYYQ) that identifies the calendar year and quarter for which the data are being reported (*e.g.,* first quarter of 1997 is entered as ''19971'').

Applications

Guidance: The term ''application'' means the action by which an individual indicates in writing to the agency administering the State (or Tribal) TANF Program his/her desire to receive assistance.

Instruction: All counts of applications should be unduplicated monthly totals.

4. Total Number of Applications: Enter the total number of approved and denied applications received for each month of the quarter. For each month in the quarter, the total in this item should equal the sum of the number of approved applications (in item #5) and the number of denied applications (in item #6). The monthly totals for this element may be estimated from samples.

A. First Month:
B. Second Month:
C. Third Month:

5. Total Number of Approved Applications: Enter the number of applications approved during each month of the quarter. The monthly totals for this element may be estimated from samples.

A. First Month:
B. Second Month:
C. Third Month:

6. Total Number of Denied Applications: Enter the number of applications denied (or otherwise disposed of) during each month of the quarter. The monthly totals for this element may be estimated from samples.

A. First Month:
B. Second Month:
C. Third Month:

Active Cases

For purposes of completing this report, include all TANF eligible cases receiving assistance (*i.e.,* cases funded under the TANF block grant) as cases receiving assistance under the Tribal TANF Program. All counts of families and recipients should be unduplicated monthly totals.

7. Total Amount of Assistance: Enter the dollar value of all assistance (cash and non-cash) provided to TANF families under the State (Tribal) TANF Program for each month of the quarter. Round the amount of assistance to the nearest dollar.

A. First Month:
B. Second Month:
C. Third Month:

8. Total Number of Families: Enter the number of families receiving assistance under the State (Tribal) TANF Program for each month of the quarter. The total in this item should equal the sum of the number of two-parent families (in item #9), the number of one-parent families (in item #10) and the number of no-parent families (in item #11).

A. First Month:
B. Second Month:
C. Third Month:

9. Total Number of Two-parent Families: Enter the total number of 2-parent families receiving assistance under the State (Tribal) TANF Program for each month of the quarter.

A. First Month:
B. Second Month:
C. Third Month:

10. Total Number of One-Parent Families: Enter the total number of one-parent families receiving assistance under the State (Tribal) TANF Program for each month of the quarter.
A. First Month:
B. Second Month:
C. Third Month:

11. Total Number of No-Parent Families: Enter the total number of no-parent families receiving assistance under the State (Tribal) TANF Program for each month of the quarter.
A. First Month:
B. Second Month:
C. Third Month:

12. Total Number of Recipients: Enter the total number of recipients receiving assistance under the State (Tribal) TANF Program for each month of the quarter. The total in this item should equal the sum of the number of adult recipients (in item #13) and the number of child recipients (in item #14).
A. First Month:
B. Second Month:
C. Third Month:

13. Total Number of Adult Recipients: Enter the total number of adult recipients receiving assistance under the State (Tribal) TANF Program for each month of the quarter.
A. First Month:
B. Second Month:
C. Third Month:

14. Total Number of Child Recipients: Enter the total number of child recipients receiving assistance under the State (Tribal) TANF Program for each month of the quarter.
A. First Month:
B. Second Month:
C. Third Month:

15. Total Number of Noncustodial Parents Participating in Work Activities: Enter the total number of noncustodial parents participating in work activities (even if not receiving assistance) under the State (Tribal) TANF Program for each month of the quarter. The monthly totals for this element may be estimated from samples.
A. First Month:
B. Second Month:
C. Third Month:

16. Total Number of Births: Enter the total number of births in families receiving assistance under the State (Tribal) TANF Program for each month of the quarter. The monthly totals for this element may be estimated from samples.
A. First Month:
B. Second Month:
C. Third Month:

17. Total Number of Out-of-Wedlock Births: Enter the total number of out-of-wedlock births in families receiving assistance under the State (Tribal) TANF Program for each month of the quarter. The monthly totals for this element may be estimated from samples. Tribes should report this data based on their historical cultural interpretation of out-of-wedlock.
A. First Month:
B. Second Month:
C. Third Month:

Closed Cases

18. Total Number of Closed Cases: Enter the total number of closed cases for each month of the quarter.
A. First Month:
B. Second Month:
C. Third Month:

PART 287—THE NATIVE EMPLOYMENT WORKS (NEW) PROGRAM

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Authority: 42 U.S.C. 612.

Subpart A—General NEW Provisions

§ 287.1 What does this part cover?

(a) The regulations in this part prescribe the rules for implementing section 412(a)(2) of the Social Security Act (the Act), as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. 104–193) and the Balanced Budget Act of 1997 (Pub. L. 105–33).

(b) Section 412(a)(2) of the Act, as amended, authorizes the Secretary to issue grants to eligible Indian tribes to operate a program that makes work activities available to ''such population and such service area or areas as the tribe specifies.''

(c) We call this Tribal work activities program the Native Employment Works (NEW) program.

(d) These regulations specify the Tribes who are eligible to receive NEW Program funding. They also prescribe requirements for: funding; program plan development and approval; program design and operation; and data collection and reporting.

§ 287.5 What is the purpose and scope of the NEW Program?

The purpose of the NEW Program is to provide eligible Indian tribes, including Alaska Native organizations,

the opportunity to provide work activities and services to their needy clients.

§ 287.10 What definitions apply to this part?

The following definitions apply to this part:

ACF means the Administration for Children and Families;

Act means the Social Security Act, unless we specify otherwise;

Alaska Native organization means an Alaska Native village, or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), that is eligible to operate a Federal program under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450);

Consortium means a group of Tribes working together for the same identified purpose and receiving combined NEW funding for that purpose.

Department means the Department of Health and Human Services;

Division of Tribal Services (DTS) means the unit in the Office of Community Services within the Department's Administration for Children and Families that has as its primary responsibility the administration of the Tribal family assistance program, called the Tribal Temporary Assistance for Needy Families (TANF) program, and the Tribal work program, called the Native Employment Works (NEW) program, as authorized by section 412(a);

Eligible Indian tribe means an Indian tribe, a consortium of Indian tribes, or an Alaska Native organization that operated a Tribal Job Opportunities and Basic Skills Training (JOBS) program in fiscal year 1995 under section 482(i) of the Act, as in effect during that fiscal year;

Fiscal year means the 12-month period beginning on October 1 of the preceding calendar year and ending on September 30;

FY means fiscal year;

Indian, Indian tribe, and Tribal organization—The terms Indian, Indian tribe, and Tribal organization have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b);

Native Employment Works Program means the Tribal work program under section 412(a)(2) of the Act;

NEW means the Native Employment Works Program;

Program Year means, for the NEW Program, the 12-month period beginning on July 1 of the calendar year and ending on June 30;

PRWORA means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–193;

Public Law 102–477 refers to the Indian Employment, Training and Related Services Demonstration Act of 1992, whose purpose is to provide for the integration of employment, training and related services to improve the effectiveness of those services;

Secretary means the Secretary of the Department of Health and Human Services;

State means, except as otherwise specifically provided, the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa;

TANF means the Temporary Assistance for Needy Families Program;

Temporary Assistance for Needy Families Program means a family assistance grant program operated either by a Tribe under section 412(a)(1) of the Act or by a State under section 403 of the Act;

Tribal TANF program means a Tribal program subject to the requirements of section 412 of the Act which is funded by TANF funds on behalf of eligible families;

We (and any other first person plural pronouns) refers to The Secretary of Health and Human Services, or any of the following individuals or organizations acting in an official capacity on the Secretary's behalf: The Assistant Secretary for Children and Families, the Regional Administrators for Children and Families, the Department of Health and Human Services, and the Administration for Children and Families.

Subpart B—Eligible Tribes

§ 287.15 Which Tribes are eligible to apply for NEW Program grants?

To be considered for a NEW Program grant, a Tribe must be an ''eligible Indian tribe.'' An eligible Indian tribe is an Indian tribe or Alaska Native organization that operated a Job Opportunities and Basic Skills Training (JOBS) program in FY 1995.

§ 287.20 May a Public Law 102–477 Tribe operate a NEW Program?

Yes, if the Tribe is an ''eligible Indian tribe.''

§ 287.25 May Tribes form a consortium to operate a NEW Program?

(a) Yes, as long as each Tribe forming the consortium is an ''eligible Indian tribe.''

(b) To apply for and conduct a NEW Program, the consortium must submit a plan to ACF.

(c) The plan must include a copy of a resolution from each Tribe indicating its membership in the consortium and authorizing the consortium to act on its behalf in regard to administering a NEW Program. If an Alaska Native organization forms a consortium, submission of the required resolution from the governing board of the organization is sufficient to satisfy this requirement.

§ 287.30 If an eligible consortium breaks up, what happens to the NEW Program grant?

(a) If a consortium should break up or any Tribe withdraws from a consortium, it will be necessary to allocate unobligated funds and future grants among the Tribes that were members of the consortium, if each individual Tribe obtains ACF approval to continue to operate a NEW Program.

(b) Each withdrawing Tribe must submit to ACF a copy of the Tribal resolution that confirms the Tribe's decision to withdraw from the consortium and indicates whether the Tribe elects to continue its participation in the program.

(c) The allocation can be accomplished by any method that is recommended and agreed to by the leaders of those Tribes.

(d) If no recommendation is made by the Tribal leaders or no agreement is reached, the Secretary will determine the allocation of funds based on the best available data.

Subpart C—NEW Program Funding

§ 287.35 What grant amounts are available under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) for the NEW Program?

Each Tribe shall receive a grant in an amount equal to the amount received by the Tribe in FY 1994 under section 482(i) of the Act (as in effect during FY 1994).

§ 287.40 Are there any matching funds requirements with the NEW Program?

No, Tribal grantees are not required to match NEW Federal funds.

§ 287.45 How can NEW Program funds be used?

(a) NEW grants are for making work activities available to such population as the Tribe specifies.

(b) NEW funds may be used for work activities as defined by the Tribal grantee.

(c) Work activities may include supportive services necessary for assisting NEW Program participants in preparing for, obtaining, and/or retaining employment.

§ 287.50 What are the funding periods for NEW Program grants?

NEW Program funds are for operation of the NEW Program for a 12-month period from July 1 through June 30.

§ 287.55 What time frames and guidelines apply regarding the obligation and liquidation periods for NEW Program funds?

(a) NEW Program funds provided for a FY are for use during the period July 1 through June 30 and must be obligated no later than June 30. Carry forward of an unobligated balance of NEW funds is not permitted. A NEW fund balance that is unobligated as of June 30 will be returned to the Federal government through the issuance of a negative grant award. Unobligated funds are to be reported on the SF–269A that Tribes must submit within 30 days after the funding period, *i.e.,* no later than July 30. This report is called the interim financial report.

(b) A Tribe must liquidate all obligations incurred under the NEW Program grant awards not later than one year after the end of the obligation period, *i.e.,* no later than June 30 of the following FY. An unliquidated balance at the close of the liquidation period will be returned to the Federal government through the issuance of a negative grant award. Unliquidated obligations are to be reported on the SF–269A that Tribes must submit within 90 days after the liquidation period, *i.e.,* by September 28. This report is called the final financial report.

§ 287.60 Are there additional financial reporting and auditing requirements?

(a) The reporting of expenditures are generally subject to the requirements of 45 CFR 92.41.

(b) NEW Program funds and activities are subject to the audit requirement of the Single Audit Act of 1984 (45 CFR 92.26).

(c) A NEW Program grantee must comply with all laws, regulations, and Departmental policies that govern submission of financial reports by recipients of Federal grants.

(d) Improper expenditure claims under this program are subject to disallowance.

(e) If a grantee disagrees with the Agency's decision to disallow funds, the grantee may follow the appeal procedures at 45 CFR Part 16.

§ 287.65 What OMB circulars apply to the NEW Program?

NEW Programs are subject to the following OMB circulars where applicable: A–87 ''Cost Principles for State, Local, and Indian Tribal Governments,'' A–122 ''Cost Principles for Non-Profit Organizations,'' and A–133 ''Audits of States and Local Governments.''

Subpart D—Plan Requirements

§ 287.70 What are the plan requirements for the NEW Program?

(a) To apply for and conduct a NEW Program, a Tribe must submit a plan to ACF.

(b) The plan must identify the agency responsible for administering the NEW Program and include a description of the following:

(1) Population to be served;

(2) Service area;

(3) Client services;

(4) Work activities to be provided;

(5) Supportive and job retention services to be provided;

(6) Anticipated program outcomes, and the measures the Tribe will use to determine them; and

(7) Coordination activities conducted and expected to be conducted with other programs and agencies.

(c) The plan must also describe how the Tribe will deliver work activities and services.

(d) The format is left to the discretion of each NEW grantee.

§ 287.75 When does the plan become effective?

NEW plans, which are three-year plans, become effective when approved by the Secretary. The plans are usually operative the beginning of a NEW Program year, July 1.

§ 287.80 What is the process for plan review and approval?

(a) A Tribe must submit its plan to the ACF Regional Office, with a copy sent to the Division of Tribal Services, Office of Community Services, Administration for Children and Families, Attention: Native Employment Works Team.

(b) To receive funding by the beginning of the NEW Program year (July 1), a Tribe must submit its plan by the established due date.

(c) ACF will complete its review of the plan within 45 days of receipt.

(d) After the plan review has occurred, if the plan is approvable, ACF will approve the plan, certifying that the plan meets all necessary requirements. If the plan is not approvable, the Regional Office will notify the Tribe regarding additional action needed for plan approval.

§ 287.85 How is a NEW plan amended?

(a) If a Tribe makes substantial changes in its NEW Program plan or operations, it must submit an amendment for the changed section(s) of the plan to the appropriate ACF Regional Office for review and approval, with a copy sent to the Division of Tribal Services, Office of Community Services, Administration of Children and Families, Attention: Native Employment Works Team. The review will verify consistency with section 412(a)(2) of the Act.

(b) A substantial change is a change in the agency administering the NEW Program, a change in the designated service area and/or population, a change in work activities provided or a change in performance standards.

(c) A substantial change in plan content or operations must be submitted to us no later than 45 days prior to the proposed implementation date.

(d) ACF will complete the review of the amended plan within 45 days of receipt.

(e) An amended plan becomes effective when it is approved by the Secretary.

§ 287.90 Are Tribes required to complete any certifications?

Yes. A Tribe must include in its NEW Program plan the following four certifications and any additional certifications that the Secretary prescribes in the planning guidance: Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions; Certification Regarding Drug Free Workplace Requirements for Grantees Other Than Individuals; Certification Regarding Tobacco Smoke, and Assurances—Non-Construction Programs.

§ 287.95 May a Tribe operate both a NEW Program and a Tribal TANF program?

Yes. However, the Tribe must adhere to statutory and regulatory requirements of the individual programs.

§ 287.100 Must a Tribe that operates both NEW and Tribal TANF programs submit two separate plans?

Yes. Separate plans are needed to reflect different program and plan requirements as specified in the statute and in plan guidance documents issued by the Secretary for each program.

Subpart E—Program Design and Operations

§ 287.105 What provisions of the Social Security Act govern the NEW Program?

NEW Programs are subject only to those requirements at section 412(a)(2) of the Act, as amended by PRWORA, titled ''Grants for Indian Tribes that Received JOBS Funds.''

§ 287.110 Who is eligible to receive assistance or services under a Tribe's NEW Program?

(a) A Tribe must specify in its NEW Program plan the population and service area to be served. In cases where a Tribe designates a service area for its NEW Program that is different from its Bureau of Indian Affairs (BIA) service area, an explanation must be provided.

(b) A Tribe must include eligibility criteria in its plan and establish internal operating procedures that clearly specify the criteria to be used to establish an individual's eligibility for NEW services. The eligibility criteria must be equitable.

§ 287.115 When a NEW grantee serves TANF recipients, what coordination should take place with the Tribal or State TANF agency?

The Tribe should coordinate with the Tribal or State TANF agency on:

(a) Eligibility criteria for TANF recipients to receive NEW Program services;

(b) Exchange of case file information;

(c) Changes in client status that result in a loss of cash assistance, food stamps, Medicaid or other medical coverage;

(d) Identification of work activities that may meet Tribal or State work participation requirements;

(e) Resources available from the Tribal or State TANF agency to ensure efficient delivery of benefits to the designated service population;

(f) Policy for exclusions from the TANF program (*e.g.,* criteria for exemptions and sanctions);

(g) Termination of TANF assistance when time limits become effective;

(h) Use of contracts in delivery of TANF services;

(i) Prevention of duplication of services to assure the maximum level of services is available to participants;

(j) Procedures to ensure that costs of other program services for which welfare recipients are eligible are not shifted to the NEW Program; and

(k) Reporting data for TANF quarterly and annual reports.

§ 287.120 What work activities may be provided under the NEW Program?

(a) The Tribe will determine what work activities are to be provided.

(b) Examples of allowable activities include, but are not limited to: Educational activities, alternative education, post secondary education, job readiness activity, job search, job skills training, training and employment activities, job development and placement, on-the-job training (OJT), employer work incentives related to OJT, community work experience, innovative approaches with the private sector, pre/post employment services, job retention services, unsubsidized employment, subsidized public or private sector employment, community service programs, entrepreneurial training, management training, job creation activities, economic development leading to job creation, and traditional subsistence activities.

§ 287.125 What supportive and job retention services may be provided under the NEW Program?

The NEW Program grantee may provide, pay for or reimburse expenses for supportive services, including but not limited to transportation, child care, traditional or cultural work related services, and other work or family sufficiency related expenses that the Tribe determines are necessary to enable a client to participate in the program.

§ 287.130 Can NEW Program activities include job market assessments, job creation and economic development activities?

(a) A Tribe may conduct job market assessments within its NEW Program. These might include the following:

(1) Consultation with the Tribe's economic development staff or leadership that oversees the economic and employment planning for the Tribe;

(2) Consultation with any local employment and training program, Workforce Development Boards, One-Stop Centers, or planning agencies that have undertaken economic and employment studies for the area in which the Tribe resides;

(3) Communication with any training, research, or educational agencies that have produced economic development plans for the area that may or may not include the Tribe; and

(4) Coordination with any State or local governmental agency pursuing economic development options for the area.

(b) The Tribe's NEW Program may engage in activities and provide services to create jobs and economic opportunities for its participants. These services should be congruous with any available local job market assessments and may include the following:

(1) Tribal Employment Rights Office (TERO) services;

(2) Job creation projects and services;

(3) Self-employment;

(4) Self-initiated training that leads a client to improved job opportunities and employment;

(5) Economic development projects that lead to jobs, improved employment opportunities, or self-sufficiency of program participants;

(6) Surveys to collect information regarding client characteristics; and

(7) Any other development and job creation activities that enable Tribal members to increase their economic independence and reduce their need for benefit assistance and supportive services.

§ 287.135 Are bonuses, rewards and stipends allowed for participants in the NEW Program?

Bonuses, stipends, and performance awards are allowed. However, such allowances may be counted as income in determining eligibility for some TANF or other need-based programs.

§ 287.140 With whom should the Tribe coordinate in the operation of its work activities and services?

The administration of work activities and services provided under the NEW Program must ensure that appropriate coordination and cooperation is maintained with the following entities operating in the same service areas as the Tribe's NEW Program:

(a) State, local and Tribal TANF agencies, and agencies operating employment and training programs;

(b) Any other agency whose programs impact the service population of the NEW Program, including employment, training, placement, education, child care, and social programs.

§ 287.145 What measures will be used to determine NEW Program outcomes?

Each grantee must develop its own performance standards and measures to ensure accountability for its program results. A Tribe's program plan must identify planned program outcomes and the measures the Tribe will use to determine them. ACF will compare planned outcomes against outcomes reported in the Tribe's annual reports.

Subpart F—Data Collection and Reporting Requirements

§ 287.150 Are there data collection requirements for Tribes that operate a NEW Program?

(a) Yes, the Tribal agency or organization responsible for operation of a NEW Program must collect data and submit reports as specified by the Secretary.

(b) A NEW Program grantee must establish and maintain efficient and effective record-keeping systems to provide accurate and timely information regarding its service population.

(c) Required reports will provide Tribes, the Secretary, Congress, and other interested parties with information to assess the success of the NEW Program in meeting its goals. Also, the reports will provide the Secretary with information for monitoring program and financial operations.

§ 287.155 What reports must a grantee file with the Department about its NEW Program operations?

(a) Each eligible Tribe must submit an annual report that provides a summary of program operations.

(b) The Secretary has developed an annual operations report (OMB clearance number 0970–0174). The report specifies the data elements on which grantees must report, including elements that provide information regarding the number and characteristics of those served by the NEW Program. This report is in addition to any financial reports required by law, regulations, or Departmental policies.

(c) The report form and instructions are distributed through ACF's program instruction system.

(d) The program operations report will be due September 28th, 90 days after the close of the NEW Program year.

§ 287.160 What reports must a grantee file regarding financial operations?

(a) Grantees will use SF–269A to make an annual financial report of expenditures for program activities and services.

(b) Two annual financial reports will be due to the appropriate Regional Office. The interim SF–269A is due no later than July 30, *i.e.,* 30 days after the end of the obligation period. The final SF–269A is due 90 days after the end of the liquidation period.

§ 287.165 What are the data collection and reporting requirements for Public Law 102–477 Tribes that consolidate a NEW Program with other programs?

(a) Currently, there is a single reporting system for all programs operated by a Tribe under Public Law 102–477. This system includes a program report, consisting of a narrative report, a statistical form, and a financial report.

(1) The program report is required annually and submitted to BIA, as the lead Federal agency and shared with DHHS and DOL.

(2) The financial report is submitted on a SF–269A to BIA.

(b) Information regarding program and financial operations of a NEW Program administered by a Public Law 102–477 Tribe will be captured through the existing Public Law 102–477 reporting system.

§ 287.170 What are the data collection and reporting requirements for a Tribe that operates both the NEW Program and a Tribal TANF program?

Tribes operating both NEW and Tribal TANF programs must adhere to the separate reporting requirements for each program. NEW Program reporting requirements are specified in §§ 287.150–287.170.

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Federal Register

Friday,
February 18, 2000

Part III

National Credit Union Administration

12 CFR Parts 702, 741 and 747
Prompt Corrective Action; Final Rule

12 CFR Part 702
Prompt Corrective Action; Risk-Based; Net Worth Requirement; Proposed Rule

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 702, 741 and 747

Prompt Corrective Action

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: In 1998, Congress amended the Federal Credit Union Act to establish minimum capital standards for federally-insured credit unions and to require the NCUA Board to adopt, by regulation, a system of ''prompt corrective action'' to restore the capital level of credit unions which become inadequately capitalized. The NCUA Board issued a proposed rule combining the components of prompt corrective action expressly prescribed by statute with those the statute required NCUA to develop to suit the distinctive needs and characteristics of credit unions. As revised to reflect public comments and to incorporate other improvements, the final rule establishes a comprehensive framework of mandatory and discretionary supervisory actions indexed to five statutory net worth categories; an alternative system of prompt corrective action for credit unions which meet the statutory definition of ''new''; conforming reserve and dividend payment requirements; and procedures for reviewing and enforcing directives imposing prompt corrective action.

DATES: Effective August 7, 2000.

FOR FURTHER INFORMATION CONTACT: Herbert S. Yolles, Deputy Director, Office of Examination and Insurance, (703) 518–6360; or Steven W. Widerman, Trial Attorney, Office of General Counsel, (703) 518–6557, at National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Credit Union Membership Access Act

On August 7, 1998, Congress enacted the Credit Union Membership Access Act, Pub. L. 105–219, 112 Stat. 913 (1998). Section 301 of the statute added a new section 216 to the Federal Credit Union Act (''FCUA''), 12 U.S.C. 1790d (hereinafter referred to as ''CUMAA'' or ''the statute'' and cited as ''§ 1790d''). Section 1790d requires the NCUA Board to adopt by regulation a system of ''prompt corrective action'' (''PCA'') to restore the net worth of federally-insured ''natural person'' credit unions which become inadequately capitalized. The purpose of PCA is to ''resolve the problems of insured credit unions at the least possible long-term loss to the [National Credit Union Share Insurance Fund (''NCUSIF'')].'' § 1790d(a)(1).

The statute designates three principal components of PCA: (1) A framework combining mandatory actions prescribed by statute with discretionary actions developed by NCUA; (2) an alternative system of PCA to be developed by NCUA for credit unions which CUMAA defines as ''new''; and (3) a risk-based net worth requirement to apply to credit unions which NCUA defines as ''complex.'' The first and second principal components are the subject of this final rule. In formulating the rule, NCUA was required to consult with the Secretary of the Treasury, the Federal banking agencies, and State officials having jurisdiction over federally-insured, State-chartered credit unions. CUMAA § 301(c).

For credit unions other than those which meet the statutory definition of a ''new'' credit union, CUMAA mandated a framework of mandatory and discretionary supervisory actions indexed to five statutory net worth categories. The mandatory actions and conditions triggering conservatorship and liquidation are expressly prescribed by statute. § 1790d(e), (f), (g), (i); 12 U.S.C. 1786(h)(1)(F), 1786(a)(3)(A)(1). To supplement the mandatory actions, the statute charged NCUA with developing discretionary actions which are ''comparable'' [1] to the ''discretionary safeguards'' available under section 38 of the Federal Deposit Insurance Act (''FDIA § 38'')—the statute that applies PCA to other federally-insured depository institutions.[2] 12 U.S.C. 1831o; § 1790d(b)(1)(A); S. Rep. No. 193, 105th Cong., 2d Sess. 12 (1998) (S. Rep.); H.R. Rep. No. 472, 105th Cong., 2d Sess. 23 (1998) (H. Rep.).

For credit unions which CUMAA defines as ''new''—those which have been in operation less than ten years and have $10 million or less in assets—the statute directed NCUA to develop an alternative system of PCA to apply in lieu of the system of PCA for all other federally-insured credit unions. § 1790d(b)(2)(A); *see also* U.S. Dept. of Treasury, *Credit Unions* (Washington, D.C. 1997) at 79. Although CUMAA prescribes no specific attributes for this component of PCA, it instructs NCUA to recognize that ''new'' credit unions initially have no net worth, need reasonable time to accumulate net worth, and need incentives to become ''adequately capitalized'' by the time they reach either ten years in operation or exceed $10 million in assets (*i.e.,* no longer meet the definition of ''new''). § 1790d(b)(2)(B).

For credit unions which NCUA defines as ''complex'' according to the risk level of their portfolios of assets and liabilities, CUMAA directed NCUA to develop an additional, risk-based net worth (''RBNW'') requirement to apply to credit unions in the ''well capitalized'' and ''adequately capitalized'' net worth categories. § 1790d(d)(1). Credit unions which fail to meet their RBNW requirement are classified to the ''undercapitalized'' net worth category. § 1790d(c)(1)(C)(ii). The RBNW requirement for ''complex'' credit unions is the subject of a separate proposed rule found elsewhere in this issue of the **Federal Register**.

In addition to the principal components of PCA, CUMAA required NCUA to implement an independent appeal process by which credit unions and dismissed officials affected by PCA can challenge material supervisory decisions by NCUA staff, § 1790d(k), and to provide notice and an opportunity for a hearing to challenge NCUA Board decisions to reclassify a credit union to a lower net worth category on safety and soundness grounds. § 1790d(h).

Except for the RBNW requirement (which has a separate, later deadline for adopting a final rule, and a later effective date), CUMAA set February 7, 2000, as the deadline for NCUA to adopt a final rule establishing a system of PCA for credit unions, and August 7, 2000, as the effective date of the final rule. CUMAA § 301(d)(1) and (e)(1). With adoption of the final rule, NCUA is required to file a report with Congress explaining how the final rule accommodates the cooperative character of credit unions, CUMAA § 301(f)(1), how it differs from FDIA § 38, and the reasons for those differences. CUMAA § 301(f)(2); S. Rep. at 19; H.R. Rep. at 23.

B. Notice of Proposed Rulemaking

On October 29, 1998, NCUA commenced rulemaking by issuing an Advance Notice of Proposed Rulemaking (''ANPR'') soliciting public comment not only on the RBNW requirement for ''complex'' credit unions (as CUMAA required), but also regarding the alternative system of PCA

[1] ''Comparable'' is defined as ''parallel in substance (though not necessarily identical in detail) and equivalent in rigor.'' S. Rep. at 12.

[2] Section 38 of the Federal Deposit Insurance Act, 12 U.S.C. 1831o, was added by section 131 of the Federal Deposit Insurance Corporation Improvement Act, Pub. L. No. 102–242, 105 Stat. 2236 (1991). The Joint Final Rule implementing FDIA § 38, 12 U.S.C. 1831o, is published at 57 FR 44886 (Sept. 29, 1992).

for ''new'' credit unions and the contents, criteria, and deadlines for submission of a net worth restoration plan. 63 FR 57938 (October 29, 1998); CUMAA § 301(d)(2)(A). The great majority of the 34 comment letters NCUA received by the January 27, 1999, deadline addressed the RBNW requirement for ''complex'' credit unions.

On May 3, 1999, NCUA issued a proposed part 702 establishing an overall system of PCA and an alternative system for ''new'' credit unions, as well as conforming reserve and dividend payment requirements, and an independent process for appealing decisions to impose PCA. 64 FR 27090 (May 18, 1999). The proposed rule reflected comments, which NCUA had received in response to the ANPR, regarding the net worth restoration plan and the alternative system of PCA for ''new'' credit unions.

To make PCA workable, fair and effective in light of the cooperative character of credit unions, *see* S. Rep. at 14, NCUA solicited broad public comment on the proposed rule, emphasizing the need for input on the non-statutory provisions which Congress gave NCUA the authority to develop, and thus, to modify—the contents and criteria for approval of a net worth restoration plan; deadlines for submitting and approving a plan; the alternative system of PCA for ''new'' credit unions; the various discretionary supervisory actions comparable to FDIA § 38; and the procedures for appeal. On August 10, 1999, the NCUA Board extended the comment period on the proposed rule by 15 days, to and including August 31, 1999. 64 FR 44663 (August 17, 1999).

By the close of the comment period, NCUA received 84 public comment letters on the proposed rule. Comments were submitted by 33 federal credit unions, 19 state credit unions, 2 corporate credit unions, 4 credit union industry trade associations, 15 state credit union leagues, 3 banking industry trade associations, an association of state credit union supervisors, a credit union service center (shared branch network), and a state banking commissioner. In addition, one comment letter each was submitted by a law firm, an accounting firm, 2 consultants and a broker-dealer which each service credit union clients.

Many of the comments advocated abandoning or departing drastically from provisions of the proposed rule which Congress expressly prescribed and which, therefore, the NCUA Board lacks discretion to modify.[3] These provisions include the definition of net worth, the structure and corresponding net worth ratios of the five statutory net worth categories, the four ''mandatory supervisory actions,'' and the conditions triggering discretionary and mandatory conservatorship and liquidation. A significant number of comments also addressed the RBNW requirement for ''complex'' credit unions, even though that topic was expressly excluded as a subject for comment.

The preamble to the final rule does not address the comments urging drastic modification of the statutory provisions of the rule, nor those concerning the RBNW requirement.[4] All other comments are analyzed generally in section II. below, except for comments of the banking industry trade associations, which are addressed separately in section H. below.

C. Principal Differences Between Proposed Rule and Final Rule

As revised to incorporate public comments and improvements initiated by NCUA staff, the final rule differs from the proposed rule in the following principal respects:

1. *Quarterly net worth determination.* Under the proposed rule, a credit union's net worth classification was generally determined monthly (to coincide with most credit unions' monthly dividend period). The final rule determines that classification on a quarterly basis, primarily using data from a ''PCA Worksheet'' to be filed with the Call Report. § 702.101.

2. *Notice of change in net worth category.* Under the proposed rule, a credit union was required to notify NCUA whenever its net worth classification declined. The final rule relies on the ''PCA Worksheet'' filed with a credit union's Call Report to notify NCUA of a decline in net worth classification. § 702.101(c)(1). Thus, separate notice to NCUA now is generally required only from semi-annual Call Report filers when the ''PCA Worksheet'' reveals a decline in classification in the first and third quarters for which they do not file a Call Report. § 702.101(c)(2).

3. *Choice of methods to calculate total assets.* To calculate total assets, the proposed rule used the average of total assets as reported on a credit unions most recent four quarterly Call Reports or two semiannual Call Reports, as the case may be. To compensate for seasonal fluctuations in assets, the average over the most recent four quarters is retained in the final rule, but is no longer coupled with Call Report filings. § 702.2(j)(1)(i). To compensate for month-end fluctuations, the final rule adds three options for determining a credit union's total assets—monthly average over the quarter, daily average over the quarter, and quarter-end balance—to use for all purposes other than the RBNW requirement. § 702.2(j)(1)(ii)–(iii). A credit union may elect a method from among the four options to apply for each quarter. § 702.2(j)(2).

4. *Exceptions to asset growth restriction.* Under the proposed rule, the ''mandatory supervisory action'' restricting growth in assets pending approval of a net worth restoration plan was an absolute bar. The final rule excepts from that restriction accounts receivable, accrued income on loans and investments, cash and cash equivalents, and total loans outstanding. § 702.202(a)(3)(ii). However, total loans outstanding under this exception are limited to the sum of total assets plus the quarter-end balance of unused commitments to lend and unused lines of credit. Credit unions which avail themselves of these exceptions cannot offer rates on shares in excess of prevailing market rates, and cannot open new branches. These exceptions are intended to permit a credit union largely to continue normal business operations pending approval of its net worth restoration plan.

5. *''First tier'' and ''second tier'' of ''undercapitalized'' category.* To distinguish between credit unions which are nearly ''adequately capitalized'' (6% net worth ratio) and, in contrast, those which are nearly ''significantly undercapitalized'' (4% net worth ratio), the ''undercapitalized'' category has been divided into a ''first tier'' (5% to 5.99% net worth ratio) and a ''second tier'' (4% to 4.99% net worth ratio). A ''first tier'' credit union is subject to ''discretionary supervisory actions'' (''DSAs'') applicable in the

[3] Examples of such comments include: (1) Impose PCA in response to unsafe and unsound practices rather than a decline in net worth; (2) judge the adequacy of net worth by CAMEL ratings; (3) link the prescribed net worth ratios corresponding to each net worth category to ''a market index''; (4) upgrade net worth category classification to reflect ''favorable financial performance'' unrelated to net worth; (5) exempt ''adequately capitalized'' credit unions from the statutory requirement to transfer earnings to net worth; (6) exempt ''undercapitalized'' credit unions from statutory member business loan (''MBL'') restriction; (7) exempt certain types of MBLs from statutory MBL restriction; (8) redefine ''new'' credit unions as those having *either* $10 million or less in assets *or* less than 10 years in operation, but not both; and (9) give ''new'' credit unions more than 10 years to become ''adequately capitalized.''

[4] For this reason, references to the total number of comments received on a topic may not equal the number of comments specifically discussed in the preamble.

''undercapitalized'' category only if it fails to comply with any of the four ''mandatory supervisory actions'' or fails to implement an approved net worth restoration plan. § 702.202(c). A ''second tier'' credit union is subject to the applicable DSAs regardless of compliance with other requirements of PCA. § 702.202(b).

6. *''Discretionary supervisory actions'' for ''undercapitalized'' credit unions.* The final rule deletes from the ''undercapitalized'' category the discretion to order a new election of a credit union's board of directors, and generally revises the DSAs to more closely parallel the criteria and limitations in the corresponding ''discretionary safeguards'' in FDIA § 38. *E.g.,* §§ 702.202(b)(5), 702.203(b)(10). Under the final rule, NCUA is no longer required to exhaust the other DSAs available in that category before imposing the DSAs requiring dismissal of a director or senior officer, or hiring of a qualified senior officer. § 702.202(b)(7)–(8). In addition, the final rule now permits NCUA to impose ''other action to better carry out the purpose of PCA'' regardless whether that action is ''no more severe'' than any DSA available in that category. § 702.202(b)(9).

7. *''Discretionary supervisory actions'' for ''new'' credit unions.* For ''new'' credit unions only, the final rule makes all fourteen DSAs available if a credit union with a net worth ratio of less than 6% falls short of its quarterly net worth targets, regardless of net worth category classification. § 702.304(b).

8. *Net worth restoration plans.* The proposed rule allowed 45 days to submit a net worth restoration plan and 60 days for NCUA to decide to approve it. Under the final rule, the time for submitting a plan is effectively extended because the 45-day period commences not at quarter-end, but on the effective date of a credit union's net worth classification—the last day of the month following the quarter-end. § 702.206(a)(1). The time for NCUA to decide whether to approve a plan is reduced to 45 days from the date of receipt. § 702.206(f)(1). If no decision is made during that time, the credit union's plan is deemed approved. § 702.206(f)(1). Finally, in the event NCUA authorizes new forms of regulatory capital for credit unions, the availability of that capital to absorb losses is expressly prescribed in the final rule as a factor in evaluating a credit union's net worth restoration plan. § 702.206(e).

9. *Ombudsman input in review of ''discretionary supervisory actions.''* The proposed rule required NCUA to provide a credit union with advance notice of its intention to issue a DSA, and the opportunity to persuade the NCUA Board either not to issue, or to modify, the proposed DSA; and if still issued, to persuade the NCUA Board to modify or rescind that DSA. The final rule enhances these opportunities by permitting credit unions to request NCUA's ombudsman to make a recommendation on its behalf to the NCUA Board. § 747.2002(g).

The final rule will first apply according to the net worth ratio reported in the ''PCA Worksheet'' incorporated in the Call Report due to be filed January 22, 2001, reflecting activity in the fourth quarter of 2000. To acclimate credit unions to PCA, however, a sample ''PCA Worksheet'' with instructions is planned for introduction in September 2000. This will give credit unions the opportunity to determine on a trial basis their pre-PCA net worth classification for the third quarter of 2000.

II. Subpart-by-Subpart Analysis of Comments

To enhance the final rule's user-friendliness, part 702 has been reorganized into five subparts, each of which follows the natural sequence of implementation. In addition, many individual provisions of each subpart have been reorganized and/or rewritten to clarify and simplify implementation.

Following the general provisions which apply to all components of the final rule, Subpart A addresses the five statutory net worth categories and the means by which a credit union determines its classification among them. § 702.101 *et seq.* Subpart B establishes a comprehensive framework of ''mandatory supervisory actions'' (''MSAs'') and DSAs indexed to the five net worth categories, and implements statutory criteria triggering discretionary conservatorship and liquidation, and mandatory liquidation of a ''critically undercapitalized'' credit union. § 702.201 *et seq.* This subpart also sets forth the requirements for a net worth restoration plan. § 702.206. For credit unions which CUMAA defines as ''new,'' subpart C establishes an alternative system of PCA consisting of a separate structure of net worth categories, corresponding MSAs and DSAs, and incentives for ''new'' credit unions to build net worth. § 702.301 *et seq.*

In addition to the substantive components of PCA, subpart D restates reserve and dividend payment requirements, modified to reflect repeal of FCUA § 116, 12 U.S.C. 1762, and to facilitate CUMAA's earnings retention requirement. § 702.401 *et seq.* Finally, subpart L of part 747 establishes procedures for challenging and enforcing NCUA decisions imposing PCA. 12 CFR 747.2001 *et seq.*

A. General Provisions

1. Section 702.1—Authority, Purpose, Scope, et al.

Section 702.1 establishes the statutory authority, purpose, and scope of the implementing regulations for PCA—part 702 and subpart L of part 747. Three commenters suggested expanding the scope of PCA to address problem resolution, unsafe and unsound practices, and administrative actions such as mergers. NCUA lacks the authority to expand the scope of PCA beyond its defining statutory objective—net worth restoration. [5]

2. Section § 702.2—Definitions

Section 702.2 of the proposed rule established definitions for terms used throughout part 702, to which commenters suggested a variety of modifications, as follows:

''*Appropriate regional director.*'' While the proposed rule defined an ''appropriate State official,'' 64 FR at 27108, it lacked a parallel definition for the NCUA regional director having jurisdiction over a federal credit union. In anticipation that certain authority under part 702 will be delegated to NCUA's regional directors, the final rule defines an ''appropriate regional director'' as having ''jurisdiction over federally-insured credit unions in the state where the affected credit union is principally located.'' § 702.2(a).

''*Credit Union.*'' One commenter indicated that readers could inadvertently interpret the proposed definition of a ''credit union,'' 64 FR at 27108, to include both non-federally insured credit unions and corporate credit unions. NCUA agrees and has modified the definition to incorporate the FCUA's definition, 12 U.S.C. 1752(6), which makes clear that part 702 applies to federally-insured ''natural person'' credit unions, regardless whether State- or federally-chartered. § 702.2(c). Corporate credit unions are excluded consistent with CUMAA. 12 U.S.C. 1790d(m).

''*CUSO.*'' The proposed definition of a credit union service organization relied on the definition of a credit union service contract in 12 CFR 701.26. 64 FR at 27108. One commenter predicted an

[5] PCA does expressly address safety and soundness in one respect—a credit union which fails to correct an unsafe or unsound practice or condition may be reclassified to the next lower net worth category. § 1790d(h); §§ 702.102(b), 702.302(d).

unintended exclusion: that CUSOs which meet a non-conforming definition under State law will fall outside the proposed rule's definition. To encompass CUSOs as defined under both federal and State law, the final rule is condensed to incorporate by reference 12 CFR 712, which sets forth the attributes of CUSOs for federally-chartered credit unions, and expanded to include CUSOs as defined ''under [any] state law'' for State-chartered credit unions. § 702.2(d).

''*Net Worth.*'' For the numerator of the net worth ratio, the proposed rule incorporated the definition of ''net worth'' prescribed by CUMAA, § 1790d(o)(2): retained earnings as determined under Generally Accepted Accounting Principles (''GAAP'').[6] 64 FR at 27108. *See also* 12 U.S.C. 1757a(c)(2) (parallel definition of ''net worth''). Independent of suggestions to establish additional sources of net worth (addressed in section A.3. below), nine commenters recommended modifying the proposed definition of that term. Two commenters found the American Institute of Certified Public Accountants (''AICPA'') definition of ''net worth'' to be clearer, yet still consistent with CUMAA.[7] Four commenters advocated including the allowance for loan and lease losses (''ALL'') in ''net worth,'' while another took no position but wished to know whether or not the ALL is included. Two commenters recommended including donated equity in net worth.

In response to these comments, the definition of ''net worth'' is amplified and revised as follows in the final rule. § 702.2(f). First, the definition now refers to ''the retained earnings balance of the credit union *at quarter-end*'' to correspond to the quarterly measurement of the credit union's total assets. *See* §§ 702.2(j), 702.101. Second, the definition incorporates the AICPA definition of retained earnings—''undivided earnings, regular reserves and any other appropriations designated by management or regulatory authorities''—and makes clear that ''net worth'' consists of ''only undivided earnings and appropriations of undivided earnings.'' Thus, ''net worth'' includes amounts the credit union had previously closed from net income into undivided earnings; it excludes balance sheet items which, because they do not meet this criterion, fall outside the GAAP definition of retained earnings. Third, because provisions to the ALL are expense items that reduce undivided earnings, and the ALL is not an appropriation from undivided earnings, the final rule expressly clarifies that ''net worth'' does not include the ALL.

Under GAAP, donations to a credit union in the form of cash or other assets (*e.g.,* fixed assets), which are reported as ''contributions,'' are recognized as revenues of the period. The credit union therefore would close them from net income into undivided earnings. Thus, such donations already are reflected in the credit union's retained earnings balance, thereby satisfying the criterion for inclusion in net worth.[8] In contrast, Regulatory Accounting Practice (''RAP'') treats donations of cash differently than tangible assets. Like GAAP, RAP includes cash donations reported as ''contributions'' in net worth. But RAP treats donations of *tangible* assets as ''donated equity,'' excluding such amounts from current income and undivided earnings. As a result, these donations are not reflected in retained earnings and cannot be included in net worth.[9]

As discussed in section B.2. below, the statutory definition of ''net worth'' does not reflect accumulated unrealized gains and losses on available-for-sale securities (Call Report account no. 945) in the credit union's portfolio.

''*Shares.*'' The proposed rule incorporated the definition of ''insured shares'' in 12 CFR 741.4(b)(2). 64 FR at 27108. The sole comment on this definition urged expanding it to encompass ''jumbo'' certificates of deposit as well as deposit accounts that bear contractual interest. NCUA concurs and has revised the definition of ''shares'' to include any depository account authorized by federal or state law. § 702.2(i).

''*Total assets.*'' To compensate for seasonal fluctuations in total assets, the proposed rule defined ''total assets''—the denominator of the net worth ratio—as the average of total assets reported either in the most recent four quarterly Call Reports or the most recent two semi-annual Call Reports, as the case may be. 64 FR 27108. Two commenters supported the use of averaging of assets in general instead of relying only on the period-end balance. Referring to the ''mandatory supervisory action'' restricting asset growth, a commenter observed that averaging historical data would restrict asset growth more than a simple quarter-end total. In contrast, three commenters supported allowing credit unions to use their discretion to decide the number of months over which to average total assets.

Three commenters insisted that averaging of month-end balances would not sufficiently offset quarter-end distortions in the share balance due to the influx of payroll deposits, and advocated a daily average balance of assets to achieve this objective. Commenters suggested various averaging periods—any three of the last four quarters, the most recent five quarterly Call Reports or most recent three semi-annual Call Reports, and a period of months determined by the credit union not to exceed 24 months.

Two commenters pointed out that the language of two of the MSAs—the transfer of earnings to the regular reserve, and the asset growth restriction—was inconsistent with the proposed definition of ''total assets.'' 64 FR at 27108. Another commenter objected that the proposed definition failed to delineate between the period used to calculate total assets and the effective date of the calculation.

The final rule retains ''the average of the quarter-end balances of the four most recent calendar quarters'' as one option for calculating total assets. § 702.2(j)(1)(i). This method no longer depends on the Call Report fling schedule, however, because all credit unions will be required to complete a quarterly ''PCA Worksheet,'' or otherwise calculate their net worth ratio, regardless whether they file Call Reports quarterly or semiannually. To compensate for transactional fluctuations at month-ends during a quarter, the final rule adds three options for determining a credit union's total assets—monthly average over the quarter, daily average over the quarter, and quarter-end balance-to use for all

[6] CUMAA allows an exception for low income-designated credit unions only: their net worth includes secondary capital accounts that are uninsured and subordinate to all other claims, including claims of creditors, shareholders and the NCUSIF. § 1790d(o)(2)(B). Secondary capital accounts do not fall within the defintion of GAAP retained earnings.

[7] AICPA, *Audits of Credit Unions* (May 1998 ed.) at 121.

[8] A contribution is an unconditional transfer of cash or other assets to an entity or a settlement or cancellation of its liabilities in a voluntary nonreciprocal transfer by another entity acting other than as an owner. Other assets include securities, land, buildings, use of facilities or materials and supplies, intangible assets, services, and unconditional promises to give those items in the future. Statement of Financial Accounting Standards (''SFAS'') No. 116, ''Accounting for Contributions made and Contributions Received,'' provides generally that ''contributions'' received or made are appropriately recognized as either revenues or expenses in the period received or made, at their fair values. This accounting treatment meets the criterion noted above for inclusion in retained earnings or ''net worth.''

[9] This result may influence credit unions to choose GAAP instead of RAP. Once a credit union which follows RAP switches to GAAP, it may make a prior period adjustment that would increase or decrease undivided earnings for the cumulative net amount of the contributions, thereby increasing or decreasing net worth.

purposes other than the RBNW requirement. § 702.2(j)(1).

At the end of each quarter, a credit union may elect a method of calculating ''total assets'' from among the four options the final rule offers. § 702.2(j)(2). The method selected must be used uniformly for that quarter for all purposes under part 702 except the RBNW requirement for ''complex'' credit unions (§§ 702.103–702.106). *Id.*

Finally, a commenter urged NCUA to specify the Call Report accounts that are included in ''net worth,'' and another objected to the regulatory burden involved in computing net worth. To reduce that burden, NCUA plans to include a ''PCA Worksheet'' in the Call Report to facilitate calculating and applying ''total assets'' on a quarter-by-quarter basis under the method chosen. Credit unions which file a Call Report semi-annually will have the option to complete and maintain internally a ''PCA Worksheet'' for the first and third quarters, or to otherwise calculate the net worth ratio. *See* § 702.101(c)(2).

3. Alternative Sources of Capital

By statute, the net worth of credit unions is limited to retained earnings under GAAP, § 1790d(o)(2), which consists exclusively of undivided earnings, regular reserves and any other appropriations designated by management or regulatory authorities. § 702.2(f). The sole exception is that uninsured secondary capital accounts are included in the net worth of low income-designated credit unions. § 1790d(o)(2)(B). This led numerous commenters to urge NCUA to develop and authorize alternative vehicles for raising capital to augment the net worth of ''natural person'' credit unions. The commenters suggested, for example, secondary capital accounts, paid-in-capital accounts, membership capital accounts, net worth certificates, perpetual debt, annual membership fees to be recorded as revenue,[10] and various types of uninsured share accounts.

While NCUA may have the statutory authority to permit new sources of capital,[11] CUMAA's express, limited definition of net worth—retained earnings under GAAP—clearly precludes NCUA from classifying such capital as net worth for PCA purposes. § 1790d(o)(2). As noted earlier, a credit union cannot include in retained earnings items that it had not previously closed from net income into undivided earnings. Except for annual membership fees, none of the proposed alternative sources of capital meets this criterion.

Commenters and others contend that the reason CUMAA expressly includes uninsured secondary capital accounts in the net worth of low income-designated credit unions, § 1790d(o)(2)(B), simply is to confirm that, at present, only those credit unions are authorized to offer secondary capital accounts. This exception for secondary capital, it is claimed, leaves the door open for NCUA to include in net worth other forms of regulatory capital established by NCUA, or authorized by State law and recognized by NCUA. NCUA's research supports the opposite view—that Congress intended to make an exception exclusively for low income-designated credit unions, not generally for yet to be established sources of regulatory capital. To expand the statutory definition of net worth to include proposed new sources of capital would require Congress to amend the FCUA expressly to that effect.

Should experience under part 702 demonstrate that additional sources of capital would be prudent and beneficial for credit unions, NCUA would consider proposals to establish such new forms of ''regulatory capital.'' In that event, NCUA also would consider whether to support Congressional action to include ''regulatory capital'' within the net worth of federally-insured credit unions.

In the interim, NCUA recognizes that regulatory capital, if authorized, would be available to absorb losses which the NCUSIF otherwise would absorb, despite not being included in net worth. To that end, the final rule is revised to establish as a criterion in evaluating net worth restoration plans the type and amount of any forms of regulatory capital as may be established by NCUA regulation, or authorized by State law and recognized by NCUA, which a credit union holds, and its ability to minimize possible long-term losses to the NCUSIF while the credit union takes steps to become ''adequately capitalized.'' § 702.206(e). *See also* § 703.306(d).

Finally, a commenter urged NCUA to establish a cooperative fund to which credit unions could contribute ''net worth'' to be accessed by other credit unions as needed. While it is not appropriate for NCUA to sponsor such a fund, it certainly would be an appropriate private sector initiative for credit unions which are authorized to contribute to such a fund.

B. Subpart A—Net Worth Classification

1. Section 702.3—Net Worth Measures

CUMAA expressly prescribes the exclusive measures which determine a credit union's net worth category classification—a credit union's net worth ratio and, if ''complex,'' its RBNW requirement. § 1790d(c); § 702.101(a). One commenter nonetheless advocated making a credit union's income, as reflected by income simulation models, a factor in determining its net worth category classification, insisting that the net worth ratio is too narrow a measure. Although income simulation models are a valid tool in assessing safety and soundness independently of PCA, CUMAA does not give NCUA discretion to establish additional criteria for determining a credit union's net worth category classification.

2. Section 702.101—Measures and Effective Date of Net Worth Classification

Effective date. The proposed rule provided that a credit union generally would be deemed to have notice of its net worth ratio and corresponding net worth category classification as of ''the last day of the credit union's most recent dividend period for regular shares, but no less frequently than quarterly.'' [12] 64 FR at 27108. Since most credit unions have a monthly dividend period for regular shares, this effectively required monthly measurement of the net worth ratio.

Twenty-five commenters addressed this provision. Two were unable to distinguish between ''notice'' and the ''effective date'' of classification, while one predicted that credit unions will find it difficult to determine net worth on their own. Two commenters supported the ''effective date'' provision while fourteen commenters opposed it. The opponents felt that determining net worth monthly was too frequent and,

[10] FCUA § 109(a) allows federal credit unions to charge ''a uniform entrance fee if required by the board of directors.'' 12 U.S.C. 1759(a).

[11] FCUA § 107 permits NCUA to authorize regulatory capital in the form of shares and subordinated debt. NCUA may authorize a federal credit union to (1) ''receive from its members from other credit unions, from an officer, employee or agent of those nonmember units of Federal, Indian Tribal, or local governments and political subdivisions thereof, * * * [shares, share certificates, and share draft accounts]; subject to such terms, rates and conditions as may be established by the board of directors, *within limitations prescribed by the [NCUA] Board''*; and (2) ''borrow *in accordance with such rules as may be prescribed by the [NCUA] Board,* from any source, in an aggregate amount not exceeding * * * 50 per centum of its paid-in and unimpaired capital and surplus.'' 12 U.S.C. 1757(7), 1757(9) (emphasis added).

[12] In infrequent cases, a credit union would have notice of a decline in its net worth category classification through or as a result of its most recent final report of examination (indicating a flaw in calculating in net worth ratio, for example), or when it was notified by NCUA that it had been reclassified to a lower net worth category on safety and soundness grounds. § 702.101(b)(2)–(3).

therefore, too burdensome. Various alternatives were suggested—quarterly net worth determination, annual net worth determination, net worth determination to coincide with the Call Report periods, modification of the Call Report to incorporate the formula for calculating the net worth ratio, with an abbreviated March 30 and September 31 version of the Call Report for semiannual filers to file. In addition, the commenters insisted that more time is needed between the period-end when net worth is determined and the effective date of classification, when a credit union must undertake the applicable ''mandatory supervisory actions.''

In response to these concerns, NCUA has modified and improved upon the proposed rule in two key ways. First, to reduce the frequency of measuring net worth, the final rule determines a credit union's net worth ratio at the end of each calendar quarter to coincide with the end of the Call Report period, without regard to the credit union's dividend period for regular shares. § 702.101(a). Moreover, to ease the burden of calculating the net worth ratio, NCUA plans to incorporate within the Call Report a ''PCA Worksheet'' which quarterly and semi-annual filers may rely upon to compute the net worth ratio on their own. For the first and third quarters, semiannual filers will have the option to complete and maintain a corresponding ''PCA Worksheet'' (instead of filing it with NCUA) or to otherwise calculate their net worth ratio.

Second, the final rule no longer deems a credit union to ''have notice of its net worth ratio'' as of a certain date, but instead, establishes an ''effective date'' of net worth classification. The ''effective date'' of a credit union's classification within a net worth category—the date by which it must undertake the actions applicable to credit unions in that category—generally is ''the last day of the month following the calendar quarter'' for which the credit union's net worth ratio is determined. § 702.101(b)(1). This extends to approximately thirty days the period between quarter-end and the effective date—more time than is permitted to file the corresponding Call Report.

Notice by credit union of change in net worth category. The proposed rule generally gave credit unions 15 days from the last day of the most recent dividend period for regular shares to notify NCUA of a change in net worth ratio if that change ''places the credit union in a lower net worth category.'' 64 FR 27108. Three commenters urged a role reversal in this regard—that NCUA should inform credit unions when their net worth classification changes. This is no longer necessary because the final rule eases the burden on credit unions substantially by making the period for measuring a credit union's net worth coincide with the Call Report period, and incorporating the ''PCA worksheet'' in the Call Report which already is required to be filed with NCUA (except by semiannual filers for the March 31 and September 30 quarters).

The requirements to notify NCUA of a change in category classification are modified accordingly. The ''PCA Worksheet'' filed with the Call Report will give notice to NCUA of a change in net worth ratio from quarter to quarter, and any resulting change in classification. Thus, credit unions are no longer required to give separate notice to NCUA of a change in net worth category for the quarters for which they file a Call Report. § 702.101(c)(1). This leaves two instances where the final rule requires a credit union to give separate notice to NCUA—semiannual Call Report filers whose net worth classification declines in the first and third quarters, and those whose classification declines due to recalculation of their net worth ratio by or as a result of an examination report. § 702.101(c)(2)–(3). In all cases, written notice to NCUA is required only to report a decline in net worth *category,* not merely a change in net worth ratio.

On a related issue of ''notice,'' one commenter asked whether a less than ''adequately capitalized'' credit union should inform its membership of its net worth category classification. There is no requirement for a credit union to disclose its net worth classification. However, an independent accountant who renders an opinion on the credit union's financial statements, in following Generally Accepted Auditing Standards (GAAS), may choose to disclose the credit union's classification in a footnote. In addition, Call Report data used to calculate a credit union's net worth ratio is publicly available.

Adjustment of net worth ratio. CUMAA's definition of ''net worth''—GAAP retained earnings—does not encompass items of ''other comprehensive income'' such as accumulated unrealized gains and losses on ''available-for-sale'' (AFS) securities in a credit union's investment portfolio (Call Report account no. 945). *See* Statement of Financial Accounting Standards (''SFAS'') No. 130, ''Reporting Comprehensive Income.'' Thus, while such unrealized gains and losses are not reflected in the numerator of the net worth ratio, they *are* reflected in the denominator—total assets. As a result, when the fair value of AFS securities falls, the credit union's net worth ratio is artificially overstated.[13] *See* 64 FR at 27093 & n.8. To remedy this distortion, the proposed rule gave NCUA latitude ''to adjust a credit union's net worth ratio to reflect the impact of accounting adjustments made for items of 'other comprehensive income'.'' 64 FR at 27108.

While five commenters supported this remedy in whole or in part, seventeen predicted that the market volatility of AFS securities would adversely impact net worth. Credit unions wishing not to reflect unrealized losses in net worth, it is claimed, would be tempted to inappropriately classify their securities as ''held-to-maturity'' under SFAS No. 115.[14] NCUA shares this concern. Moreover, its own research discloses that, at present, the proposed adjustment would have a limited impact—just a single credit union would be reclassified to a lower net worth category if the adjustment were applied to reflect an unrealized loss. Therefore, the final rule abandons the ''adjustment of net worth ratio'' provision, leaving the denominator of the net worth ratio unaffected. Yet, to not take account of the impact of material unrealized losses on investment securities, regardless of accounting classification, would pose a relevant, tangible risk to the NCUSIF. Accordingly, NCUA plans to address unrealized losses which are sufficiently material to affect a credit union's net worth classification as a safety and soundness concern.

Reclassification based on supervisory criteria other than net worth. The proposed rule gave NCUA discretion to reclassify a credit union to the next lower net worth category (but not lower than ''significantly undercapitalized'') if it determined, after notice and opportunity for a hearing, that the credit union either was ''in an unsafe or

[13] For example, assume a credit union has retained earnings under GAAP of $6500 and total assets of $100,000; it would have a net worth ratio of 6.5% and would be classified ''adequately capitalized.'' If, during the next quarter, the credit union experiences an $8,000 decrease in the fair value of its AFS securities, that unrealized loss would be reflected in total assets (the denominator of the net worth ratio), reducing them to $92,000, but would not be reflected at all in retained earnings (the numerator of the net worth ratio), which still would be $6500. As a result, the credit union would have a net worth ratio of 7.06% and be classified ''well capitalized'' despite having sustained a decline in the fair value of its AFS securities.

[14] SFAS No. 115, ''Accounting for Certain Investments in Debt and Equity Securities,'' provides for classification of securities as either ''held-to-maturity,'' ''available-for-sale,'' or ''trading.''

unsound condition'' or ''has not corrected an unsafe or unsound practice.'' 64 FR at 27109. Following CUMAA's mandate, this section is modeled on a parallel provision of FDIA § 38. § 1790d(h); 12 U.S.C. 1831o(g).

NCUA received various comments suggesting modifications to the grounds for reclassification under this provision. One advocated establishing precise criteria defining an unsafe or unsound practice or condition to ensure that the discretion to reclassify a credit union to a lower net worth category is exercised equitably. Given the historically subjective and sometimes unique nature of safety and soundness issues, NCUA prefers to review individual situations on a case-by-case basis, rather than to rely on objectively quantifiable standards which might limit the latitude to respond to an unsafe or unsound practice or condition.

Another commenter urged NCUA to revise the reclassification provision to exempt a credit union which is complying with an approved net worth restoration plan. To do so would make section 702.102(b) inconsistent with the parallel provision of FDIA § 38, which CUMAA instructs NCUA to follow. 12 U.S.C. 1831o(g). In addition, CUMAA is clear that PCA is available to address safety and soundness problems in addition to, not instead of, supervisory actions. § 1790d(n); § 702.1(d). In practice, however, adherence to an approved net worth restoration plan which provides for correcting such conditions and problems will mitigate against the need to exercise the discretion to downgrade a credit union.

Two commenters expressed concern about abuse of the reclassification authority. One worried that it will be used as a pretext to force a supervisory assisted merger. Another noted that the proposed provision puts no limit on how frequently within a given period of time a credit union can be reclassified downward, theoretically permitting an ''adequately capitalized'' credit union to be downgraded repeatedly in a relatively short period until it is ''significantly undercapitalized'' on the basis of the same or similar offending practices or conditions.

NCUA acknowledges these concerns, but believes the opportunities for abuse of the reclassification authority are minimal. First, the opportunity to force an assisted merger by reclassification is limited to a single instance—reclassification from ''undercapitalized'' to ''significantly undercapitalized.'' The statutory authority to insist on merger as a last resort to spare the credit union from conservatorship or liquidation is available only in the ''significantly undercapitalized'' and ''critically undercapitalized'' categories, §§ 702.203(c), 702.204(c), and part 702 does not authorize reclassification to the latter category on safety and soundness grounds. § 702.102(b). Second, NCUA is prohibited from delegating its authority to reclassify on safety and soundness grounds. § 1790d(h)(2); § 702.102(c). Absent exceptional circumstances, the NCUA Board does not anticipate using its authority under § 702.102(b) to reclassify a credit union downward by more than a single category in a 12-month period regardless of the variety and number of unsafe or unsound conditions or practices. As a final measure of protection against abuse, subpart L of part 747 provides a reclassified credit union the opportunity for a hearing to challenge the reclassification. § 747.2003.

C. Subpart B—Mandatory Supervisory Actions

1. Section 702.201—Earnings Transfer to Regular Reserve

The first of the four MSAs prescribed by CUMAA requires all but ''well capitalized'' credit unions to annually transfer earnings equivalent to 0.4% of total assets to net worth. § 1790d(e)(1). An exception to that minimum is allowed, subject to periodic review, if necessary to avoid a significant redemption of shares. § 1790d(e)(2). For the purpose of measuring total assets, the proposed rule used the average of total assets as set forth in the most recent four quarterly Call Reports or most recent two semi-annual Call Reports, as the case may be. 64 FR at 27109. The annual sum was to be transferred to the regular reserve at a monthly or quarterly rate corresponding to the dividend period for regular shares, but no less frequently than quarterly. An exception to the 0.4% minimum was permitted on a case-by-case basis, subject to a minimum quarterly review, if the statutory prerequisites were met. *Id.*

Two commenters construed the proposed provision to permit only ''adequately capitalized'' credit unions to seek a reduction below the minimum amount of the earnings transfer, making the rule inconsistent with CUMAA. In fact, a reduction below the minimum percentage equivalent of total assets is available to all credit unions having a net worth of less than 7%. In the final rule, the criteria for approval and review of such a reduction are fully set forth in § 702.201, which applies to ''adequately capitalized'' credit unions.[15] The criteria are incorporated fully by reference in sections 702.202(a)(1), 702.203(a)(1), 702.204(a)(1) which apply to ''undercapitalized,'' ''significantly undercapitalized'' and ''critically undercapitalized'' credit unions, respectively.

Eleven commenters addressed the rate of transfer prescribed in the proposed rule. Three commenters were comfortable with a monthly reserve transfer, but the vast majority contended that the monthly rate was too frequent and too burdensome. One of these suggested that the earnings transfer coincide with the filing of the Call Report.

In response to comments and on NCUA's own initiative, the final rule restructures this MSA to establish a single, uniform schedule for transferring earnings to net worth, to conform with other provisions of the rule. First, the required minimum earnings transfer to the regular reserve now takes place at a uniform quarterly rate of 0.1% of ''total assets for the current quarter,'' without regard to the dividend period for regular shares. § 702.201(a). Second, as the basis for calculating the quarterly equivalent of 0.1% of ''total assets for the current quarter,'' the final rule relies on whichever method of calculating its total assets—the average of the most recent four calendar quarter-end balances, the monthly average over the quarter, the daily average over the quarter, or the quarter-end balance—the credit union has chosen under section 702.2(j).

The final rule bases the quarterly equivalent of 0.1% of total assets on the credit union's ''total assets *for the current quarter,*'' not its total assets solely at the end of the quarter in which it first became ''adequately capitalized'' or lower. This means that the amount of the increase in net worth will fluctuate quarterly as the 0.1% equivalent of total assets is recalculated for each succeeding quarter in which a transfer is required (until the credit union is ''well capitalized''.) As total assets increase or decrease quarter by quarter, the amount represented by 0.1% of assets will fluctuate accordingly. These modifications conform to the Call Report schedule now used to determine

[15] Following the practice originated under former FCUA § 116, 12 U.S.C. 1762(b) (repealed), for seeking ''§ 116 assistance,'' NCUA plans to require credit unions to apply to the appropriate Regional Director when seeking a reduction below the minimum quarterly reserve transfer. At the request of a commenter, the burden of preparing a request for a ''reduction in earnings transfer'' is addressed in the Paperwork Reduction Act notice in section III. below.

net worth classification on a calendar quarter basis.

For example, as shown in Table 1 below, a credit union which declines to ''adequately capitalized'' in the first quarter of 2001 makes no transfer of earnings in that quarter because the effective date of classification is 4/30/2001. The credit union makes the transfer (attributable to the first quarter classification) by the end of the second quarter based on total assets for the then-''current quarter,'' *i.e.,* total assets as of 6/30/2001. Assuming the credit union remains ''adequately capitalized'' in the second and third quarters, the transfer (attributable to each quarter's classification) will be made by the end of the next quarter based on total assets for the then-''current quarter,'' *i.e.,* total assets as of 9/30/2001 and 12/31/2001, respectively.

TABLE 1 – EXAMPLE OF QUARTERLY TRANSFER OF EARNINGS TO NET WORTH

Quarter	-1st-	-2nd-	-3rd-	-4th-
Quarter-end date	3/31/2001	6/30/2001	9/30/2001	12/31/2001
Effective date	4/30/2001	7/31/2001	10/31/2001	1/31/2002
Assets in $	2,000,000	2,300,000	2,600,000	2,900,000
Net Worth in $	122,000	140,300	163,800	190,400
Net worth ratio	6.1%	6.1%	6.3%	6.5%
Amount of transfer @ .1% x assets	None	2,300	2,600	2,900

Because the transfer is always attributed to the prior quarter's net worth classification, it makes no difference if the credit union's net worth ratio exceeds 7 percent during the quarter in which the transfer is actually made. The classification as ''well capitalized'' does not become effective until the last day of the month following the quarter, when the credit union may discontinue making the transfer.

Finally, one commenter inquired whether the proposed rule should be modified to permit the transfer of the equivalent of more than 0.1% of its total assets per quarter, should a credit union's board of directors elect to do so. The final rule has been revised to indicate that a credit union ''must increase its net worth quarterly by an amount equivalent to *at least* 1/10th percent (0.1%) of its total assets for the current quarter'' and then ''must quarterly transfer that amount (*or more by choice*) to its regular reserve,'' but cannot be compelled to transfer more than 0.1% of its total assets. § 702.201(a) (emphasis added).

2. Sections 702.202(a)(2), 702.206—Net Worth Restoration Plans

Deadlines. The proposed rule generally established a period of 45 calendar days from quarter-end to submit an NWRP; if that deadline was not met, an additional 15 days was allowed. *Id.* Fourteen commenters sought a longer period for filing an NWRP—four suggesting 60 days; three suggesting 90 days; four simply seeking more time; and three advocating 45 to 60 days following the end of a reasonable time period for closing the books and preparing financial statements. There were no comments on the additional 15-day period.

The final rule effectively extends the period for filing an NWRP as the commenters urged. Section 702.101(b)(1) establishes that the effective date of net worth classification is the last day of the month following the quarter-end at which the net worth ratio is determined, thus inserting an interval of approximately 30 days. Accordingly, section 702.206(a) is revised to commence the original 45-day period on the effective date of net worth classification, rather than at quarter-end. This gives credit unions a maximum of approximately 75 days from quarter-end to timely file an NWRP. With the additional 15-day period available to credit unions which fail to file timely, § 702.206(a)(4), the final rule allows a maximum of approximately 90 days to file an NWRP.

The proposed rule established a period of 60 calendar days after receiving an initial NWRP for NCUA to notify the credit union of its approval or disapproval, and to provide reasons in the event of the latter. 64 FR at 27112. Three commenters urged NCUA to shorten the period for evaluating NWRPs. Two commenters were content to leave the evaluation period at 60 days, provided that the final rule allows the credit union to operate under a submitted NWRP pending NCUA's decision, and deems the NWRP approved if there is no decision within the 60-day period.

In view of the need for promptness inherent in PCA, NCUA concludes that it is unfair to give credit unions less time to submit an NWRP than NCUA has to evaluate it. Therefore, the period for NCUA to evaluate an NWRP has been shortened to 45 calendar days from the day the NWRP is received. § 702.206(f)(1). The credit union still may not operate under the submitted NWRP during this period. However, if no decision is made at the expiration of 45 days, however, the final rule provides that the NWRP is deemed approved. § 702.206(f)(2).

Finally, one commenter proposed supplementing the existing requirement that NCUA seek and consider the appropriate State official's views when evaluating an NWRP submitted by a federally-insured, State-chartered credit union (''FISCU''). In those cases, the commenter urged, NCUA should be required to promptly notify the State official of its decision to approve or disapprove the FISCU's NWRP. The final rule has been modified accordingly. § 702.206(f)(3).

Assistance to small credit unions. CUMAA expressly provides that ''upon timely request by a credit union with total assets of less than $10 million,'' NCUA shall ''assist that credit union in preparing [an NWRP].'' § 1790d(f)(2). The final rule conforms to this mandate. § 702.206(b). Similarly, assistance in the form of training to prepare and revise a business plan (the equivalent of an NWRP for ''new'' credit unions) will be available to ''new'' credit unions under subpart C of part 702. § 702.309(a). A commenter insisted that NCUA provide assistance in preparing an NWRP to any credit union, regardless of asset size. NCUA declines to exceed the statutory mandate in this regard absent evidence

that credit unions generally lack the ability to prepare an NWRP themselves.

Contents: The proposed rule required an NWRP to specify: (1) The steps the credit union will take to become ''adequately capitalized''; (2) a timetable for increasing net worth annually; (3) plans to comply with the mandatory and discretionary supervisory actions imposed on the credit union; (4) the types and levels of activities in which the credit union will engage; (5) the projected amount of its earnings transfer to the regular reserve; and (6), if the credit union has been reclassified on safety and soundness grounds, the steps it will take to correct the unsafe or unsound practice(s) or condition(s). Pro-forma financial statements covering the next two years also were required. 64 FR 27112.

Eight commenters found the proposed content requirements too inflexible, suggesting that share growth be allowed even when it causes a temporary decline in net worth ratio. *Compare* § 702.202(a)(3)(i). Similarly, twelve commenters suggested that an NWRP which permits asset growth to create earnings is preferable to one which simply shrinks the balance sheet to increase net worth. Another commenter discouraged reliance on a uniform timetable for increasing net worth that applies to all credit unions.

The proposed rule required ''a timetable for increasing net worth for each year in which the [NWRP] will be in effect.'' 64 FR 27112. To allow for greater flexibility over the duration of an NWRP, the final rule now requires ''a quarterly timetable for the steps the credit union will take to increase its net worth ratio so that it becomes 'adequately capitalized' by the end of the term of the NWRP, and to remain so for four (4) consecutive calendar quarters.'' 702.206(c)(1)(i). Thus, a credit union must specify the steps it will take to increase its net worth ratio by the end of the term of the NWRP, but need not pledge to increase its net worth ratio in each quarter or year the NWRP is in effect. The final rule also adds the caveat for credit unions that qualify as ''complex'' that the RBNW requirement ''may require a net worth ratio higher than six percent (6%) to become 'adequately capitalized.''' *Id.*

The proposed rule required financial data accompanying an NWRP to comply with GAAP. 64 FR at 27112. The final rule abandons this requirement to conform with NCUA policy requiring only Call Reports submitted by credit unions having $10 million or more in assets to adhere to GAAP. 12 CFR 741.6(b).

One commenter asked that NCUA enumerate in the final rule examples of steps for building net worth that a credit union should include in its NWRP. Consistent with NCUA's belief that there is no ''one size fits all'' prescription for restoring net worth, neither the proposed nor the final rule sets a standardized duration for all NWRPs, nor enumerates the steps that may or may not be appropriate for all credit unions to implement. The preferred approach is for a credit union to develop a unique NWRP prescribing individualized, positive steps to restore net worth, which NCUA will evaluate on a case-by-case basis.

The proposed rule required an NWRP to be accompanied by pro forma financial statements ''covering the next 2 years.'' 64 FR at 27112. One commenter apparently inferred from this that NWRPs are limited to a term of two years, and suggested permitting a term of up to 5 years. In fact, neither the proposed nor the final rule set a time limit for NWRPs; to do so would be inconsistent with the flexible approach needed for an NWRP to succeed. To confirm that the term of an NWRP is not linked to the period covered by supporting pro forma financial statements, NCUA has modified the final rule to require pro forma financial statements for *a minimum* of 2 years. § 702.206(c)(2). Ideally, the accompanying pro forma financial statements will cover the entire period of the NWRP.

The proposed rule required an NWRP to specify ''how the credit union will comply with the mandatory and discretionary supervisory [actions] imposed on it under [part 702].'' 64 FR at 27112. This led three commenters to infer that this required an NWRP to cover all possible discretionary actions, rather than only those NCUA actually has imposed on it. The final rule is revised to confirm that an NWRP need only address the discretionary supervisory actions actually ''imposed on it by the NCUA Board.'' § 702.206(c)(1)(iii).

Critria for approval. To the single criterion prescribed by CUMAA for approving an NWRP—that it ''is based on realistic assumptions and is likely to succeed in restoring * * * net worth''—the proposed rule added that an NWRP must (1) comply with the content requirements for an NWRP; (2) not unreasonably increase the credit union's risk exposure; and (3) be supported by appropriate assurances that the credit union will comply with the NWRP until the credit union has remained ''adequately capitalized'' for four consecutive calendar quarters. 64 FR at 27112.

One commenter urged NCUA to add, as a criterion in evaluating an NWRP, ''the limited ability of credit unions to raise net worth.'' NCUA declines to make this an explicit criterion because the entire system of PCA for credit unions already reflects the distinctions between credit unions and other depository institutions. A principal one of these is the limited ability of credit unions to raise capital. Moreover, to maintain a flexible process for evaluating NWRPs, the criteria for approving an NWRP has deliberately been held to a minimum, and the proposed rule deliberately articulates those criteria in general terms.

The final rule abandons the criterion requiring ''appropriate assurances from the credit union that it will comply with the plan until it has remained 'adequately capitalized' for four consecutive quarters.'' 64 FR at 27112. This criterion was adapted from FDIA § 38, which requires such ''appropriate assurances'' to be secured by a financial guarantee of compliance. 12 U.S.C. 1831o(e)(2)(C)(ii). NCUA never considered demanding a financial guarantee of compliance from credit unions because part 702 elsewhere provides remedies for failure to implement an NWRP. § 747.2005(b)(2). However, the objective of remaining ''adequately capitalized'' for four consecutive quarters is valid and properly belongs in an NWRP's timetable of steps for increasing the net worth ratio. Therefore, the final rule inserts that objective as a timetable requirement among the contents of an NWRP. § 702.206(c)(1)(i).

One commenter asked how frequently NCUA plans to review implementation of an NWRP to determine material compliance by the credit union. *See* § 702.102(a)(4)(ii)(B). NCUA believes that assessing the implementation and results of an NWRP is a supervision issue to be dealt with at the regional level on a case-by-case basis. Therefore, the final rule sets no schedule or standards for measuring material compliance with an NWRP.

The final rule introduces a new criterion for evaluating an NWRP—the impact of ''regulatory capital'' in any form that may become established by NCUA regulation, or authorized by State law and recognized by NCUA, but which is not included in net worth.[16] § 702.206(e). NCUA recognizes that

[16] At present, only secondary capital accounts established for low-income designated credit unions under 12 CFR 701.34 qualify as net worth. § 1790d(o)(2)(B).

regulatory capital, if established, would be available to absorb losses which the NCUSIF otherwise would absorb. Thus, the final rule adds the following criterion: ''To minimize possible long-term losses to the NCUSIF while the credit union takes steps to become 'adequately capitalized,' the NCUA Board shall, in evaluating an NWRP under [section 702.206], consider the type and amount of any [such] forms of regulatory capital * * * which the credit union holds, but which is not included in net worth.'' § 702.206(e). This also is a criterion in evaluating a revised business plan submitted by a ''new'' credit union. § 703.306(d).

3. Section 702.202(a)(3)—Restriction on Asset Growth

The third of four MSAs prescribed by CUMAA requires a credit union having a net worth ratio of less than 6% to ''not generally permit its average total assets to increase,'' except as provided in an approved NWRP, and so long as assets and net worth increased at the rate the NWRP prescribes. § 1790d(g)(1). To compute ''average total assets,'' the proposed rule used the average of total assets reported in the most recent four quarterly Call Reports or most recent two semi-annual Call Reports. 64 FR 27109. Pending approval of such an NWRP, the proposed rule absolutely barred asset growth, allowing no exceptions. *Id.*

Seventeen comments addressed the mandatory asset growth restriction. Three commenters objected to basing ''average total assets'' on the prior four quarters. One objected that doing so would penalize credit unions whose assets had grown over the past year, compelling them to immediately reduce actual total assets to the average. The more a credit union's assets had increased, the greater the impact of a reduction to the average. As explained earlier, the final rule offers four options for measuring ''average total assets.'' The method a credit union chooses under section 702.2(j) will establish the asset growth ''ceiling.'' § 702.202(a)(3).

Many commenters condemned the rigidity of the asset growth restriction pending approval of an NWRP, observing that it is essentially a freeze on total assets that is detrimental to credit unions. For example, one commenter pointed out that the restriction, as proposed, prohibits the collection of interest income, which would increase a credit union's net worth—precisely the objective of PCA. Another cited revenue from lending as an ''important driver'' of return on average assets that should not be restricted. Another favored excepting U.S. Treasury securities and IRA accounts from the definition of ''total assets'' to allow for asset growth outside the NWRP. Eleven commenters advocated allowing an exception to the restriction when asset growth creates earnings. Allowing exceptions for this purpose, they urge, is preferable to shrinking the balance sheet to increase the net worth ratio. In this regard, NCUA recognizes that member allegiance to credit unions may cause member share accounts to grow even when rates are below prevailing market rates.

In response to these comments and on its own initiative, NCUA reconsidered the statutory language which provides that a credit union shall ''not generally permit its average total assets to increase.'' § 1790d(g)(1). As the Senate Banking Committee has acknowledged, ''[t]he term 'generally' allows the NCUA to make carefully delineated exceptions to the asset growth restrictions if the exceptions are consistent with the purpose of [§ 1790d].'' S. Rep. at 14. NCUA is convinced that absolute application of the asset growth restriction is inconsistent with the purpose of PCA because it would bring to a halt a credit union's normal business operations. This has led NCUA to relax the asset growth restriction by making carefully delineated exceptions, available under certain conditions, pending approval of an NWRP.

The final rule is revised to allow total assets to increase, pending approval of an NWRP, by reason of increases in the following categories. First, total accounts receivable and accrued income on loans or investments. This exception allows the accrual of income items, which increases net worth. § 702.202(a)(3)(ii)(A)(*1*). Second, cash and cash equivalents. This exception permits continued receipt of member deposits (for example, automated clearing house payroll deposits) and collection of cash payments of interest income. § 702.202(a)(3)(ii)(A)(*2*). Third, total loans outstanding, subject to a maximum equivalent to the sum of total assets plus the quarter-end balance of unused commitments to lend and unused lines of credit. § 702.202(a)(3)(ii)(A)(*3*). Under this exception, a credit union may make loans in the normal course of business from liquid assets available at the time it is classified ''undercapitalized'' or lower, and to honor unused commitments (such as unused revolving loans or unused commitments for member business loans) existing at that time.

These exceptions to the asset growth restriction in section 702.202 are available provided the credit union does not offer rates on shares in excess of prevailing rates on shares and deposits in its relevant market area, and does not open new branches. § 702.202(a)(3)(ii)(B). A credit union which does not avail itself of the exceptions is not subject to the limitations on rates and branching.

4. Section 702.204(a)(4)—Restriction on Member Business Loans

The last of the four ''mandatory supervisory actions'' prescribed by CUMAA prohibits credit unions having a net worth ratio of less than 6% from ''mak[ing] any increase in the total amount of member business loans * * * outstanding at that credit union at any one time.'' The restriction takes effect regardless whether the credit union has reached the statutory ceiling on member business loans (''MBLs'') in 12 U.S.C. 1757a(a)(1). § 1790d(g)(2).

The proposed rule followed Title II of CUMAA, 12 U.S.C. 1757a(b), in exempting from the MBL restriction credit unions chartered for the purpose of making, or that have a history of primarily making, MBLs, or which are designated low income, or which qualify as community development financial institutions. 64 FR at 27109. NCUA declines the invitation by two commenters to expand the exemption to include *any* credit union which makes MBLs. To so drastically extend the exemptions would neutralize this MSA in derogation of CUMAA. § 1790d(n).

The final rule is revised to clarify the MBL restriction in three ways. § 702.202(a)(4). First, to expressly confirm that for PCA purposes the definition of MBLs includes unused MBL commitments, unless otherwise noted. Second, to impose the restriction on the dollar amount of member business lending, rather than linking it to an average or a percentage of total assets. Third, to indicate that the ''total dollar amount of [MBLs]'' is measured ''as of the preceding quarter-end,'' *i.e.,* the quarter-end preceding the effective date of classification of the credit union as ''undercapitalized''' or lower.

D. Subpart B—Discretionary Supervisory Actions

Table 1 below displays the fourteen DSAs which the final rule applies as indicated to the ''undercapitalized,'' ''significantly undercapitalized'' and ''critically undercapitalized'' net worth categories. All fourteen DSAs apply in the ''moderately capitalized'' and lower net worth categories (<6% net worth ratio) of the alternative system of PCA for ''new'' credit unions. § 702.304(b). Because DSAs are available only as

necessary to carry out the purpose of PCA, NCUA generally does not anticipate resorting to the DSAs available in a particular net worth category unless a credit union fails to timely implement or comply with an approved NWRP, which includes its timetable of steps to increase its net worth ratio.

TABLE 2 – DISCRETIONARY SUPERVISORY ACTIONS IN FINAL RULE

	Discretionary Supervisory Actions in Final Rule	***Applicable in which statutory net worth categories***	***Originates in final rule section #***
1.	Requiring prior approval for acquisitions, branching, new lines of business.	"Undercapitalized" and below.	702.202(b)(1)
2.	Restricting transactions with and ownership of CUSO	"Undercapitalized" and below.	702.202(b)(2)
3.	Restricting dividends or interest paid	"Undercapitalized" and below.	702.202(b)(3)
4.	Prohibiting or reducing asset growth	"Undercapitalized" and below.	702.202(b)(4)
5.	Alter, reduce or terminate activity by credit union or CUSO	"Undercapitalized" and below.	702.202(b)(5)
6.	Prohibiting nonmember deposits	"Undercapitalized" and below.	702.202(b)(6)
7.	Ordering new election of board of directors	"Significantly undercapitalized" and below.	702.203(b)(7)
8.	Dismissing individual director or senior executive officer	"Undercapitalized" and below.	702.202(b)(7)
9.	Employing qualified senior executive officers	"Undercapitalized" and below.	702.202(b)(8)
10.	Other action to carry out PCA	"Undercapitalized" and below.	702.202(b)(9)
11.	Restricting a senior executive officer's compensation	"Significantly undercapitalized" and below.	702.203(b)(10)
12.	Requiring merger if grounds exist for conservatorship or liquidation	"Significantly undercapitalized" and below.	702.203(b)(12)
13.	Restrictions on payments on uninsured secondary capital	"Critically undercapitalized."	702.204(b)(11)
14.	Requiring NCUA prior approval for certain operations (e.g., amending charter or bylaws, changing accounting methods, material transactions)	"Critically undercapitalized."	702.204(b)(12)

Consistent with its statutory mandate, NCUA attempted in the proposed rule to craft DSAs which are ''comparable'' with the ''discretionary safeguards'' available under the system of PCA that applies to banks, yet which suit the distinctive needs and characteristics of credit unions. *See* § 1790d(b)(1)(A). The DSAs are allocated among the statutory net worth categories (Table 3) approximately as they are allocated among the net worth categories in FDIA § 38, 12 U.S.C. 1831o.

TABLE 3 -- DISCRETIONARY SUPERVISORY ACTIONS APPLICABLE TO STATUTORY NET WORTH CATEGORIES

Statutory net worth category	*Applicable "discretionary supervisory actions"*
"Undercapitalized"	• Requiring prior approval for acquisitions, branching, new lines of business. • Restricting transactions with and ownership of CUSO. • Restricting dividends or interest paid. • Prohibiting or reducing asset growth. • Alter, reduce or terminate activity by credit union or CUSO. • Prohibiting nonmember deposits. • Dismissing an individual director or senior executive officer. • Employing qualified senior executive officers. • Other action to carry out PCA.
"Significantly Undercapitalized"	*All DSAs in "undercapitalized" category plus:* • Ordering new election of board of directors. • Requiring merger if grounds exist for conservatorship or liquidation. • Restricting a senior executive officer's compensation.
"Critically Undercapitalized"	*All DSAs in "significantly undercapitalized" category plus:* • Restrictions on payments on uninsured secondary capital. • Requiring NCUA prior approval for certain operations.

1. Section 702.204(b) and (c)—''First Tier'' and ''Second Tier'' of ''Undercapitalized'' Category

An overwhelming number of commenters objected, with respect to DSAs, that the ''undercapitalized'' category generally treats a credit which is just a few basis points short of a 6% net worth ratio, *i.e.,* nearly ''adequately capitalized,'' as harshly as a credit union which is just a few basis point above a 3.99% net worth ratio, *i.e.,* nearly ''significantly undercapitalized.'' One commenter went further, observing that there was insufficient differentiation among the range of DSAs available in each of the three categories.

To correct this inequity, eight commenters advocated that DSAs should not be available at all to be imposed on credit unions in the ''undercapitalized'' category. Eighteen commenters urged imposing a moratorium on the imposition of DSAs for a period of time to allow the ''mandatory supervisory actions'' to succeed in restoring net worth. Seven commenters suggested that the final rule should exempt a credit union from DSAs when ''normal growth'' in assets alone depresses its net worth ratio below 6 percent. Two commenters urged NCUA to abandon DSAs altogether and to rely instead on its statutory authority to reclassify a credit union to the next lower net worth category on grounds of an unsafe or unsound practice or condition. § 702.102(b).

In considering these comments, NCUA notes that the ''discretionary safeguards'' under the banks'' system of PCA—to which DSAs are required to be ''comparable''—generally do not become available until an institution's net worth falls below 4%.[17] Therefore, to provide a degree of relief to credit unions marginally below a 6% net worth ratio, the final rule divides the ''undercapitalized'' category into a ''first tier'' and a ''second tier'' only for purposes of imposing DSAs. The ''first tier'' consists of credit unions having a net worth ratio of between 5% and 5.99%, as well as those ''complex'' credit unions which are classified ''undercapitalized'' by reason of failing to meet an RBNW requirement. The ''second tier'' consists of credit unions having a net worth ratio of 4% to 4.99%.

Under the final rule, a credit union which is in the ''first tier'' of the ''undercapitalized'' category is subject to the DSAs applicable in that category (lines 1–6 and 8–10, Table 2 above) only if it fails to comply with any of the four applicable MSAs (*i.e.,* submit NWRP, earnings transfer to net worth, asset growth restriction, and MBL restriction) or fails to timely implement an approved NWRP, which includes meeting the timetable of steps to increase its net worth ratio. § 702.202(c).

[17] FDIA § 38's five capital categories are denominated identically to CUMMA's five net worth categories. *Compare* 12 U.S.C. 1831o(b)(1) *with* § 1790d(c)(1). However, the ''leverage ratios'' corresponding to each capital category were established by the Federal banking agencies rather than by FDIA § 38 itself, whereas CUMAA itself established the net worth ratios corresponding to each net worth category. *Compare* Joint Final Rule, 57 FR at 44867 *with* § 1790d(c)(1). FDIA § 38 generally classifies an institution as ''adequately capitalized,'' and thus no longer subject to ''discretionary safeguards,'' when its leverage ratio reaches 4%. 57 FR at 44867. *See, e.g.,* 12 CFR 325.103(b)(2)(A). In contrast, CUMAA does not classify a credit union as ''adequately capitalized'' until its net worth ratio reaches 6%. § 1790d(c)(1)(B). Significantly, CUMAA requires part 702 to be ''comparable'' to FDIA § 38 itself, rather to the Joint Final Rule. § 1790d(b)(1)(A)(ii). Thus, the DSAs prescribed in the final rule are ''comparable'' by corresponding category—rather than by equivalent leverage ratio in the Joint Final Rule—to the ''discretionary safeguards'' in FDIA § 38.

A credit union which is in the ''second tier'' of the ''undercapitalized'' category is subject to all of the DSAs available in that category regardless whether it is in compliance with the applicable MSAs and is timely implementing an approved NWRP. § 702.202(b). Moreover, CUMAA expressly classifies to the ''significantly undercapitalized'' category any credit union in the ''second tier'' (4 to 4.99% net worth ratio) which fails to timely submit an NWRP for approval, or materially fails to implement an approved NWRP. § 1790d(c)(1)(C); § 702.202(a)(2).

TABLE 4 – "FIRST TIER" AND "SECOND TIER" OF "UNDERCAPITALIZED" NET WORTH CATEGORY

"Under-capitalized" net worth category	*Net worth ratio*	*Mandatory Supervisory Actions (MSAs)*	*DSAs for "undercapitalized" category (Table 2, lines 1-6, 8-10)*	*DSAs are Available . . .*
"First tier" §702.202(c)	5% to 5.99% or fails RBNW requirement	① Submit NWRP ② Earnings transfer ③ Asset growth restriction ④ MBL restriction	All except "ordering new election of board of directors" (line 7, table 2)	Only when CU fails to comply with any of four MSAs or fails to implement NWRP.
"Second tier" §702.202(b)	4% to 4.99%	① Submit NWRP ② Earnings transfer ③ Asset growth restriction ④ MBL restriction	All except "ordering new election of board of directors" (line 7, table 2)	Regardless whether CU complies with MSAs ② thru ④. Reclassification to "significantly undercapitalized" if CU fails to timely submit NWRP or materially fails to implement NWRP.

2. Revisions to Individual Discretionary Supervisory Actions.

Comments on the DSAs in the proposed rule, 64 FR at 27096–27098, generally fall into two categories—those wishing that a specific DSA would more closely parallel its corresponding ''discretionary safeguard'' under the banks' system of PCA, and those wishing NCUA would further modify specific DSAs to suit credit unions. The final rule does some of both.

Requiring prior approval for acquisitions, branching, new lines of business. The proposed rule gave NCUA the discretion to prohibit a credit union from, among other things, ''directly or indirectly, acquiring any interest in a CUSO or credit union'' unless it is ''consistent with and will further the objectives of [an approved NWRP].'' 64 FR at 27096, line 1. Although no comments addressed this DSA, NCUA has decided that the limitation on acquiring interests in a CUSO or credit unions was too narrow, and should be expanded to prohibit acquiring an interest in ''any business entity or financial institution.'' In the final rule, this DSA has been modified accordingly. § 702.202(b)(1).

Prohibiting or reducing asset growth. Separately from the MSA restricting asset growth, the proposed rule authorized NCUA to prohibit growth in all or a category of assets, or require the credit union to reduce all or a category of assets. 64 FR 27097, line 4. Characterizing this DSA as a potential threat to a credit union's survival, several commenters encouraged NCUA to be flexible in imposing this DSA when a credit union is properly implementing an approved NWRP that permits asset growth linked with increasing net worth. This concern is well taken in view of the relief from the MSA that CUMAA gives to credit unions operating under an approved NWRP that allows assets to increase in tandem with net worth. § 1790d(g)(1). NCUA will not permit this DSA to be used to effectively reinstate the MSA. Moreover, NCUA does not anticipate imposing this DSA when assets are growing pursuant to an NWRP which NCUA approved. A possible exception would be to limit or reduce a particular category of assets that poses an obstacle to restoring net worth.

Two commenters contend that this DSA is unnecessary because it duplicates the MSA restricting asset growth, § 702.202(a)(3). The MSA and this DSA are not comparable, however, because they serve different purposes. The MSA imposes a ceiling on asset growth to compel the credit union to develop a strategy for increasing its net worth ratio to 6% or more. Uncontrolled asset growth without attention to building net worth simply erodes the net worth ratio. This DSA, in contrast, is available to selectively limit or reduce growth in one or more specific asset categories, if needed to ''fine tune'' the asset growth that an approved NWRP allows. § 702.202(b)(4).

In lieu of limiting a credit union's asset growth, one commenter suggested limiting the risk on the investment of those assets by establishing minimum spreads, tightening lending procedures, and restricting investment options. NCUA prefers to retain this DSA as proposed because the suggested approach would necessitate an unworkable and intolerable level of micromanagement.

Restricting dividends or interest paid. As proposed, this DSA permits NCUA to prospectively restrict the dividend or interest rates a credit union pays to the prevailing rates paid on comparable accounts and maturities in its vicinity. 64 FR at 27096, line 2. One commenter urged excluding this DSA altogether, condemning it as an overreaction to a specific problem—paying high rates to

attract deposits—that plagued troubled thrift institutions in the 1980s, but does not affect credit unions now. In addition, this commenter claimed that this DSA adversely impacts members—depriving them of dividend and interest income—but would not have a disciplinary impact on management. NCUA disagrees because this DSA does not eliminate dividends and interest altogether; it merely establishes a reasonable ceiling on dividend and interest rates. This would prevent management from imprudently offering higher than prevailing rates to attract deposits that would inflate assets.

As proposed, the ceiling on rates was set at ''prevailing rates * * * in the region where the credit union is located.'' 64 FR at 27109. In response to a commenter's suggestion, the final rule sets the ceiling at ''prevailing rates'' in the credit union's ''relevant market area.'' § 702.202(b)(3). In addition, the scope of this DSA has been expanded to include interest rates because some State-chartered credit unions accept interest-bearing deposits not denominated as shares. *See* § 702.2(i). The final rule otherwise retains this DSA as proposed.

Alter, reduce or terminate activity of credit union or CUSO. The proposed rule authorized NCUA to ''[r]equire the credit union or its CUSO to reduce, alter or terminate any activity.'' 64 FR at 27097, line 5. Two commenters pointed out that this DSA omits the prerequisite built in to the corresponding ''discretionary safeguard''—that the activity in question must ''pose[] excessive risk'' to the credit union. 12 U.S.C. 1831o(f)(2)(E). Accordingly, the final rule has been revised to make ''excessive risk'' a prerequisite to imposing this DSA. § 702.202(b)(5).

Two other commenters urged that NCUA consider, as a factor in imposing this DSA, the ownership structure of the CUSO. When a CUSO is owned by multiple credit unions, a restriction on its activities could have an adverse impact on credit unions which are not subject to PCA. NCUA declines to make this an explicit criterion for imposing this DSA, but acknowledges that it is a valid mitigating factor when multiple-credit union ownership of a CUSO is involved.

Prohibiting nonmember deposits. The proposed rule authorized NCUA to ''prohibit [a] credit union from accepting nonmember deposits'' as otherwise permitted under federal or state law. 64 FR at 27097, line 6. Two commenters criticized this DSA for permitting an outright ban on nonmember deposits, suggesting instead that nonmember deposits be subject to a rate ceiling, as in section 702.202(b)(3). The final rule retains this DSA as proposed to ensure that credit unions are operated by and for their members as they build net worth. § 702.202(b)(6). This DSA is an important tool for preventing undue influence on a credit union by nonmembers, and overreliance on nonmembers by the credit union.

New election of directors; dismissal of directors or senior executive officers. As a means of improving management, the proposed DSAs authorized NCUA ''to order a new election of the credit union's board of directors'' or to ''dismiss [individual] directors or senior executive officers.'' 64 FR at 27097, lines 8 and 9. Commenters overwhelmingly opposed this DSA primarily because it strikes at a sacred and distinctive characteristic of credit unions—the member-elected board of directors which serves without compensation.

On the one hand, ordering a new election of directors does not compel a credit union to replace its board of directors with an NCUA-designated slate; it simply requires the membership to reconsider its choice of directors. On the other hand, wholesale election of the board of directors may be an overreaction when a credit union's net worth is marginally below 6%. Thus, for the ''undercapitalized'' category only (in both tiers), the final rule deletes the authority to order a new election of the board of directors; however, the unconditional discretion to dismiss individual directors or senior executive officers is retained. § 702.202(b)(7). In the ''significantly undercapitalized'' and ''critically undercapitalized'' categories, the discretion to order a new election of directors, and to dismiss a director or senior officer, remains unrestricted. §§ 702.203(b)(8), 702.204(b)(8).

In the ''undercapitalized'' category, the proposed rule allowed NCUA to dismiss directors or senior executive officers, and to order a credit union to employ qualified senior officers, only if NCUA ''first [took] one or more of the [DSAs prescribed for that category] or determined that none of those [DSAs] would further the purpose of [part 702].'' 64 FR at 27110. One commenter criticized this prerequisite as depriving NCUA of tools for ''improving management'' which it may need above all other DSAs to target the source of net worth problems at the outset. NCUA concurs and has deleted this prerequisite from the final rule, thus permitting directors and officers of an ''undercapitalized'' credit union to be dismissed without regard to the other DSAs available in that category. § 702.202(b)(7).

Restricting senior executive officers' compensation. For ''significantly undercapitalized'' or ''critically undercapitalized'' credit unions, the proposed rule gave NCUA an additional means of improving management—the discretion to limit or reduce compensation to a senior executive officer; to limit or proscribe a bonus to such officer; or to condition payment of compensation or a bonus upon NCUA approval. 64 FR at 27097, line 10. Four commenters objected that this DSA does not square with the parameters built in to the corresponding ''discretionary safeguard.'' While the corresponding provision requires prior approval to pay a bonus of any amount, it requires prior approval to pay compensation only when it exceeds the officer's ''average rate of compensation * * * during the 12 calendar months preceding the calendar month in which the institution became undercapitalized.'' 12 U.S.C. 1831o(f)(4)(A). In addition, the corresponding provision does not permit a reduction of compensation already set above the ceiling before that safeguard was imposed. Accordingly, this DSA has been modified in two ways. First, to require NCUA approval only to pay a bonus of any amount, or to compensate an officer in an amount exceeding his or her ''rate of compensation * * * during the four (4) calendar quarters preceding the effective date of classification of the credit union as 'significantly undercapitalized.'" Second, to exclude the authority to reduce compensation already set above the ceiling before the DSA is imposed. § 702.203(b)(10).

Restricting payments on uninsured secondary capital. For ''critically undercapitalized'' credit unions only, the proposed rule gave NCUA the discretion, beginning 60 days after a credit union becomes ''critically undercapitalized,'' to prohibit payment of principal or dividends on uninsured secondary capital accounts (although unpaid dividends would continue to accrue). 64 FR at 27098, line 13. The sole commenter protested that this DSA would change the terms of existing secondary capital account agreements, require new disclosures, and make these already high-risk, limited-reward investments (available only from low-income designated credit unions) unattractive to potential investors. To protect existing secondary capital accounts, this DSA is revised to apply only to those accounts established after August 7, 2000 (the effective date of the final rule). § 702.204(b)(11). The disclosure requirements for those

accounts (*see* appendix to 12 CFR 701.34), will be modified to reflect the prospective application of section 702.204(b)(11). In addition, since uninsured secondary capital accounts of low income-designated credit unions are structured as interest-paying debt, the final rule expands this DSA to include ''interest.''

Requiring NCUA prior approval for certain operations. For ''critically undercapitalized'' credit unions only, the proposed rule gave NCUA discretion to require its prior approval before a credit could undertake certain routine activities. 64 FR at 27098, line 13. One such activity is ''[e]ntering into any material transaction other than in the usual course of business'' or any similar action requiring prior notice to NCUA. *Id.* The sole commenter on this DSA sought a definition of a ''material'' transaction. NCUA declines to define ''material'' because it is best judged on a case-by-case basis. Instead, however, the final rule replaces the examples of material transactions enumerated in the proposed DSA with a blanket exemption for material transactions that fall within the scope of an approved NWRP. § 702.204(b)(12)(i).

Other action to carry out PCA. The proposed rule gave NCUA the discretion to ''restrict or require such other action * * * as [it] determines will carry out the purposes of [part 702] better than any of the [DSAs expressly] prescribed,'' respectively, in the ''undercapitalized'' or lower categories. 64 FR at 27097, line 7. For the ''undercapitalized'' category, however, the proposed rule imposed a prerequisite—that ''such other action'' could be imposed only if it were ''no more severe'' than the other DSAs available in that category. *Id.* No comments addressed the conditional or unconditional version of this provision. Nonetheless, NCUA has decided that the ''no more severe'' limitation on this DSA would be unworkable in practice because it is too subjective a standard of comparison. Hence, in the final rule, all three categories contain the identical DSA allowing ''such other action'' provided only that it ''carr[ies] out the purposes of PCA better than any of the actions prescribed'' for the ''undercapitalized'' category. §§ 702.202(b)(9), 702.203(b)(11), 702.204(b)(13).

Other DSAs. NCUA received no comments addressing two of the proposed DSAs: ''Restricting transactions with and ownership of a CUSO,'' 64 FR at 27096, line 2, and ''Requiring merger if grounds exist for conservatorship or liquidation.'' 64 FR at 27098, line 11. They are retained as proposed. §§ 702.202(b)(2), 702.203(b)(12).

3. Conservatorship and Liquidation

Discretionary conservatorship or liquidation. Reflecting the terms of CUMAA, the proposed rule gave NCUA discretion to place a ''significantly undercapitalized'' or ''critically undercapitalized'' credit union into conservatorship or liquidation if that credit union ''has no reasonable prospect of becoming 'adequately capitalized.' '' 64 FR at 27110, 27111; 12 U.S.C. 1786(h)(1)(F), 1787(a)(3)(A)(i). One commenter addressing this provision insisted that a credit union in either of these categories be permitted the option of merging with another credit union to avoid conservatorship or liquidation. This is precisely the purpose of the DSA entitled ''Requiring merger if grounds exist for conservatorship or liquidation'' (line 11, Table 2 above), available in both categories. §§ 702.203(b)(12), 702.204(b)(14). As explained in the preamble to the proposed rule, ''[t]his action is appropriate * * * because NCUA's insistence on merger with another financial institution gives credit union management the opportunity to consummate a merger to avoid inevitable conservatorship or liquidation, thereby permitting the credit union to survive in merged form.'' 64 FR at 27908. *See* 12 U.S.C. 1831o(f)(2)(A)(iii) (requiring institution to be acquired by holding company or to combine with another institution if grounds exist for conservatorship or receivership). Because the DSA requiring merger is available as an option for a credit union to preempt conservatorship or liquidation, the discretionary liquidation and conservatorship authority is retained as proposed. §§ 702.203(c).

Mandatory conservatorship and liquidation. Following the mandate of CUMAA, § 1790d(i)(1), the proposed rule required NCUA to place a ''critically undercapitalized'' credit union into conservatorship or liquidation within 90 days, unless NCUA determines that ''other corrective action'' in lieu of conservatorship or liquidation would better achieve the purposes of PCA. 64 FR at 27111. That determination, which must be documented, expires at the end of a period of no more than 180 days. If the determination is not affirmed before the period ends, NCUA must conserve or liquidate the credit union. The determination that ''other corrective action'' would better achieve the purpose of PCA may be renewed for additional periods of up to 180 days.[18] However, renewals which extend the full 180-day period will be limited to two and part of a third because of a statutory 18-month maximum period for ''other corrective action'' to succeed.

Under the proposed rule, NCUA must conserve or liquidate a surviving ''critically undercapitalized'' credit union, regardless of the impact of ''other corrective action,'' if that credit union is ''critically undercapitalized'' (2% net worth ratio) on average for a full calendar quarter beginning 18 months from the date it first was classified as such. 64 FR at 27111. This is the case even if the credit union manages to exceed a 2 percent net worth ratio on any of the preceding effective dates of classification during the 18 month period. A credit union may evade mandatory liquidation at this point only if NCUA certifies that the credit union (1) has, since the date of approval, substantially complied with an NWRP requiring improvement in net worth; (2) has positive net income or a sustainable upward trend in earnings; and (3) is viable and not expected to fail. § 1790d(i)(3)(B).[19]

The effective date when a credit union first became ''critically undercapitalized'' typically will fall one month after the end of a calendar quarter. Thus, the last possible day for ''other corrective action'' will be no more than 23 months from the effective date (18 calendar months from the effective date, plus two months to the end of the calendar quarter, plus the subsequent 3 months of the next calendar quarter), absent NCUA certification that the criteria for an exception to liquidation have been met.

NCUA received no comments on this mandatory liquidation procedure. It is retained as proposed, § 702.204(c), with

[18] Neither the original effective period of a determination to take ''other corrective action,'' nor an extension of that period, need extend for the maximum duration of 180 days. The NCUA Board has the discretion to establish a shorter original or renewed effective period; to reconsider any determination periodically; and to reverse and discontinue the ''other corrective action'' altogether. To renew a prior effective period, the NCUA Board must make and document a new finding prior to expiration of the present effective period that its ''other corrective action'' still furthers the purpose of PCA. § 702.204(c)(1)(iii).

[19] The authority to elect among conservatorship, liquidation, or other action concerning a ''critically undercapitalized'' credit union cannot be delegated unless the credit union has less than $5,000,000 in assets. § 1790d(i)(4)(A). if made by delegation, the decision is directly appealable to the NCUA Board. § 1790d(i)(4)(B); § 702.204(c)(4). Finally, a ''significantly undercapitalized'' or ''critically undercapitalized'' credit union which is placed into conservatorship or liquidation under part 702 retains the right to challenge NCUA Board's decision in court within 10 days. 12 U.S.C. 1786(h)(3), 1787(a)(1)(b).

two exceptions. First, both the statute and the proposed rule were silent regarding the method for calculating whether a credit union ''is 'critically undercapitalized' on average for a full calendar quarter'' beginning 18 months after the effective date of classification as such. The final rule now designates ''a monthly average basis'' over the calendar quarter as the required method. § 702.204(c)(3)(i). Second, the statute and proposed rule are silent regarding how to treat a ''critically undercapitalized'' credit union once it is certified as meeting the criteria for an exception to mandatory liquidation. § 702.204(c)(3)(ii). The final rule now requires NCUA to review that certification ''at least quarterly'' and to then either recertify the credit union or ''promptly place [it] into liquidation * * *'' § 702.204(c)(3)(iii).

4. Consultation With State Officials

CUMAA requires NCUA to consult with the appropriate State official when imposing PCA against a FISCU. § 1790d(l). Under the proposed rule, before conserving or liquidating a FISCU, NCUA must ''seek the views'' of the appropriate State official, provide reasons for the proposed action, give the official an opportunity to respond, and allow the official to implement the conservatorship or liquidation. 64 FR at 27111. If the State official disagrees with NCUA's determination to conserve or liquidate, NCUA can proceed only if it makes findings of risk of loss to the NCUSIF. 64 FR at 27112; *see also* 12 U.S.C. 1786(h)(2)(C), 1787(a)(3)(B).

Similarly, when imposing a DSA upon a FISCU, the proposed rule required NCUA to first ''seek the views'' of the appropriate State official, and to allow the official to impose the DSA independently or jointly with NCUA. 64 FR at 27112. Once these prerequisites are met, NCUA may proceed to impose the DSA.

NCUA received no comments regarding consultation in advance of conservatorship or liquidation of a FISCU. With respect to consultation regarding proposed DSAs, however, two commenters asked NCUA to replace the phrase ''seek the views of the appropriate State official'' with the phrase ''consult and seek to work cooperatively'' with that official, to conform to the specific language of § 1790d(l)(1). That provision of the final rule has been revised accordingly, and also has been modified to require NCUA to ''provide prompt notice of its decision [whether to impose a DSA on a FISCU] to the appropriate State official.''. § 702.205(c).

E. Subpart C—Alternative Prompt Corrective Action for New Credit Unions

1. Section 702.301—Scope and Definition

This provision of the proposed rule applied subpart C in lieu of subpart B to ''new'' credit unions; restates the statutory definition of a ''new'' credit union; explained how ''spun-off'' groups can meet the definition; and authorized NCUA to treat as not ''new'' under subpart B credit unions or groups which attempt to qualify as ''new'' for the purpose of evading subpart B. 64 FR at 27113. Four commenters generally addressed the separate system of PCA for ''new'' credit unions—two supporting it, one claiming that it equates low capital with impending failure, and one concerned that it could have unintended adverse consequences for a healthy, growing credit union.

Contrary to equating low capital with impending failure, subpart C establishes an ''uncapitalized'' net worth category which permits a ''new'' credit union to continue operating while it has no net worth so long as it is making efforts to build net worth. § 702.305. The concern that subpart C will restrict asset growth ignores a crucial distinction between ''new'' and non- ''new'' credit unions—that ''new'' credit unions are not subject to an MSA restricting asset growth. *See, e.g.,* § 702.202(a)(3). Rather, ''new'' credit unions are subject only to a DSA allowing NCUA to limit or reduce assets. § 702.304(b).

Accordingly, the final rule retains the scope and definition provisions as proposed. § 702.301.

2. Section 702.302—Net Worth Categories for ''New Credit Unions''

Proposed subpart C separately established six net worth categories for ''new'' credit unions, notably including an ''uncapitalized'' category for credit unions having no net worth. 64 FR at 27113. To facilitate the credit union's eventual transition from subpart C to subpart B, the net worth ratios for the ''well capitalized'' and ''adequately capitalized'' net worth categories are the same as those of the corresponding categories in subpart B. §§ 702.302(c)(1)–(2). The net worth ratios for the ''moderately capitalized,'' ''marginally capitalized'' and ''minimally capitalized'' categories differ somewhat from those of the corresponding categories in subpart B to allow gradual, if not steady, accumulation of net worth over a ten-year period, in contrast to restoration of net worth over a shorter term. This reflects field experience and historical data indicating that newly-chartered credit unions generally take up to 3 years to develop positive net worth and may take up to 5 years to attain a 2% net worth ratio.

Like the proposed rule, the preamble of the final rule suggests reasonable time frames (''benchmarks'') for attaining each ''new'' net worth category, which a ''new'' credit union should aspire to meet. *See* Table 5 below. These benchmarks are not mandatory and neither the proposed nor the final rule imposes them as a requirement. As first explained in the preamble to the proposed rule, the benchmarks represent only a guide as to how long it is ''reasonably expected'' to take a ''new'' credit union to reach a given net worth category. 64 FR at 27099. *The benchmarks in Table 5 below do not establish mandatory deadlines and do not trigger any supervisory action.*

TABLE 5 -- BENCHMARKS TO ACHIEVE NET WORTH CATEGORIES FOR "NEW" CREDIT UNIONS

"New" net worth category	*Net worth ratio*	*Anticipated by year-end of operation*
"Well Capitalized"	7% or greater	N/A
"Adequately Capitalized"	6% to 6.99%	10th
"Moderately Capitalized"	3.5% to 5.99%	7th
"Marginally Capitalized"	2% to 3.49%	5th
"Minimally Capitalized"	0% to1.99%	3rd
"Uncapitalized"	Less than 0%	N/A

In addition to the ''new'' net worth categories and corresponding net worth ratios, section 702.302 also incorporates from subpart A the ''effective date'' provision (§ 702.101(b)); the requirement to notify NCUA of a change in category classification in limited circumstances (§ 702.101(c)); and the authority to reclassify a credit union to a lower category on grounds of an unsafe or unsound practice or condition (§ 702.102(b)).

Benchmarks. NCUA received 4 comments on specific net worth benchmarks even though Table 4 is not a part of the final rule itself. To simplify subpart C, one commenter suggested pro-rating the benchmarks equally over the 10-year period subpart C covers. This would defeat the purpose of the benchmarks, which accommodate the need for greater regulatory forbearance in the early years when a ''new'' credit union is developing its operations and asset base. For this reason, NCUA declines to pro-rate the benchmarks equally to achieve simplicity.

A second commenter supported the concept of benchmarks, but indicated that ''new'' credit unions would need capital ''subsidies'' to meet them. NCUA disagrees, believing that the alternative system of PCA is designed, with relaxed standards and incentives, to help ''new'' credit unions build capital gradually on their own, instead of relying on capital subsidies.

A third commenter urged an 8-year benchmark, instead of 7 years, for requiring ''new'' credit union to reach a 3.5% net worth ratio and become ''moderately capitalized.'' In fact, none of the benchmarks *requires* reaching a particular net worth category within a particular period of time; the benchmarks are simply guides based on past experience.

PCA criteria other than net worth. NCUA received 3 comments suggesting PCA criteria instead of, or in addition to, net worth for ''new'' credit unions. One commenter advocated abandoning ''restrictive capital requirements'' in favor of a more flexible approach—requiring an approved budget and plan to guide operations, apparently resembling a revised business plan. While revised business plans are an essential element of PCA for ''new'' credit unions, § 702.306, it would be contrary to CUMAA's intent to adopt an alternative system of PCA for ''new'' credit unions that entirely lacks fixed net worth standards. Instead, NCUA has chosen to adopt relaxed net worth ratios, and even to permit ''new'' credit unions to operate temporarily and periodically without net worth.

A second commenter suggested that a credit union's CAMEL rating is an appropriate measure of a ''new'' credit union's viability, and urged giving it as much weight in implementing PCA as net worth. However, to equate the CAMEL rating with net worth would dilute the focus of PCA because only one of the five CAMEL components is directly related to net worth.

A third commenter contended that the potential short-term negative effect of low cost, nonmember deposits on the net worth ratio of ''new'' low income-designated credit unions should not be grounds for prohibiting acceptance of such deposits. To minimize that effect, the commenter recommended either risk-weighting non-member deposits or excluding them from the net worth ratio calculation. NCUA does not support this proposal because there is no statutory basis for minimizing the impact of nonmember deposits as the commenter suggests.

3. ''Uncapitalized'' Net Worth Category

The ''uncapitalized'' net worth category, unique to PCA for ''new'' credit unions, permits a ''new'' credit union which has no net worth to continue operating under certain constraints. 64 FR at 27114. The final rule, like the proposed rule, permits a ''new'' credit union to operate with no net worth for the time period provided in its initial business plan (approved at the time the credit union's charter is granted) without being subject to MSAs and DSAs. § 702.305(a). A credit union which remains ''uncapitalized'' after expiration of the period approved for operating with no net worth will become subject to the MSAs and DSAs applicable to ''new'' credit unions. *Id.* A credit union which, after reaching a net worth above 0%, subsequently declines to the ''uncapitalized'' category from any higher net worth category would either begin (if it had declined directly from the ''adequately capitalized'' or ''well capitalized'' categories) or continue to comply with those MSAs and DSAs. *Id.*

In the ''new'' net worth categories which require submission of a revised business plan, the plan generally must be submitted when a credit union's net worth ratio has not increased consistent with the quarterly net worth targets prescribed in its then present business plan. § 702.304(a)(1)(i). In contrast, a credit union in the ''uncapitalized'' category must submit a revised business plan, regardless of its net worth targets, within 90 days of the effective date of classification as ''uncapitalized'' as a result of either expiration of the period allowed in its approved initial business plan, or a decline from a higher net worth category. § 702.305(a)(2).

Under the proposed rule, NCUA had the discretion to liquidate an ''uncapitalized'' credit union if it failed to submit a revised business plan within a specified period not to exceed 90 days from the effective date of classification as ''uncapitalized.'' 64 FR at 27112. The final rule expands this discretion to include the option of conservatorship. § 702.305(c)(1). Under the proposed rule, NCUA was *required* to liquidate an

''uncapitalized'' credit union which remained ''uncapitalized'' 90 days after NCUA approved its revised business plan unless the credit union documented ''why it is viable and has a reasonable prospect of becoming 'adequately capitalized.''' The final rule makes liquidation discretionary instead of mandatory. § 702.305(c)(2). Both of these modifications are intended to increase flexibility in dealing with ''uncapitalized'' credit unions.

NCUA received two comments regarding the ''uncapitalized'' category for ''new'' credit unions. The first recommended allowing an ''uncapitalized'' credit union to avoid liquidation as long as capital trends are positive. The second suggested that new credit unions should be required to be profitable within three years, but should be allowed to operate while insolvent during that period, within certain limits. The final rule follows a middle course, establishing no fixed time frames to achieve profitability, but also not forbearing simply because a ''positive trend'' in net worth develops. Rather, the final rule adheres to an approach which allows ''new'' credit unions to build net worth gradually and to achieve profitability on an individualized timetable.

4. Section 702.306—Revised Business Plans for ''New'' Credit Unions

Under the proposed rule, ''new'' credit unions in the ''moderately capitalized'' and lower net worth categories (*i.e.,* net worth ratio of less than 6%) must file a revised business plan (''RBP'') whenever they timely fail to meet net worth targets in their original or present business plan. 64 FR at 27114.

Whereas an NWRP under subpart B is designed to restore net worth, the purpose of an RBP is to *build* net worth. An RBP is broader in scope than an NWRP, essentially calling for a ''new'' credit union to progressively update the business plan elements originally required for charter approval, as well as its quarterly targets for increasing net worth in each year in which the RBP is in effect. Approval of an RBP is effectively a charter to operate for the period covered by the plan. The proposed rule set forth deadlines for submitting an RBP, and for NCUA to approve it, as well as content requirements and criteria for approval. 64 FR at 27114, 27115.

NCUA received four comments regarding section 702.306. Two of these alluded to the time period for filing an RBP—one urging 90 days to file an RBP, and the other insisting that the extra 15-day period is too short to file an RBP once a credit union has failed to timely file one. In the final rule, the filing period for an RBP (as with an NWRP) is effectively extended because it now commences on the ''effective date'' of a quarterly net worth measurement—the last day of the calendar month following the quarter end—rather than on the last day of the quarter itself. § 702.306(a). This adds approximately 30 days to the initial filing period, in addition to the extra 15-day period that already is available. § 702.306(a)(1).

A third commenter urged NCUA to refrain from approving an RBP which prohibits a ''new'' low income credit union from making dividend or principal payments on secondary capital accounts because it would discourage non-member deposits. Regardless whether imposed in an approved RBP or through a DSA, the authority to prohibit dividend and principal payments on uninsured secondary capital accounts is always discretionary under part 702. § 702.204(b)(11). Thus, there is no reason to demand that prohibition as a prerequisite for approval of an RBP.

Finally, a fourth commenter discouraged NCUA from intervening in management of a credit union once NCUA has approved the credit union's RBP, thus ensuring that management has the flexibility to respond to ''changes in the marketplace.'' It would be inconsistent with the purpose of PCA for NCUA to approve an RBP which gives itself management responsibility over the credit union. On the contrary, NCUA's post-approval role in most cases will be limited to imposing DSAs when warranted.

Under the proposed rule, the requirement to file an RBP (other than in the ''uncapitalized'' category) was triggered when a ''new'' credit union's net worth ratio did not increase consistent with its then-present approved business plan. 64 FR at 27113–27114. The proposed rule overlooked two instances that should trigger the requirement to file an RBP. First, where a ''new'' credit union has no ''then-present approved business plan'' to follow, which would be the case if the credit union declined from the ''adequately capitalized'' or ''well capitalized'' categories. Second, where the credit union has, and is operating under, a then-present business plan, but is not complying with other applicable MSAs. The final rule corrects these oversights accordingly. § 702.304(a)(2)(ii)–(iii).

5. Mandatory and Discretionary Supervisory Actions for ''New'' Credit Unions.

Mandatory. The final rule imposes on ''new'' credit unions classified ''moderately capitalized'' and below a modified version of three of the corresponding MSAs that CUMAA imposes in subpart B. Whereas subpart B required submission of an NWRP by a credit union classified ''undercapitalized'' or below, subpart C requires submission of an RBP when a ''new'' credit union classified ''moderately capitalized,'' ''marginally capitalized'' or ''minimally capitalized'' fails to meet its quarterly net worth goals. §§ 702.304(a)(2), 702.305(a)(2). Subpart C requires the same quarterly increase to net worth, and transfer from undivided earnings to the regular reserve, as subpart B requires, § 702.303, except that subpart C imposes no minimum increase for ''new'' credit unions classified ''moderately capitalized'' or lower. §§ 702.304(a)(1), 702.305(a)(1). The member business loan restriction in subpart C is identical to that in subpart B. §§ 702.304(a)(3), 702.305(a)(3).

NCUA received a single comment on the MSAs, suggesting that no earnings transfer whatsoever be required of a ''new'' credit union less than five years in operation. As explained above, below the ''adequately capitalized'' category, subpart C sets no minimum amount for an increase to net worth. Thus, it is entirely possible, if warranted by the credit union's individual circumstances, to receive approval of an RBP requiring a minimal increase to net worth or no increase at all.

Discretionary. The proposed rule prescribed for ''new'' credit unions the same fourteen DSAs as those prescribed in subpart B, and allocated them among the ''new'' net worth categories by corresponding category in subpart B.[20]

NCUA received three comments regarding the appropriateness of the DSAs for ''new'' credit unions. One commenter found it ''counterproductive'' for ''new'' credit unions to share the same DSAs that apply to other credit unions. In view of the fact that ''new'' and non-''new'' credit unions alike share common

[20] Under the proposed rule, the DSAs available in the ''undercapitalized'' category in subpart B were available in the ''moderately capitalized'' category in subpart C; the DSAs available in the ''significantly undercapitalized'' category in subpart B were available in the ''marginally capitalized'' category in subpart C; and the DSAs available in the ''critically undercapitalized'' category in subpart B were available in the ''minimally capitalized'' and ''uncapitalized'' categories in subpart C. 64 FR at 27113.

attributes regardless of asset size or years in operation, as well as the goal of becoming ''adequately capitalized'' or better, NCUA declines to adopt separate DSAs for ''new'' credit unions solely to differentiate them.

As previously noted, the proposed rule allocated DSAs among the ''new'' net worth categories to parallel the allocation among the corresponding categories in subpart B. To achieve comparability with FDIA § 38, the DSAs were allocated among the net worth categories in subpart B to correspond approximately to the allocation of ''discretionary safeguards'' among the capital categories in FDIA § 38. This approach is appropriate because the discretion to impose a DSA in subpart B is triggered when a credit union falls to a lower net worth category. In contrast, the discretion to impose a DSA under subpart C is triggered when a ''new'' credit union fails to meet the quarterly net worth targets in its then-current RBP *regardless of net worth category.* §§ 702.304(b), 702.305(b). In view of this distinction, NCUA prefers a more flexible approach for ''new'' credit unions. Instead of allocating slightly different sets of DSAs among the different ''new'' net worth categories, the final rule makes all fourteen DSAs (enumerated in Table 1 above) available in each of the ''moderately capitalized,'' ''marginally capitalized,'' ''minimally capitalized'' and ''uncapitalized'' net worth categories. *Id.*

Two commenters agreed that NCUA should apply the same DSAs to all ''new'' credit unions. One of these urged exempting from DSAs altogether those ''new'' credit unions which meet the net worth benchmarks which NCUA has established as a guide for building net worth. *See* Table 5 above. This would be contrary to the role of the benchmarks as simply a guide, rather than as a mandatory trigger for PCA. Just as NCUA cannot use the benchmarks as a sword to impose MSAs or DSAs, so should ''new'' credit unions not be able to rely on them as a shield against such actions.

6. Incentives for ''New'' Credit Unions

CUMAA required NCUA to develop ''adequate incentives'' for new credit unions to become ''adequately capitalized'' before they either are in operation for more than 10 years or reach $10 million in total assets. § 1790d(b)(2)(B).[21] The proposed rule offered three such incentives: (1) classroom training in management, lending and product development for ''new'' credit union directors, officers and employees; (2) non-classroom individualized guidance and training in the preparation and revision of business plans; (3) eligibility to join and receive the benefits of NCUA's Small Credit Union Program. 64 FR at 27115.

NCUA received three comments generally supporting these incentives. One advocated making management training available to all less than ''adequately capitalized'' credit unions rather than only to ''new'' credit unions. Management training is offered for a maximum of ten years as an incentive for ''new'' credit unions to build net worth. Educating all less than ''adequately capitalized'' credit unions in management, regardless of how long they have been in operation, simply because their net worth is less than 6 percent, is well beyond the role of PCA.

Another commenter recommended that management training be provided by outside sources to avoid a perceived conflict of interest that may arise when NCUA actively participates in the training. For this and other reasons, NCUA has decided to reconsider the proposed sources for management training—NCUA itself and non-profit organizations—and the proposed means of funding them—grants and contracts pursuant to 12 U.S.C. 1766(f)(2)(A) and (i)(3). *See* 64 FR at 27101. Thus, while the final rule continues to prescribe ''management training and other assistance'' as an incentive for ''new'' credit unions, it will be provided in accordance with policies to be developed and approved by NCUA. § 702.307(b).

The proposed rule offered ''new'' credit unions assistance in revising business plans. 64 FR at 27115. CUMAA required NCUA to provide assistance in preparing an NWRP to credit unions having less than $10 million in assets. § 1790d(f)(2). To provide such assistance as a further incentive to ''new'' credit unions, NCUA equated an RBP required of ''new'' credit unions with an NWRP. NCUA now recognizes, however, that CUMAA's mandate to provide such assistance is broader than its definition of a ''new'' credit union, extending assistance to those credit unions having assets of less than $10 million regardless how long they have been in operation. § 1790d(f)(2). The final rule extends assistance in preparing RBPs accordingly, to credit unions having assets of less than $10 million, but which have been in operation for 10 years or more.[22] § 702.307(a). *See also* § 702.206(b).

The final rule also retains as an incentive a ''new'' credit union's eligibility to join NCUA's ''Small Credit Union Program.'' § 702.307(c). *See* NCUA Instruction no. 6052.00 (March 24, 1999).

F. Subpart D—Reserves

This subpart of the proposed rule retained much of the substance of NCUA's current reserve transfer and dividend payment requirements, modified to reflect the repeal of 12 U.S.C. 1762, and to conform with CUMAA. 64 FR at 27115. The proposed rule eliminated the ''statutory reserve''; retained the regular reserve, in which reserve transfers will be reflected; retained the requirement to maintain an allowance for loan losses, but decoupled it from the regular reserve; barred subsequent reversing of the current period provision; retained full and fair disclosure provisions in revised form; and retained restrictions on the payment of dividends when there is a deficit in undivided earnings.[23] 64 FR27101.

Two commenters contend that there is no longer a need for a regular reserve because fear of a decline in net worth classification alone is sufficient to deter an outflow of capital through dividends. Because part 702 now imposes a quarterly earnings transfer requirement on credit unions having a net worth of less than 7%, maintaining the regular reserve is necessary to facilitate and measure earnings retention. § 702.401(b). Credit unions are accustomed to relying on the regular reserve account as an appropriation of undivided earnings.

The final rule imports from the former part 702 conditions for charging losses to the regular reserve, modified to conform to CUMAA. § 702.401(c). Under that provision, credit unions may charge losses to the regular reserve, provided that the charge will not cause the credit union's net worth classification to fall below ''well capitalized.'' Otherwise, the credit union must receive the approval of NCUA or the appropriate State Official before charging losses to the regular reserve.

Under the proposed rule, ''a dual declaration by the treasurer and

[21] Once chartered and in operation, a new credit union is eligible to receive special assistance under FCUA § 208, 12 U.S.C. 1788, ''to prevent the closing of an insured credit union which the [NCUA] Board has determined is in danger of closing.''

[22] NCUA currently provides guidance indirectly, as needed by any credit union in preparing its initial business plan for charter approval under Interpretive Ruling and Policy Statement 99–1, 63 FR 71998, 72019 (December 30, 1998).

[23] As commenters have suggested, NCUA plans to explain the new reserve requirements, citing specific examples, in future NCUA Letters to Credit Unions.

president'' was required to support the credit union's Statement of Financial Condition. 64 FR at 27115. One commenter was confused as to whether ''president'' refers to the person who, at some credit unions, serves as president of the board, or to the person who is the credit union's chief executive officer. This is clarified in the final rule by requiring ''a dual declaration by the treasurer and chief executive officer'' of the credit union. § 702.402(c).

Ten commenters objected to the provision regarding payment of dividends when undivided earnings are depleted because it effectively permits only ''well capitalized'' credit unions to transfer earnings from the regular reserve to pay dividends. 64 FR at 27115. Less than ''well capitalized'' credit unions may do so only with approval of NCUA or the appropriate State official. § 702.403(b). The commenters insist that the rule be modified to allow ''adequately capitalized'' credit unions to pay dividends from the regular reserve. Allowing less than ''well capitalized'' credit unions to pay dividends from the regular reserve would defeat the purpose of the earnings retention requirement which applies to credit unions having a net worth ratio of less than 7%.

In reference to the source from which dividends must be paid, the final rule is amended to exclude the words ''post-closing, post-transfer '' modifying ''undivided earnings.'' § 702.403(a). Permitting dividends to be paid from post-closing undivided earnings would preclude accurate computation of net income for the period.

Part 702 generally applies to both federally-chartered credit unions and FISCUs. As proposed, however, this subpart applied to federally-chartered credit unions expressly, but to FISCUs only through incorporation by reference in general terms in 12 CFR 741.3(a)(1). For purposes of clarity and consistency with the other subparts of part 702, subpart C is revised in the final rule to expressly cover ''federally-insured credit unions,'' thus combining both federally-chartered credit unions and FISCUs. As discussed immediately below, 12 CFR 741.3. confirms that all of part 702 (and subpart L of part 747) applies to FISCUs.

G. Section 741.3—Application to FISCUs

The proposed rule failed to revise part 741.3 of chapter VII to indicate that FISCUs are subject to PCA as a prerequisite for insurance. Current section 741.3(a)(1) requires FISCUs to ''meet, at a minimum, the statutory reserve and full and fair disclosure requirements imposed on federal credit unions by [former 12 U.S.C. 1762 and current part 702].'' Section 1762 of Title 12 was repealed by CUMAA and current part 702 survives pending the effective date of this final rule; both addressed only reserves and associated matters. To ensure that FISCUs, as a prerequisite of insurance, will meet the requirements imposed under all components of PCA, the final rule revises section 741.3(a)(1) to read: ''State-chartered credit unions are subject to section 216 of the Act, 12 U.S.C. 1790d, and to part 702 and subpart L of part 747 of this chapter.''

In addition, the final rule modifies the conditions in section 741.3(a)(2) for charging losses to the regular reserve. Currently, that section allows losses other than loan losses to be charged without the approval of NCUA and the appropriate State official if the FISCU's net worth ratio is at least 6 percent and the charge will not cause the ratio to decline by more than 50 basis points. To conform to the requirements of CUMAA, part 702 permits loss charges without approval only if the credit union's net worth ratio is at least 7 percent and the charge will not cause the ratio to decline below 7 percent. § 702.401(c). To ensure that FISCUs, as a prerequisite of insurance, will comply with the new conditions imposed in part 702 for charging losses to the regular reserve, the final rule revises section 741.3(a)(2) to reflect the 7 percent minimum and to otherwise require the approval of the appropriate State official.

H. Subpart L of Part 747—Issuance, Review and Enforcement of Orders Imposing Prompt Corrective Action

1. Section 747.2001—Scope

CUMMA provides that ''material supervisory determinations, including decisions to require prompt corrective action, made * * * by [NCUA] officials other than the [NCUA] Board may be appealed to the [NCUA] Board'' through an independent appellate process * * * pursuant to separate procedures prescribed by regulation.'' § 1790d(k). Section 747.2001 establishes an independent process for appealing ''material supervisory decisions'' to impose PCA under part 702 (Table 5). For purposes of subpart L, NCUA staff decisions to impose a DSA (including dismissal of a director or senior executive officer) are considered ''material supervisory decisions.'' § 747.2001(a). In the case of FISCUs seeking independent review under subpart L, this section provides that the parties (*i.e.,* NCUA and credit union and/or a dismissed director or officer) shall serve upon the appropriate State official the documents filed or issued in connection with a proceeding under subpart L. NCUA received no comments on this section.

TABLE 6 -- PROCEDURES FOR REVIEW OF PROMPT CORRECTIVE ACTION UNDER SUBPART L OF PART 747

PCA imposed	*Procedures for review*
Discretionary supervisory action, §747.2002	• Prior notice of proposed DSA and grounds therefor. • 14 days to respond in writing, oppose or seek to modify DSA. • Failure to respond is deemed consent to DSA • May seek NCUA ombudsman's recommendation. • No right to hearing. • Final decision by independent person appointed by NCUA Board. • Once imposed, may later seek to modify or rescind.
Reclassification to next lower category on safety and soundness grounds, §747.2003	• Prior notice of proposed reclassification and grounds therefor. • At least 14 days to respond in writing, seek informal hearing, seek to present witnesses. • Must explain why CU is not in unsafe or unsound condition, or has corrected unsafe or unsound practice. • Failure to respond is deemed consent to reclassification. • Hearing held within 30 days before presiding officer appointed by NCUA Board. • Right to be represented by counsel at hearing. • Presiding officer makes recommended decision. • Final decision by NCUA Board. • Once reclassified, may later seek to rescind.
Dismissal of director or senior executive officer, §747.2004	• Notice of right to seek reinstatement given when credit union is served with order to dismiss. • 14 days to respond in writing, justify reinstatement, seek informal hearing, seek to present witnesses. • Failure to respond is deemed consent to dismissal. • Hearing held within 30 days before presiding officer appointed by NCUA Board. • Right to be represented by counsel at hearing. • Respondent bears burden of proof. • Presiding officer makes recommended decision. • Final decision by NCUA Board, must included reasons if reinstatement denied. • Dismissal effective pending final decision.

2. Section 747.2002—Discretionary Supervisory Actions

Section 747.2002 provides for prior notice and an opportunity to be heard before a DSA is imposed. The NCUA Board must give advance notice of its intention to impose a DSA , § 747.2002(a)(1), except when necessary to further the purpose of PCA. § 747.2002(a)(2). The credit union may then challenge the proposed action in writing and request that the DSA not be imposed or be modified. § 747.2002(c). However, the credit union is not entitled to a hearing. The NCUA Board, or an independent person designated by the NCUA Board, may then decide not to issue the directive or to issue it as proposed or as modified, § 747.2002(d); that decision is final. A credit union which already is subject to a DSA may request reconsideration and rescission due to changed circumstances. § 747.2002(f).

NCUA received 17 comments recommending modifications to § 747.2002. These include expanding

the opportunity to be heard into a full evidentiary hearing; establishing a panel of credit union industry officials to review specific challenges to DSAs and make recommendations to NCUA; establishing an independent council to periodically review PCA implementation and recommend revisions to part 702. Nine commenters urged involving either a mediator or an ombudsman in the appeal process for DSAs. Another contended that an already-existing DSA should be deemed modified or withdrawn if NCUA fails to decide a request for modification or rescission within 60 days.

NCUA received two comments advocating substitute alternative procedures. One alternative was a three-level appeal process commencing with a full evidentiary hearing before the appropriate Regional Director, followed by another full hearing before an NCUA-appointed presiding officer, with direct appeal of that decision to U.S. District Court, bypassing the NCUA Board altogether. The other alternative was a full evidentiary hearing in which NCUA would have the burden of justifying the proposed DSA, and the DSA would not take effect until all appeals were exhausted.

In general, involving panels and councils in the appeal process, and expanding it beyond an opportunity to be heard in writing, would undermine the overall objective of PCA—to act promptly. On the other hand, involving NCUA's ombudsman in the appeal process, and setting a time limit for NCUA to decide requests to modify, to not issue, or to rescind DSAs is appropriate. Accordingly, the final rule revises section 747.2002(f) to provide that if NCUA fails to decide a request to modify or rescind an existing DSA within 60 days, that DSA shall be deemed modified or rescinded. In addition, a new subsection 747.2002(g) is introduced to permit a credit union to request the recommendation of NCUA's ombudsman to not issue or to modify a proposed DSA, or to rescind an existing DSA, as the case may be.

3. Section 747.2003—Reclassification to Lower Net Worth Category

The NCUA Board is authorized to reclassify a credit union to the next lower net worth category on grounds of an unsafe or unsound practice or condition, provided the credit union is first given notice and an opportunity for a hearing. §§ 702.102(b), 702.302(d). In such cases, therefore, section 747.2003 requires the NCUA Board to give notice of its intention to reclassify a credit union, § 747.2003(a), and describe the practice(s) and/or condition(s) justifying reclassification. § 747.2003(b). The credit union may then challenge the reclassification, provide evidence supporting its position, and request an informal hearing and the opportunity to present witnesses. § 747.2003(c).

If requested, an informal hearing is conducted by a presiding officer designated by the NCUA Board. § 747.2003(d). At the hearing, the credit union may introduce relevant documents, present oral argument, and if authorized, present witnesses. § 747.2003(e). The presiding officer then makes a recommended decision to the NCUA Board, § 747.2003(e)(4), which then issues a final decision whether to reclassify the credit union. § 747.2003(f). The NCUA Board may not delegate the authority to make the final decision to reclassify. §§ 702.102(c), 747.2003(h); § 1790d(h)(2).

NCUA received seven comments on this section. Five sought to allow credit unions to be represented by counsel at an informal hearing challenging reclassification. NCUA concurs and has revised section 747.2003(e)(1) accordingly. Another commenter insisted upon a formal evidentiary hearing instead of an informal hearing. NCUA believes that the length of time that a formal hearing entails would undermine the promptness objective of PCA. The final commenter advocated that NCUA delegate its authority to reclassify on safety and soundness grounds to an independent person outside NCUA. As mentioned earlier, however, this is among the few actions NCUA is forbidden to delegate. § 702.102(c).

4. Section 747.2004—Dismissal of Director or Senior Executive Officer

The NCUA Board is authorized to issue a DSA directing a credit union to dismiss a director or senior executive officer. § 702.202(b)(7). In such cases, § 747.2004 requires the NCUA Board to serve the dismissed person with a copy of the directive issued to the credit union, accompanied by a notice of the right to seek reinstatement by the NCUA Board. § 747.2004(a)–(b). That person may then challenge the dismissal and request for reinstatement,[24] and may request an informal hearing and the opportunity to present witness testimony. § 747.2004(c). The dismissal remains in effect while the request for reinstatement is pending. § 747.2004(g).

If requested, a hearing is conducted by an NCUA Board-designated presiding officer under procedures identical to those which section 747.2003 prescribes in cases of reclassification, with two exceptions. First, the dismissed person bears the burden of proving that his or her continued employment would materially strengthen the credit union's ability to become ''adequately capitalized'' or to correct an unsafe or unsound condition, as the case may be. § 747.2004(e)(4). Second, if the NCUA Board's final decision is to deny reinstatement, it must provide reasons for its decision. § 747.2004(f).

NCUA received two comments in response to this section. The first urged reversal of the burden of proof, thus requiring NCUA to prove that the dismissed person's continued employment would not materially strengthen the credit union's ability to become ''adequately capitalized'' or to correct an unsafe or unsound condition. NCUA declines to reverse the burden of proof because section 747.2004(e)(4) emulates FDIA § 38, which imposes the burden of justifying reinstatement on the dismissed person. *E.g.,* 12 CFR 308.203.

5. Section 747.2005—Enforcement of Orders Imposing Prompt Corrective Action

CUMAA amended the FCUA to ensure that supervisory actions imposed under part 702 are enforceable. 12 U.S.C. §§ 1786(k)(1) and (2)(A). When a credit union fails to comply with an MSA or DSA, NCUA may apply to the appropriate U.S. District Court to enforce that action. § 747.2005(a). Alternatively, the NCUA Board may assess a civil money penalty against a credit union (and any institution-affiliated party acting in concert with it) which violates or fails to comply with an MSA or DSA, or fails to implement an approved NWRP under subpart B or revised business plan under subpart C. § 747.2005(b). Finally, subpart L allows the NCUA Board to enforce an MSA or DSA under part 702 ''through any other judicial or administrative proceeding authorized by law.'' § 747.2005(c). NCUA received no comments on this section. It is retained without modification in the final rule.

I. Banking Industry Trade Association Comments

The three principal banking industry trade associations generally supported the proposed rule, agreeing that much of it is comparable to FDIA § 38, but nonetheless recommended as follows:

1. Incorporate benchmarks or a mandatory timetable for determining whether or not a new credit union is making reasonable, steady progress in

[24] The credit union which was directed to dismiss a director or officer may not seek reinstatement of the dismissed director or officer under section 747.2004, but that credit union may challenge the directive under section 747.2002.

accumulating net worth. The preamble of the final rule retains the proposed non-mandatory benchmarks established to guide ''new'' credit unions in building net worth (*see* Table 4 above);

2. Commence the additional 15-day period given to file an NWRP on the date NCUA issues its notice that the credit union has not timely filed its NWRP, rather than on the date the credit union receives that notice. NCUA continues in the final rule to use the date of receipt to measure the additional period because the time consumed by mailing or delivery could unreasonably shorten the period by several days. § 702.206(a)(4);

3. Decide whether to compel the sale of assets on a case-by-case basis as part of an NWRP. Consistent with this suggestion, part 702 contemplates case-by-case approval of an NWRP that may provide for reduction in assets, and case-by-case imposition of the DSA to reduce assets generally or a specific category of assets (line 5, Table 1 above);

4. Expand the DSA requiring ''other actions to carry out PCA'' (line 10, Table 1 above) to enumerate examples of such ''other actions,'' such as limiting management fees. The final rule deliberately articulates this DSA in general terms to maximize flexibility and to avoid suggesting that the ''other actions'' available under this DSA are limited to the enumerated examples. *E.g.* § 702.202(b)(9);

5. Eliminate as unwarranted the ''other actions no more severe'' limitation on the scope of the DSA requiring ''other actions to carry out PCA'' (line 10, Table 1 above) in the ''undercapitalized'' category. NCUA concurs and the final rule abandons that limitation. *Id.;*

6. Either eliminate the ''adjustment to net worth'' proposed to reflect items of ''other comprehensive income'' such as accumulated unrealized gains and losses on AFS securities (Call Report account no. 945), or modify it to reflect the adjustment that applies to banks. For the reasons explained in section II.B. above, the ''adjustment to net worth'' has been deleted from the final rule;

7. In measuring total assets, use average total assets over the preceding Call Report period, rather than the average of total assets over the preceding four quarterly Call Report periods. For all purposes except calculating the risk-based net worth requirement for ''complex'' credit unions, the final rule gives credit unions a choice of four methods to calculate ''total assets,'' including the average of month-end balances over the quarter. § 702.2(j);

8. Implement two additional MSAs: prohibit payments to third parties which would leave the credit union ''undercapitalized''; and require prior approval of acquisitions, new branches, new lines of business until the NWRP has been approved. NCUA lacks the authority to implement MSAs beyond the four expressly prescribed by CUMAA, § 702.202(a), nor to impose MSAs on ''well capitalized'' or ''adequately capitalized'' credit unions beyond the single MSA (earnings transfer to net worth) CUMAA imposes on the latter. § 702.201;

9. Eliminate ''prerequisite for improving management'' requiring NCUA to resort to all other DSAs before ordering a new election of the board of directors, or dismissing directors or senior executive officers, or requiring qualified senior officers to be hired (lines 7, 8 and 9, Table 2). NCUA concurs and has deleted this prerequisite from the ''undercapitalized'' category. §§ 702.202(b)(7)–(8); and

10. Restore to three of the DSAs (lines 5, 8 and 11, Table 2 above) the criterion built into the corresponding ''discretionary safeguard,'' to achieve comparability with FDIA § 38. With regard to two of these DSAs, the final rule is revised accordingly. §§ 702.202(b)(5), 702.203(b)(10). With regard to the last DSA (line 8, Table 1), however, the 180-day period protecting directors and officers from dismissal remains omitted from the final rule because a credit union official who is responsible for declining net worth, or who is incapable of reversing the decline, is not entitled to a ''safe harbor'' from dismissal. § 702.202(b)(7).

III. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis describing any significant economic impact a final regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The final rule implements the statutory requirements of prompt corrective action, including net worth parameters, expressly mandated by CUMAA.

For the purpose of this analysis, credit unions under $1 million in assets will be considered small entities. As of June 30, 1999, there were 1,690 such entities, with a total of $807.3 million in assets, with an average asset size of $0.5 million. These small entities make up 15.6 percent of all credit unions, but only 0.2 percent of all credit union assets.

The final rule requires all federally-insured credit unions to determine their net worth ratio (primarily using Call Report data). The rule sets forth additional requirements, including development of an NWRP or an RBP if the credit union's net worth ratio falls below established thresholds.

The NCUA Board does not believe that the proposed regulation would impose reporting or recordkeeping burdens that require specialized professional skills not available to them. Further, NCUA estimates fewer than 100 of these small entities will meet the net worth ratios which trigger the requirements of the regulation.

Paperwork Reduction Act

The reporting requirements in part 702 have been submitted to the Office of Management and Budget. Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB number. The control number will be displayed in the table at 12 CFR part 795.

Executive Order 13132

NCUA Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily adheres to the fundamental federalism principles addressed by the executive order. This final rule will apply to all federally-insured credit unions, including federally-insured, state-chartered credit unions. Accordingly, it may have a 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. This impact is an unavoidable consequence of carrying out the statutory mandate to adopt a system of PCA to apply to all federally-insured credit unions. Throughout the rulemaking process, NCUA staff has consulted with a committee of representative of state regulators regarding the impact of PCA on state-chartered credit unions. The committee's comments and suggestions are reflected in the final rule.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final

rule as defined by section 551 of the Administrative Procedure Act, 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule.

List of Subjects

12 CFR Part 702 and 741

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 747

Administrative practices and procedures, Credit unions.

By the National Credit Union Administration Board on February 3, 2000.

Becky Baker,

Secretary of the Board.

Accordingly, 12 CFR parts 702, 741 and 747 are amended as set forth below:

Part 702 is revised to read as follows:

PART 702—PROMPT CORRECTIVE ACTION

Sec.
702.1 Authority, purpose, scope and other supervisory authority.
702.2 Definitions.

Subpart A—Net Worth Classification

702.101 Measure and effective date of net worth classification.
702.102 Statutory net worth categories.
702.103 Risk portfolios defined. [Reserved]
702.104 Thresholds to define complex credit unions. [Reserved]
702.105 RBNW components to calculate risk-based net worth requirement. [Reserved]
702.106 Alternative components to calculate risk-based net worth requirement. [Reserved]

Subpart B—Mandatory and Discretionary Supervisory Actions

702.201 Prompt corrective action for ''adequately capitalized'' credit unions.
702.202 Prompt corrective action for ''undercapitalized'' credit unions.
702.203 Prompt corrective action for ''significantly undercapitalized'' credit unions.
702.204 Prompt corrective action for ''critically undercapitalized'' credit unions.
702.205 Consultation with State officials on proposed prompt corrective action.
702.206 Net worth restoration plans.

Subpart C—Alternative Prompt Corrective Action for New Credit Unions

702.301 Scope and definition.
702.302 Net worth categories for new credit unions.
702.303 Prompt corrective action for ''adequately capitalized'' new credit unions.
702.304 Prompt corrective action for ''moderately capitalized,'' ''marginally capitalized'' and ''minimally capitalized'' new credit unions.
702.305 Prompt corrective action for ''uncapitalized'' new credit unions.
702.306 Revised business plans for new credit unions.
702.307 Incentives for new credit unions.

Subpart D—Reserves

702.401 Reserves.
702.402 Full and fair disclosure of financial condition.
702.403 Payment of dividends.

Authority: 12 U.S.C. 1766(a), 1790d.

§ 702.1 Authority, purpose, scope and other supervisory authority.

(a) *Authority.* Subparts A, B and C of this part and subpart L of part 747 of this chapter are issued by the National Credit Union Administration pursuant to section 216 of the Federal Credit Union Act (FCUA), 12 U.S.C. 1790d (section 1790d), as added by section 301 of the Credit Union Membership Access Act, Pub. L. No. 105–219, 112 Stat. 913 (1998). Subpart D of this part is issued pursuant to FCUA section 120, 12 U.S.C. 1766.

(b) *Purpose.* The express purpose of prompt corrective action under section 1790d is to resolve the problems of federally-insured credit unions at the least possible long-term loss to the National Credit Union Share Insurance Fund. This part carries out the purpose of prompt corrective action by establishing a framework of mandatory and discretionary supervisory actions, applicable according to a credit union's net worth ratio, designed primarily to restore and improve the net worth of federally-insured credit unions.

(c) *Scope.* This part implements the provisions of section 1790d as they apply to federally-insured credit unions, whether federally- or state-chartered; to such credit unions defined as ''new'' pursuant to section 1790d(b)(2); and to such credit unions defined as ''complex'' pursuant to section 1790d(d). Certain of these provisions also apply to officers and directors of federally-insured credit unions. This part does not apply to corporate credit unions. Procedures for issuing, reviewing and enforcing orders and directives issued under this part are set forth in subpart L of part 747 of this chapter, 12 CFR 747.2001 *et seq.*

(d) *Other supervisory authority.* Neither § 1790d nor this part in any way limits the authority of the NCUA Board or appropriate State official under any other provision of law to take additional supervisory actions to address unsafe or unsound practices or conditions, or violations of applicable law or regulations. Action taken under this part may be taken independently of, in conjunction with, or in addition to any other enforcement action available to the NCUA Board or appropriate State official, including issuance of cease and desist orders, orders of prohibition, suspension and removal, or assessment of civil money penalties, or any other actions authorized by law.

§ 702.2 Definitions

Except as provided below, the terms used in this part have the same meanings as set forth in FCUA sections 101 and 216, 12 U.S.C. 1752, 1790d.

(a) *Appropriate regional director* means the director of the NCUA regional office having jurisdiction over federally-insured credit unions in the state where the affected credit union is principally located.

(b) *Appropriate State official* means the commission, board or other supervisory authority having jurisdiction over credit unions chartered by the State which chartered the affected credit union.

(c) *Credit union* means a federally-insured, natural person credit union, whether federally- or State-chartered, as defined by 12 U.S.C. 1752(6).

(d) *CUSO* means a credit union service organization as described in 12 CFR 712 *et seq.* for federally-chartered credit unions, and as defined under State law for State-chartered credit unions.

(e) *NCUSIF* means the National Credit Union Share Insurance Fund as defined by 12 U.S.C. 1783.

(f) *Net worth* means the retained earnings balance of the credit union at quarter end as determined under generally accepted accounting principles. Retained earnings consists of undivided earnings, regular reserves, and any other appropriations designated by management or regulatory authorities. This means that only undivided earnings and appropriations of undivided earnings are included in net worth. For low income-designated credit unions, net worth also includes secondary capital accounts that are uninsured and subordinate to all other claims, including claims of creditors, shareholders and the NCUSIF. For any credit union, net worth does not include the allowance for loan and lease losses account.

(g) *Net worth ratio* means the ratio of the net worth of the credit union (as defined in paragraph (f) of this section to the total assets of the credit union (as defined by a measure chosen under paragraph (j) of this section.

(h) *New credit union* means a federally-insured credit union which both has been in operation for less than ten (10) years and has $10,000,000 or less in total assets.

(i) *Shares* means deposits, shares, share certificates, share drafts, or any other depository account authorized by federal or state law.

(j) *Total assets*

(1) Total assets means a credit union's total assets as measured by either—

(i) *Average quarterly balance.* The average of quarter-end balances of the four most recent calendar quarters; or

(ii) *Average monthly balance.* The average of month-end balances over the three calendar months of the calendar quarter; or

(iii) *Average daily balance.* The average daily balance over the calendar quarter; or

(iv) *Quarter-end balance.* The quarter-end balance of the calendar quarter as reported on the credit union's Call Report, and for semi-annual filers as calculated for the quarters ending March 31 and September 30.

(2) For each quarter, a credit union must elect a measure of total assets from paragraph (j)(1) of this section to apply for all purposes under this part except §§ 702.103 through 702.106 [risk-based net worth requirement].

Subpart A—Net Worth Classification

§ 702.101 Measures and effective date of net worth classification

(a) *Net worth measures.* For purposes of this part, a credit union must determine its net worth category classification at the end of each calendar quarter using two measures:

(1) The net worth ratio as defined in § 702.2(g); and

(2) If defined as ''complex'' under § 702.104, the applicable risk-based net worth requirement.

(b) *Effective date of net worth classification.* For purposes of this part, the effective date of a federally-insured credit union's net worth category classification shall be the most recent to occur of:

(1) The last day of the calendar month following the end of the calendar quarter; or

(2) The date the credit union's net worth ratio is recalculated by or as a result of its most recent final report of examination; or

(3) The date the credit union received written notice from NCUA or, if State-chartered, the appropriate State official, of reclassification on safety and soundness grounds as provided under §§ 702.102(b) or 702.302(d).

(c) *Notice by credit union of change in net worth category.*

(1) When filing a quarterly or semi-annual Call Report, a federally-insured credit union need not otherwise notify the NCUA Board of a change in its net worth ratio that places the credit union in a lower net worth category;

(2) A federally-insured credit union which files its Call Reports semi-annually shall give written notice to the NCUA Board and, if State-chartered, to the appropriate State official, of a change in its net worth ratio for the quarters ending March 31 and September 30, if that change places the credit union in a lower net worth category, *provided however,* that this paragraph does not apply when a credit union has been notified by NCUA or, if State-chartered, by the appropriate State official, of a change in its net worth ratio that places the credit union in a lower net worth category;

(3) Written notice as required under paragraph (c)(2) of this section shall be given no later than 15 calendar days after the effective date of the change in net worth category, and shall be deemed given upon receipt by the appropriate Regional Director and, if State-chartered, by the appropriate State official.

(4) Failure to timely file a Call Report or to timely provide notice as required under this section in no way alters the effective date of a change in net worth classification under this subparagraph, or the affected credit union's corresponding legal obligations under this part.

§ 702.102 Statutory net worth categories.

(a) *Net worth categories.* Except for credit unions defined as ''new'' under subpart B of this part, a federally-insured credit union shall be classified (Table 1)—

(1) *Well capitalized* if it has a net worth ratio of seven percent (7%) or greater and also meets any applicable risk-based net worth requirement under §§ 702.105 and 702.106; or

(2) *Adequately capitalized* if it has a net worth ratio of six percent (6%) or more but less than seven percent (7%), and also meets any applicable risk-based net worth requirement under §§ 702.105 and 702.106 below; or

(3) *Undercapitalized* if it has a net worth ratio of four percent (4%) or more but less than six percent (6%), or fails to meet any applicable risk-based net worth requirement under §§ 702.105 and 702.106; or

(4) *Significantly undercapitalized* if it

(i) Has a net worth ratio of two percent (2%) or more but less than four percent (4%); or

(ii) Has a net worth ratio of four percent (4%) or more but less than five percent (5%), and either—

(A) Fails to submit an acceptable net worth restoration plan within the time prescribed in § 702.206; or

(B) Materially fails to implement a net worth restoration plan approved by the NCUA Board; or

(5) *Critically undercapitalized* if it has a net worth ratio of less than two percent (2%).

TABLE 1 -- STATUTORY NET WORTH CATEGORY CLASSIFICATION

A credit union's net worth category is . . .	*if its net worth ratio is . . .*	*and subject to the following condition(s) . . .*
"Well Capitalized"	7% or above	And if "complex," meets applicable risk-based net worth requirement (RBNW)
"Adequately Capitalized"	6% to 6.99%	And if "complex," meets applicable RBNW
"Undercapitalized"	4% to 5.99%	Or if "complex," fails applicable RBNW
"Significantly Undercapitalized"	2% to 3.99%	Or if "undercapitalized" at less than 5% net worth ratio, fails to timely submit or materially implement a net worth restoration plan
"Critically Undercapitalized"	Less than 2%	None

(b) *Reclassification based on supervisory criteria other than net worth.* The NCUA Board may reclassify a ''well capitalized'' credit union as ''adequately capitalized'' and may require an ''adequately capitalized'' or ''undercapitalized'' credit union to comply with certain mandatory or discretionary supervisory actions as if it were in the next lower net worth category (each of such actions hereinafter referred to generally as ''reclassification'') in the following circumstances:

(1) *Unsafe or unsound condition.* The NCUA Board has determined, after notice and opportunity for hearing pursuant to § 747.2003 of this chapter, that the credit union is in an unsafe or unsound condition; or

(2) *Unsafe or unsound practice.* The NCUA Board has determined, after notice and opportunity for hearing pursuant to § 747.2003 of this chapter, that the credit union has not corrected a material unsafe or unsound practice of which it was, or should have been, aware.

(c) *Non-delegation.* The NCUA Board may not delegate its authority to reclassify a credit union under paragraph (b) of this section.

(d) *Consultation with State officials.* The NCUA Board shall consult and seek to work cooperatively with the appropriate State official before reclassifying a federally-insured State-chartered credit union under paragraph (b) of this section, and shall promptly notify the appropriate State official of its decision to reclassify.

§ 702.103 Risk portfolios defined. [Reserved]

§ 702.104 Thresholds to define complex credit unions. [Reserved]

§ 702.105 RBNW components to calculate risk-based net worth requirement. [Reserved]

§ 702.106 Alternative components to calculate risk-based net worth requirement. [Reserved]

Subpart B—Mandatory and Discretionary Supervisory Actions

§ 702.201 Prompt corrective action for ''adequately capitalized'' credit unions

(a) *Earnings transfer.* Beginning the effective date of classification as ''adequately capitalized'' or lower, a federally-insured credit union must increase its net worth quarterly by an amount equivalent to at least 1/10th percent (0.1%) of its total assets for the current quarter, and must quarterly transfer that amount (or more by choice) from undivided earnings to its regular reserve account, until it is ''well capitalized.''

(b) *Reduction in earnings transfer.* On a case-by-case basis and subject to review and revocation no less frequently than quarterly, the NCUA Board may permit the credit union to quarterly transfer an amount that is less than the equivalent of 1/10th percent (0.1%) of its total assets, to the extent the NCUA Board determines that such lesser amount—

(1) Is necessary to avoid a significant redemption of shares; and

(2) Would further the purpose of this part.

§ 702.202 Prompt corrective action for ''undercapitalized'' credit unions

(a) *Mandatory supervisory actions by credit union.* A federally-insured credit union which is ''undercapitalized'' must—

(1) *Earnings transfer.* Increase net worth and transfer earnings to its regular reserve account in accordance with § 702.201;

(2) *Submit net worth restoration plan.* Submit a net worth restoration plan pursuant to § 702.206, *provided however,* that a credit union in this category having a net worth ratio of less than five percent (5%) which fails to timely submit such a plan, or which materially fails to implement an approved plan, is classified ''significantly undercapitalized'' pursuant to § 702.102(a)(4)(ii) above;

(3) *Restrict increase in assets.* Beginning the effective date of classification as ''undercapitalized'' or lower, not permit the credit union's assets to increase beyond its total assets (per § 702.2(j)) for the preceding quarter unless—

(i) *Plan approved.* The NCUA Board has approved a net worth restoration plan which provides for an increase in total assets and—

(A) The assets of the credit union are increasing consistent with the approved plan; and

(B) The credit union is implementing steps to increase the net worth ratio consistent with the approved plan;

(ii) *Plan not approved.* The NCUA Board has not approved a net worth restoration plan and total assets of the credit union are increasing because of increases since quarter-end in balances of:

(A) Total accounts receivable and accrued income on loans and investments; or

(B) Total cash and cash equivalents; or

(C) Total loans outstanding, not to exceed the sum of total assets (per § 702.2(j)) plus the quarter-end balance of unused commitments to lend and unused lines of credit provided however that a credit union which increases a balance as permitted under paragraphs (A), (B) or (C) cannot offer rates on shares in excess of prevailing rates on shares in its relevant market area, and cannot open new branches;

(4) *Restrict member business loans.* Beginning the effective date of classification as ''undercapitalized'' or lower, not increase the total dollar amount of member business loans (defined as loans outstanding and unused commitments to lend) as of the preceding quarter-end unless it is granted an exception under 12 U.S.C. 1757a(b).

(b) *''Second tier'' discretionary supervisory actions by NCUA.* Subject to the applicable procedures for issuing, reviewing and enforcing directives set forth in subpart L of part 747 of this chapter, the NCUA Board may, by directive, take one or more of the following actions with respect to an ''undercapitalized'' credit union having a net worth ratio of less than five percent (5%), or a director, officer or employee of such a credit union, if it determines that those actions are necessary to carry out the purpose of this part:

(1) *Requiring prior approval for acquisitions, branching, new lines of business.* Prohibit a credit union from, directly or indirectly, acquiring any interest in any business entity or financial institution, establishing or acquiring any additional branch office, or engaging in any new line of business, unless the NCUA Board has approved the credit union's net worth restoration plan, the credit union is implementing its plan, and the NCUA Board determines that the proposed action is consistent with and will further the objectives of that plan;

(2) *Restricting transactions with and ownership of CUSO.* Restrict the credit union's transactions with a CUSO, or require the credit union to reduce or divest its ownership interest in a CUSO;

(3) *Restricting dividends or interest paid.* Restrict the dividend or interest rates the credit union pays on shares to the prevailing rates paid on comparable accounts and maturities in the relevant market area, as determined by the NCUA Board, except that dividend rates already declared on shares acquired before imposing a restriction under this paragraph may not be retroactively restricted;

(4) *Prohibiting or reducing asset growth.* Prohibit any growth in the credit union's assets or in a category of assets, or require the credit union to reduce its assets or a category of assets;

(5) *Alter, reduce or terminate activity.* Require the credit union or its CUSO to alter, reduce, or terminate any activity which poses excessive risk to the credit union;

(6) *Prohibiting nonmember deposits.* Prohibit the credit union from accepting all or certain nonmember deposits;

(7) *Dismissing director or senior executive officer.* Require the credit union to dismiss from office any director or senior executive officer, *provided however,* that a dismissal under this clause shall not be construed to be a formal administrative action for removal under 12 U.S.C. 1786(g);

(8) *Employing qualified senior executive officer.* Require the credit union to employ qualified senior executive officers (who, if the NCUA Board so specifies, shall be subject to its approval); and

(9) *Other action to carry out prompt corrective action.* Restrict or require such other action by the credit union as the NCUA Board determines will carry out the purpose of this part better than any of the actions prescribed in paragraphs (b)(1) through (8) of this section.

(c) *''First tier'' application of discretionary supervisory actions.* An ''undercapitalized'' credit union having a net worth ratio of five percent (5%) or more, or which is classified ''undercapitalized'' by reason of failing to satisfy a risk-based net worth requirement under § 702.105 or 702.106, is subject to the discretionary supervisory actions in paragraph (b) of this section if it fails to comply with any mandatory supervisory action in paragraph (a) of this section or fails to timely implement an approved net worth restoration plan under § 702.206, including meeting its prescribed steps to increase its net worth ratio.

§ 702.203 Prompt corrective action for ''significantly undercapitalized'' credit unions.

(a) *Mandatory supervisory actions by credit union.* A federally-insured credit union which is ''significantly undercapitalized'' must—

(1) *Earnings transfer.* Increase net worth and transfer earnings to its regular reserve account in accordance with § 702.201;

(2) *Submit net worth restoration plan.* Submit a net worth restoration plan pursuant to § 702.206;

(3) *Restrict increase in assets.* Not permit the credit union's total assets to increase except as provided in § 702.202(a)(3) and

(4) *Restrict member business loans.* Not increase the total dollar amount of member business loans (defined as loans outstanding and unused commitments to lend) as provided in § 702.202(a)(4).

(b) *Discretionary supervisory actions by NCUA.* Subject to the applicable procedures for issuing, reviewing and enforcing directives set forth in subpart L of part 747 of this chapter, the NCUA Board may, by directive, take one or more of the following actions with respect to any ''significantly undercapitalized'' credit union, or a director, officer or employee of such credit union, if it determines that those actions are necessary to carry out the purpose of this part:

(1) *Requiring prior approval for acquisitions, branching, new lines of business.* Prohibit a credit union from, directly or indirectly, acquiring any interest in any business entity or financial institution, establishing or acquiring any additional branch office, or engaging in any new line of business, except as provided in § 702.202(b)(1);

(2) *Restricting transactions with and ownership of CUSO.* Restrict the credit union's transactions with a CUSO, or require the credit union to divest or reduce its ownership interest in a CUSO;

(3) *Restricting dividends or interest paid.* Restrict the dividend or interest rates that the credit union pays on shares as provided in § 702.202(b)(3);

(4) *Prohibiting or reducing asset growth.* Prohibit any growth in the credit union's assets or in a category of assets, or require the credit union to reduce assets or a category of assets;

(5) *Alter, reduce or terminate activity.* Require the credit union or its CUSO(s) to alter, reduce, or terminate any activity which poses excessive risk to the credit union;

(6) *Prohibiting nonmember deposits.* Prohibit the credit union from accepting all or certain nonmember deposits;

(7) *New election of directors.* Order a new election of the credit union's board of directors;

(8) *Dismissing director or senior executive officer.* Require the credit union to dismiss from office any director or senior executive officer, *provided however,* that a dismissal under this clause shall not be construed to be a formal administrative action for removal under 12 U.S.C. 1786(g);

(9) *Employing qualified senior executive officer.* Require the credit union to employ qualified senior executive officers (who, if the NCUA Board so specifies, shall be subject to its approval);

(10) *Restricting senior executive officers' compensation.* Except with the prior written approval of the NCUA Board, limit compensation to any senior executive officer to that officer's average rate of compensation (excluding bonuses and profit sharing) during the four (4) calendar quarters preceding the effective date of classification of the credit union as ''significantly undercapitalized,'' and prohibit payment of a bonus or profit share to such officer;

(11) *Other actions to carry out prompt corrective action.* Restrict or require such other action by the credit union as the NCUA Board determines will carry out the purpose of this part better than any of the actions prescribed in paragraphs (b)(1) through (10) of this section; and

(12) *Requiring merger.* Require the credit union to merge with another financial institution if one or more grounds exist for placing the credit union into conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), or into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(i).

(c) *Discretionary conservatorship or liquidation if no prospect of becoming ''adequately capitalized.''* Notwithstanding any other actions required or permitted to be taken under this section, when a credit union becomes ''significantly undercapitalized'' (including by reclassification under section 702.102(b) above), the NCUA Board may place the credit union into conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), or into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(i), provided that the credit union has no reasonable prospect of becoming ''adequately capitalized.''

§ 702.204 Prompt corrective action for ''critically undercapitalized'' credit unions

(a) *Mandatory supervisory actions by credit union.* A federally-insured credit union which is ''critically undercapitalized'' must—

(1) *Earnings transfer.* Increase net worth and transfer earnings to its regular reserve account in accordance with § 702.201;

(2) *Submit net worth restoration plan.* Submit a net worth restoration plan pursuant to § 702.206;

(3) *Restrict increase in assets.* Not permit the credit union's total assets to increase except as provided in § 702.202(a)(3); and

(4) *Restrict member business loans.* Not increase the total dollar amount of member business loans (defined as loans outstanding and unused commitments to lend) as provided in § 702.202(a)(4).

(b) *Discretionary supervisory actions by NCUA.* Subject to the applicable procedures for issuing, reviewing and enforcing directives set forth in subpart L of part 747 of this chapter, the NCUA Board may, by directive, take one or more of the following actions with respect to any ''critically undercapitalized'' credit union, or a director, officer or employee of such credit union, if it determines that those actions are necessary to carry out the purpose of this part:

(1) *Requiring prior approval for acquisitions, branching, new lines of business.* Prohibit a credit union from, directly or indirectly, acquiring any interest in any business entity or financial institution, establishing or acquiring any additional branch office, or engaging in any new line of business, except as provided by § 702.202(b)(1);

(2) *Restricting transactions with and ownership of CUSO.* Restrict the credit union's transactions with a CUSO, or require the credit union to divest or reduce its ownership interest in a CUSO;

(3) *Restricting dividends or interest paid.* Restrict the dividend or interest rates that the credit union pays on shares as provided in § 702.202(b)(3);

(4) *Prohibiting or reducing asset growth.* Prohibit any growth in the credit union's assets or in a category of assets, or require the credit union to reduce assets or a category of assets;

(5) *Alter, reduce or terminate activity.* Require the credit union or its CUSO(s) to alter, reduce, or terminate any activity which poses excessive risk to the credit union;

(6) *Prohibiting nonmember deposits.* Prohibit the credit union from accepting all or certain nonmember deposits;

(7) *New election of directors.* Order a new election of the credit union's board of directors;

(8) *Dismissing director or senior executive officer.* Require the credit union to dismiss from office any director or senior executive officer, *provided however,* that a dismissal under this clause shall not be construed to be a formal administrative action for removal under 12 U.S.C. 1786(g);

(9) *Employing qualified senior executive officer.* Require the credit union to employ qualified senior executive officers (who, if the NCUA Board so specifies, shall be subject to its approval);

(10) *Restricting senior executive officers' compensation.* Reduce or, with the prior written approval of the NCUA Board, limit compensation to any senior executive officer to that officer's average rate of compensation (excluding bonuses and profit sharing) during the four (4) calendar quarters preceding the effective date of classification of the credit union as ''critically undercapitalized,'' and prohibit payment of a bonus or profit share to such officer;

(11) *Restrictions on payments on uninsured secondary capital.* Beginning 60 days after the effective date of classification of a credit union as ''critically undercapitalized,'' prohibit payments of principal, dividends or interest on the credit union's uninsured secondary capital accounts established after August 7, 2000, except that unpaid dividends or interest shall continue to accrue under the terms of the account to the extent permitted by law;

(12) *Requiring prior approval.* Require a ''critically undercapitalized'' credit union to obtain the NCUA Board's prior written approval before doing any of the following:

(i) Entering into any material transaction not within the scope of an approved net worth restoration plan (or approved revised business plan under subpart C of this part);

(ii) Extending credit for transactions deemed highly leveraged by the NCUA Board or, if State-chartered, by the appropriate State official;

(iii) Amending the credit union's charter or bylaws, except to the extent necessary to comply with any law, regulation, or order;

(iv) Making any material change in accounting methods; and

(v) Paying dividends or interest on new share accounts at a rate exceeding the prevailing rates of interest on insured deposits in its relevant market area;

(13) *Other action to carry out prompt corrective action.* Restrict or require such other action by the credit union as the NCUA Board determines will carry out the purpose of this part better than any of the actions prescribed in paragraphs (b)(1) through (12) of this section; and

(14) *Requiring merger.* Require the credit union to merge with another financial institution if one or more grounds exist for placing the credit union into conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), or into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(i).

(c) *Mandatory conservatorship, liquidation or action in lieu thereof*—(1) *Action within 90 days.* Notwithstanding

any other actions required or permitted to be taken under this section (and regardless of a credit union's prospect of becoming ''adequately capitalized''), the NCUA Board must, within 90 calendar days after the effective date of classification of a credit union as ''critically undercapitalized''—

(i) *Conservatorship.* Place the credit union into conservatorship pursuant to 12 U.S.C. 1786(h)(1)(G); or

(ii) *Liquidation.* Liquidate the credit union pursuant to 12 U.S.C. 1787(a)(3)(A)(ii); or

(iii) *Other corrective action.* Take other corrective action, in lieu of conservatorship or liquidation, to better achieve the purpose of this part, provided that the NCUA Board documents why such action in lieu of conservatorship or liquidation would do so.

(2) *Renewal of other corrective action.* A determination by the NCUA Board to take other corrective action in lieu of conservatorship or liquidation under paragraph (c)(1)(iii) of this section shall expire after an effective period ending no later than 180 calendar days after the determination is made, and the credit union shall be immediately placed into conservatorship or liquidation under paragraphs (c)(1)(i) and (ii), unless the NCUA Board makes a new determination under paragraph (c)(1)(iii) of this section before the end of the effective period of the prior determination;

(3) *Mandatory liquidation after 18 months*—(i) *Generally.* Notwithstanding paragraphs (c)(1) and (2) of this section, the NCUA Board must place a credit union into liquidation if it remains ''critically undercapitalized'' for a full calendar quarter, on a monthly average basis, following a period of 18 months from the effective date the credit union was first classified ''critically undercapitalized.''

(ii) *Exception.* Notwithstanding paragraph (c)(3)(i) of this section, the NCUA Board may continue to take other corrective action in lieu of liquidation if it certifies that the credit union—

(A) Has been in substantial compliance with an approved net worth restoration plan requiring consistent improvement in net worth since the date the net worth restoration plan was approved;

(B) Has positive net income or has an upward trend in earnings that the NCUA Board projects as sustainable; and

(C) Is viable and not expected to fail.

(iii) *Review of exception.* The NCUA Board shall, at least quarterly, review the certification of an exception to liquidation under paragraph (c)(3)(ii) of this section and shall either—

(A) Recertify the credit union if it continues to satisfy the criteria of paragraph (c)(3)(ii) of this section; or

(B) Promptly place the credit union into liquidation, pursuant to 12 U.S.C. 1787(a)(3)(A)(ii), if it fails to satisfy the criteria of paragraph (c)(3)(ii) of this section.

(4) *Nondelegation.* The NCUA Board may not delegate its authority under paragraph (c) of this section, unless the credit union has less than $5,000,000 in total assets. A credit union shall have a right of direct appeal to the NCUA Board of any decision made by delegated authority under this section.

§ 702.205 Consultation with State officials on proposed prompt corrective action.

(a) *Consultation on proposed conservatorship or liquidation.* Before placing a federally-insured State-chartered credit union into conservatorship (pursuant to 12 U.S.C. 1786(h)(1)(F) or (G)) or liquidation (pursuant to 12 U.S.C. 1787(a)(3)) as permitted or required under subparts B or C of this part to facilitate prompt corrective action—

(1) The NCUA Board shall seek the views of the appropriate State official (as defined in § 702.2(b), and give him or her an opportunity to place the credit union into conservatorship or liquidation;

(2) The NCUA Board shall, upon timely request of the appropriate State official, promptly provide him or her with a written statement of the reasons for the proposed conservatorship or liquidation, and reasonable time to respond to that statement; and

(3) If the appropriate State official makes a timely written response that disagrees with the proposed conservatorship or liquidation and gives reasons for that disagreement, the NCUA Board shall not place the credit union into conservatorship or liquidation unless it first considers the views of the appropriate State official and determines that—

(i) The NCUSIF faces a significant risk of loss if the credit union is not placed into conservatorship or liquidation; and

(ii) Conservatorship or liquidation is necessary either to reduce the risk of loss, or to reduce the expected loss, to the NCUSIF with respect to the credit union.

(b) *Nondelegation.* The NCUA Board may not delegate any determination under paragraph (a)(3) of this section.

(c) *Consultation on proposed discretionary action.* The NCUA Board shall consult and seek to work cooperatively with the appropriate State official before taking any discretionary supervisory action under §§ 702.201(b), 702.202(b), 702.203(b), 702.204(b), 702.304(b) and 702.305(b) with respect to a federally-insured State-chartered credit union; shall provide prompt notice of its decision to the appropriate State official; and shall allow the appropriate State official to take the proposed action independently or jointly with NCUA.

§ 702.206 Net worth restoration plans.

(a) *Schedule for filing*—(1) *Generally.* A federally-insured credit union shall file a written net worth restoration plan (NWRP) with the appropriate Regional Director and, if State-chartered, the appropriate State official, within 45 calendar days of the effective date of classification as either ''undercapitalized,'' ''significantly undercapitalized'' or ''critically undercapitalized,'' unless the NCUA Board notifies the credit union in writing that its NWRP is to be filed within a different period.

(2) *Exception.* An otherwise ''adequately capitalized'' credit union that is reclassified ''undercapitalized'' on safety and soundness grounds under § 702.102(b) is not required to submit a NWRP solely due to the reclassification, unless the NCUA Board notifies the credit union that it must submit an NWRP.

(3) *Filing of additional plan.* Notwithstanding paragraph (a)(1) of this section, a credit union that has already submitted and is operating under a NWRP approved under this section is not required to submit an additional NWRP due to a change in net worth category (including by reclassification under § 702.102(b)), unless the NCUA Board notifies the credit union that it must submit a new NWRP. A credit union that is notified to submit a new or revised NWRP shall file the NWRP in writing with the appropriate Regional Director within 30 calendar days of receiving such notice, unless the NCUA Board notifies the credit union in writing that the NWRP is to be filed within a different period.

(4) *Failure to timely file plan.* When a credit union fails to timely file an NWRP pursuant to this paragraph, the NCUA Board shall promptly notify the credit union that it has failed to file an NWRP and that it has 15 calendar days from receipt of that notice within which to file an NWRP.

(b) *Assistance to small credit unions.* Upon timely request by a credit union having total assets of less than $10 million (regardless how long it has been in operation), the NCUA Board shall provide assistance in preparing an

NWRP required to be filed under paragraph (a) of this section.

(c) *Contents of NWRP.* An NWRP must—

(1) Specify—

(i) A quarterly timetable of steps the credit union will take to increase its net worth ratio so that it becomes ''adequately capitalized'' by the end of the term of the NWRP, and to remain so for four (4) consecutive calendar quarters. If ''complex,'' the credit union is subject to a risk-based net worth requirement that may require a net worth ratio higher than six percent (6%) to become ''adequately capitalized'';

(ii) The projected amount of earnings to be transferred to the regular reserve in each quarter of the term of the NWRP equivalent to not less than 1/10 percent (0.1%) of its total assets under § 702.201(a), or such lesser amount as the NCUA Board may permit under § 702.201(b);

(iii) How the credit union will comply with the mandatory and discretionary supervisory actions imposed on it by the NCUA Board under this subpart;

(iv) The types and levels of activities in which the credit union will engage; and

(v) If reclassified to a lower category under § 702.102(b), the steps the credit union will take to correct the unsafe or unsound practice(s) or condition(s);

(2) Include pro forma financial statements, including any off-balance sheet items, covering a minimum of the next two years; and

(3) Contain such other information as the NCUA Board has required.

(d) *Criteria for approval of NWRP.* The NCUA Board shall not accept a NWRP plan unless it—

(1) Complies with paragraph (c) of this section;

(2) Is based on realistic assumptions, and is likely to succeed in restoring the credit union's net worth; and (3) Would not unreasonably increase the credit union's exposure to risk (including credit risk, interest-rate risk, and other types of risk).

(e) *Consideration of regulatory capital.* To minimize possible long-term losses to the NCUSIF while the credit union takes steps to become ''adequately capitalized,'' the NCUA Board shall, in evaluating an NWRP under this section, consider the type and amount of any form of regulatory capital which may become established by NCUA regulation, or authorized by State law and recognized by NCUA, which the credit union holds, but which is not included in its net worth.

(f) *Review of NWRP*—(1) *Notice of decision.* Within 45 calendar days after receiving an NWRP under this part, the NCUA Board shall notify the credit union in writing whether the NWRP has been approved, and shall provide reasons for its decision in the event of disapproval.

(2) *Delayed decision.* If no decision is made within the time prescribed in paragraph (f)(1) of this section, the NWRP is deemed approved.

(3) *Consultation with State officials.* In the case of an NWRP submitted by a federally-insured State-chartered credit union (whether an original, new, additional, revised or amended NWRP), the NCUA Board shall, when evaluating the NWRP, seek and consider the views of the appropriate State official, and provide prompt notice of its decision to the appropriate State official.

(g) *NWRP not approved* (1) *Submission of revised NWRP.* If an NWRP is rejected by the NCUA Board, the credit union shall submit a revised NWRP within 30 calendar days of receiving notice of disapproval, unless it is notified in writing by the NCUA Board that the revised NWRP is to be filed within a different period.

(2) *Notice of decision on revised NWRP.* Within 30 calendar days after receiving a revised NWRP under paragraph (g)(1) of this section, the NCUA Board shall notify the credit union in writing whether the revised NWRP is approved. The Board may extend the time within which notice of its decision shall be provided.

(3) *Disapproval of reclassified credit union's NWRP.* A credit union which has been classified ''significantly undercapitalized'' under § 702.102(a)(4)(ii) shall remain so classified pending NCUA Board approval of a new or revised NWRP.

(h) *Amendment of NWRP.* A credit union that is operating under an approved NWRP may, after prior written notice to, and approval by the NCUA Board, amend its NWRP to reflect a change in circumstance. Pending approval of an amended NWRP, the credit union shall implement the NWRP as originally approved.

Subpart C—Alternative Prompt Corrective Action for New Credit Unions

§ 702.301 Scope and definition.

(a) *Scope.* This subpart C applies in lieu of subpart B of this part exclusively to credit unions defined in paragraph (b) of this section as ''new'' pursuant to 12 U.S.C. 1790d(b)(2).

(b) *New credit union defined.* A ''new'' credit union for purposes of this subpart is a federally-insured credit union that both has been in operation for less than ten (10) years and has total assets of not more than $10 million. A credit union which exceeds $10 million in total assets may become ''new'' if its total assets subsequently decline below $10 million while it is still in operation for less than 10 years.

(c) *Effect of spin-offs.* A credit union formed as the result of a ''spin-off'' of a group from the field of membership of an existing credit union is deemed to be in operation since the effective date of the ''spin-off.'' A credit union whose total assets decline below $10 million because a group within its field of membership has been ''spun-off'' is deemed ''new'' if it has been in operation less than 10 years.

(d) *Actions to evade prompt corrective action.* If the NCUA Board determines that a credit union was formed, or was reduced in asset size as a result of a ''spin-off,'' or was merged, primarily to qualify as ''new'' under this subpart, the credit union shall be deemed subject to prompt corrective action under subpart A of this part.

§ 702.302 Net worth categories for new credit unions.

(a) *Net worth measures.* For purposes of this part, a new credit union must determine its net worth category classification quarterly according to its net worth ratio as defined in § 702.2(g), and any risk-based net worth requirement applicable to a new credit union defined as ''complex'' under §§ 702.103 through 702.106.

(b) *Effective date of net worth classification of new credit union.* For purposes of subpart C, the effective date of a new federally-insured credit union's classification within a net worth category in paragraph (c) of this section shall be determined as provided in § 702.101(b); and written notice to the NCUA Board of a decline in net worth category in paragraph (c) of this section shall be given as required by section 702.101(c).

(c) *Net worth categories.* A federally-insured credit union defined as ''new'' under this section shall be classified (Table 2)—

(1) *Well capitalized* if it has a net worth ratio of seven percent (7%) or greater and also meets any applicable risk-based net worth requirement under §§ 702.105 and 702.106;

(2) *Adequately capitalized* if it has a net worth ratio of six percent (6%) or more but less than seven percent (7%), and also meets any applicable risk-based net worth requirement under §§ 702.105 and 702.106;

(3) *Moderately capitalized* if it has a net worth ratio of three and one-half percent (3.5%) or more but less than six percent (6%), or fails to meet any

applicable risk-based net worth requirement under §§ 702.105 and 702.106;

(4) *Marginally capitalized* if it has a net worth ratio of two percent (2%) or more but less than three and one-half percent (3.5%);

(5) *Minimally capitalized* if it has a net worth ratio of zero percent (0%) or greater but less than two percent (2%); and

(6) *Uncapitalized* if it has a net worth ratio of less than zero percent (0%) (*e.g.,* a deficit in retained earnings).

TABLE 2 -- NET WORTH CATEGORY CLASSIFICATION FOR "NEW" CREDIT UNIONS

A "new" credit union's net worth category is . . .	*if its net worth ratio is . . .*	*and subject to the following condition(s) . . .*
"Well Capitalized"	7% or above	And if "complex," meets applicable risk-based net worth requirement (RBNW)
"Adequately Capitalized"	6% to 6.99%	And if "complex," meets applicable RBNW
"Moderately Capitalized"	3.5% to 5.99%	Or if "complex," fails applicable RBNW
"Marginally Capitalized"	2% to 3.49%	None.
"Minimally Capitalized"	0% to 1.99%	None.
"Uncapitalized"	Less than 0%	None.

(d) *Reclassification based on supervisory criteria other than net worth.* Subject to § 702.102(b) and (c), the NCUA Board may reclassify a ''well capitalized,'' ''moderately capitalized'' or ''marginally capitalized'' new credit union to the next lower net worth category (each of such actions is hereinafter referred to generally as ''reclassification'') in either of the circumstances prescribed in § 702.102(b).

(e) *Consultation with State officials.* The NCUA Board shall consult and seek to work cooperatively with the appropriate State official before reclassifying a federally-insured State-chartered credit union under paragraph (d) of this section, and shall promptly notify the appropriate State official of its decision to reclassify.

§ 702.303 Prompt corrective action for ''adequately capitalized'' new credit unions.

Beginning on the effective date of classification as ''adequately capitalized'' or lower, an ''adequately capitalized'' new credit union must increase its net worth and transfer earnings to its regular reserve account in accordance with § 702.201, until it is ''well capitalized.''

§ 702.304 Prompt corrective action for ''moderately capitalized,'' ''marginally capitalized'' or ''minimally capitalized'' new credit unions.

(a) *Mandatory supervisory actions by new credit union.* A new credit union which is ''moderately capitalized,'' ''marginally capitalized,'' or ''minimally capitalized'' (including by reclassification under § 702.302(d) must—

(1) *Earnings transfer.* Beginning on the effective date of classification as ''moderately capitalized'' or lower, increase net worth and quarterly transfer earnings to the credit union's regular reserve account in an amount reflected in the credit union's approved initial or revised business plan;

(2) *Submit revised business plan.* Submit a revised business plan pursuant to § 702.306 if either—

(i) The credit union's net worth ratio has not increased consistent with its then-present approved business plan; or

(ii) The credit union has no then-present approved business plan; or

(iii) The credit union has failed to undertake any mandatory supervisory action prescribed in this paragraph; and

(3) *Restrict member business loans.* Beginning the effective date of classification as ''moderately capitalized'' or lower, not increase the total dollar amount of member business loans (defined as loans outstanding and unused commitments to lend) as provided in § 702.202(a)(4).

(b) *Discretionary supervisory actions by NCUA.* Subject to the applicable procedures set forth in subpart L of part 747 of this chapter for issuing, reviewing and enforcing directives, the NCUA Board may, by directive, take one or more of the actions prescribed in § 702.204(b) if the credit union's net worth ratio has not increased consistent with its then-present business plan, or the credit union has failed to undertake any mandatory supervisory action prescribed in paragraph (a) of this section.

(c) *Discretionary conservatorship or liquidation.* Notwithstanding any other actions required or permitted to be taken under this section, the NCUA Board may place a new credit union which is ''moderately capitalized,'' ''marginally capitalized'' or ''minimally capitalized'' (including by reclassification under § 702.302(d)) into conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), or into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(i), provided that the credit union has no reasonable prospect of becoming ''adequately capitalized.''

§ 702.305 Prompt corrective action for ''uncapitalized'' new credit unions.

(a) *Mandatory supervisory actions by new credit union.* If a federally-insured new credit union either remains ''uncapitalized'' beyond the time period provided in its initial business plan (approved at the time the credit union's charter was granted), or subsequently declines to that category from a higher category after the expiration of that period, it must—

(1) *Earnings transfer.* Increase net worth and quarterly transfer earnings to the credit union's regular reserve account in an amount reflected in the credit union's approved initial or revised business plan;

(2) *Submit revised business plan.* Within 90 days of the effective date of

classification as ''uncapitalized'' as provided in paragraph (a) of this section, or such shorter period as the NCUA Board specifies, submit a revised business plan pursuant to § 702.306 providing for alternative means of funding the credit union's earnings deficit; and (3) *Restrict member business loans.* Not increase the total amount of member business loans (defined as loans outstanding and unfunded commitments to lend) as provided in § 702.202(a)(4).

(b) *Discretionary supervisory actions by NCUA.* Subject to the procedures set forth in subpart L of part 747 of this chapter for issuing, reviewing and enforcing directives, the NCUA Board may, by directive, take one or more of the actions prescribed in § 702.204(b) if the credit union's net worth ratio has not increased consistent with its then-present business plan, or the credit union has failed to undertake any mandatory supervisory action prescribed in paragraph (a) of this section.

(c) *Mandatory liquidation or conservatorship.* Notwithstanding any other actions required or permitted to be taken under this section, the NCUA Board—

(1) *Plan not submitted.* May place into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(ii), or conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), an ''uncapitalized'' new credit union which fails to submit a revised business plan within the time provided under paragraph (a)(2) of this section; or

(2) *''Uncapitalized'' after 90 days.* Must place into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(ii), or conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), an ''uncapitalized'' new credit union which remains ''uncapitalized'' ninety (90) calendar days after the date the NCUA Board approved the revised business plan submitted by the credit union pursuant to paragraph (a)(2) of this section, unless the credit union documents to the NCUA Board why it is viable and has a reasonable prospect of becoming ''adequately capitalized.''

§ 702.306 Revised business plans for new credit unions.

(a) *Schedule for filing*—(1) *Generally.* A ''moderately capitalized,'' ''marginally capitalized'' or ''minimally capitalized'' new credit union must file a written revised business plan (RBP) with the appropriate Regional Director and, if State-chartered, with the appropriate State official within 30 calendar days following the effective date (per § 702.101(b)) of the credit union's failure to meet a quarterly net worth target prescribed in its then-present business plan, unless the NCUA Board notifies the credit union in writing that its RBP is to be filed within a different period, or that the NCUA Board is waiving the requirement that the credit union file an RBP. An ''uncapitalized'' new credit union must file an RBP within the time provided under § 702.305(a)(2).

(2) *Failure to timely file plan.* When a new credit union fails to file an RBP as provided under paragraph (a)(1) of this section, the NCUA Board shall promptly notify the credit union that it has failed to file an RBP and that it has 15 calendar days from receipt of that notice within which to do so.

(b) *Contents of revised business plan.* A new credit union's RBP must, at a minimum—

(1) Address changes, since the new credit union's current business plan was approved, in any of the business plan elements required for charter approval under Chapter 1, section IV.D. of NCUA's *Chartering and Field of Membership Manual* (IRPS 99–1), 63 FR 71998, 72019 (Dec. 30, 1998), or its successor(s), or for State-chartered credit unions under applicable State law;

(2) Establish a timetable of quarterly targets for net worth during each year in which the RBP is in effect so that the credit union becomes ''adequately capitalized'' and remains so for four (4) consecutive calendar quarters. If ''complex,'' the credit union is subject to a risk-based net worth requirement that may require a net worth ratio higher than six percent (6%) to become ''adequately capitalized'';

(3) Specify the projected amount of earnings to be transferred quarterly to its regular reserve as provided under § 702.304(a)(1) or 702.305(a)(1);

(4) Explain how the new credit union will comply with the mandatory and discretionary supervisory actions imposed on it by the NCUA Board under this subpart;

(5) Specify the types and levels of activities in which the new credit union will engage;

(6) In the case of a new credit union reclassified to a lower category under § 702.302(d), specify the steps the credit union will take to correct the unsafe or unsound condition or practice; and

(7) Include such other information as the NCUA Board may require.

(c) *Criteria for approval.* The NCUA Board shall not approve a new credit union's RBP unless it—

(1) Addresses the items enumerated in paragraph (b) of this section;

(2) Is based on realistic assumptions, and is likely to succeed in building the credit union's net worth; and

(3) Would not unreasonably increase the credit union's exposure to risk (including credit risk, interest-rate risk, and other types of risk).

(d) *Consideration of regulatory capital.* To minimize possible long-term losses to the NCUSIF while the credit union takes steps to become ''adequately capitalized,'' the NCUA Board shall, in evaluating an RBP under this section, consider the type and amount of any form of regulatory capital which may become established by NCUA regulation, or authorized by State law and recognized by NCUA, which the credit union holds, but which is not included in its net worth.

(e) *Review of revised business plan*—(1) *Notice of decision.* Within 30 calendar days after receiving an RBP under this section, the NCUA Board shall notify the credit union in writing whether its RBP is approved, and shall provide reasons for its decision in the event of disapproval. The NCUA Board may extend the time within which notice of its decision shall be provided.

(2) *Delayed decision.* If no decision is made within the time prescribed in paragraph (e)(1) of this section, the RBP is deemed approved.

(3) *Consultation with State officials.* When evaluating an RBP submitted by a federally-insured State-chartered new credit union (whether an original, new or additional RBP), the NCUA Board shall seek and consider the views of the appropriate State official, and provide prompt notice of its decision to the appropriate State official.

(f) *Plan not approved*—(1) *Submission of new revised plan.* If an RBP is rejected by the NCUA Board, the new credit union shall submit a new RBP within 30 calendar days of receiving notice of disapproval of its initial RBP, unless it is notified in writing by the NCUA Board that the new RBP is to be filed within a different period.

(2) *Notice of decision on revised plan.* Within 30 calendar days after receiving an RBP under paragraph (f)(1) of this section, the NCUA Board shall notify the credit union in writing whether the new RBP is approved. The Board may extend the time within which notice of its decision shall be provided.

(g) *Amendment of plan.* A credit union that has filed an approved RBP may, after prior written notice to and approval by the NCUA Board, amend it to reflect a change in circumstance. Pending approval of an amended RBP, the new credit union shall implement its existing RBP as originally approved.

§ 702.307 Incentives for new credit unions.

(a) *Assistance in revising business plans.* Upon timely request by a credit union having total assets of less than $10 million (regardless how long it has been in operation), the NCUA Board shall provide assistance in preparing a revised business plan required to be filed under § 702.306.

(b) *Assistance.* Management training and other assistance to new credit unions will be provided in accordance with policies approved by the NCUA Board.

(c) *Small credit union program.* A new credit union is eligible to join and receive comprehensive benefits and assistance under NCUA's Small Credit Union Program.

Subpart D—Reserves

§ 702.401 Reserves.

(a) *Special reserve.* Each federally-insured credit union shall establish and maintain such reserves as may be required by the FCUA, by state law, by regulation, or in special cases by the NCUA Board or appropriate State official.

(b) *Regular reserve.* Each federally-insured credit union shall establish and maintain a regular reserve account for the purpose of absorbing losses that exceed undivided earnings and other appropriations of undivided earnings, subject to paragraph (c) of this section. Earnings required to be transferred annually to a credit union's regular reserve under subparts B or C of this part shall be held in this account.

(c) *Charges to regular reserve.* The board of directors of a federally-insured credit union may authorize charges to the regular reserve for losses, provided that the authorization states the amount and provides an explanation of the need for the charge, and either—

(1) The charge will not cause the credit union's net worth classification to fall below ''well capitalized'' under subparts B or C of this part; or

(2) The appropriate Regional Director or, if State-chartered, the appropriate State official, has given written approval for the charge.

(d) *Transfers to regular reserve.* The transfer of earnings to a federally-insured credit union's regular reserve account when required under subparts B or C of this part must occur after charges for loan or other losses are addressed as provided in paragraph (c) of this section and § 702.402(d), but before payment of any dividends to members.

§ 702.402 Full and fair disclosure of financial condition.

(a) *Full and fair disclosure defined.* ''Full and fair disclosure'' is the level of disclosure which a prudent person would provide to a member of a federally-insured credit union, to NCUA, or, at the discretion of the board of directors, to creditors to fairly inform them of the financial condition and the results of operations of the credit union.

(b) *Full and fair disclosure implemented.* The financial statements of a federally-insured credit union shall provide for full and fair disclosure of all assets, liabilities, and members' equity, including such valuation (allowance) accounts as may be necessary to present fairly the financial condition; and all income and expenses necessary to present fairly the statement of income for the reporting period.

(c) *Declaration of officials.* The Statement of Financial Condition, when presented to members, to creditors or to the NCUA, shall contain a dual declaration by the treasurer and the chief executive officer, or in the latter's absence, by any other officer designated by the board of directors of the reporting credit union to make such declaration, that the report and related financial statements are true and correct to the best of their knowledge and belief and present fairly the financial condition and the statement of income for the period covered.

(d) *Charges for loan losses.* Full and fair disclosure demands that a credit union properly address charges for loan losses as follows:

(1) Charges for loan losses shall be made in accordance with generally accepted accounting principles (GAAP);

(2) The allowance for loan and lease losses (ALL) established for loans must fairly present the probable losses for all categories of loans and the proper valuation of loans. The valuation allowance must encompass specifically identified loans, as well as estimated losses inherent in the loan portfolio, such as loans and pools of loans for which losses have been incurred but are not identifiable on a specific loan-by-loan basis;

(3) Adjustments to the valuation ALL will be recorded in the expense account ''Provision for Loan and Lease Losses'';

(4) The maintenance of an ALL shall not affect the requirement to transfer earnings to a credit union's regular reserve when required under subparts B or C of this part; and

(5) At a minimum, adjustments to the ALL shall be made prior to the distribution or posting of any dividend to the accounts of members.

§ 702.403 Payment of dividends.

(a) *Restriction on dividends.* Dividends shall be available only from undivided earnings, if any.

(b) *Payment of dividends if undivided earnings depleted.* The board of directors of a federally-insured credit union which has depleted the balance of its undivided earnings account may authorize a transfer of funds from the credit union's regular reserve account to undivided earnings to pay dividends, provided that either—

(1) The payment of dividends will not cause the credit union's net worth classification to fall below ''well capitalized'' under subpart B or C; or

(2) The appropriate Regional Director or, if State-chartered, the appropriate State official, has given written approval for the transfer.

PART 741—REQUIREMENTS FOR INSURANCE

1. The authority citation for part 741 is revised to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1781–1790, and 1790d. Section 741.4 is also authorized by 31 U.S.C. 3717.

2. Section 741.3 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 741.3 Criteria

* * * * *

(a) *Adequacy of reserves*—(1) *General rule.* State-chartered credit unions are subject to section 216 of the Act, 12 U.S.C. 1790d, and to part 702 and subpart L of part 747 of this chapter.

(2) *Charges against reserves.* State-chartered credit unions may charge losses, including losses other than loan losses, against the regular reserve in accordance with either state law or procedures established by the appropriate State official. The board of directors of a credit union may authorize charges to the regular reserve for losses, provided that the authorization states the amount and provides an explanation of the need for the charge, and either—

(i) The charge will not cause the credit union's net worth classification to fall below ''well capitalized'' under subparts B or C of part 702; or

(ii) The appropriate State official has given written approval for the charge.

* * * * *

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, RULES OF PRACTICE AND PROCEDURE, AND INVESTIGATIONS

1. The authority citation for part 747 is revised to read as follows:

Authority: 12 U.S.C. 1766, 1786, 1784, 1787, 1790d and 4806(a); and 42 U.S.C. 4012a.

2. Part 747 is amended by adding a new subpart L to read as follows:

Subpart L—Issuance, Review and Enforcement of Orders Imposing Prompt Corrective Action

Sec.
747.2001 Scope.
747.2002 Review of order imposing discretionary supervisory action.
747.2003 Review of order reclassifying a credit union on safety and soundness criteria.
747.2004 Review of order to dismiss a director or senior executive officer.
747.2005 Enforcement of orders.

Subpart L—Issuance, Review and Enforcement of Orders Imposing Prompt Corrective Action

§ 747.2001 Scope.

(a) *Independent review process.* The rules and procedures set forth in this subpart apply to federally-insured credit unions, whether federally- or state-chartered (other than corporate credit unions), which are subject to discretionary supervisory actions under part 702 of this chapter, and to reclassification under §§ 702.102(b) and 702.302(d) of this chapter, to facilitate prompt corrective action under section 216 of the Federal Credit Union Act, 12 U.S.C. 1790d; and to senior executive officers and directors of such credit unions who are dismissed pursuant to a discretionary supervisory action imposed under part 702. NCUA staff decisions to impose discretionary supervisory actions under part 702 shall be considered material supervisory determinations for purposes of 12 U.S.C. 1790d(k). Section 747.2002 of this subpart provides an independent appellate process to challenge such decisions.

(b) *Notice to State officials.* With respect to a federally-insured State-chartered credit union under §§ 747.2002, 747.2003 and 747.2004 of this subpart, notices, directives and decisions on appeal served upon a credit union, or a dismissed director or officer thereof, by the NCUA Board shall also be served upon the appropriate State official. Responses, requests for a hearing and to present witnesses, requests to modify or rescind a discretionary supervisory action and requests for reinstatement served upon the NCUA Board by a credit union, or dismissed director or officer thereof, shall also be served upon the appropriate State official.

§ 747.2002 Review of orders imposing discretionary supervisory action.

(a) *Notice of intent to issue directive.*—

(1) *Generally.* Whenever the NCUA Board intends to issue a directive imposing a discretionary supervisory action under §§ 702.202(b), 702.203(b) and 702.204(b) of this chapter on a credit union classified ''undercapitalized'' or lower, or under §§ 702.304(b) or 702.305(b) of this chapter on a new credit union classified ''moderately capitalized'' or lower, it must give the credit union prior notice of the proposed action and an opportunity to respond.

(2) *Immediate issuance of directive without notice.* The NCUA Board may issue a directive to take effect immediately under paragraph (a)(1) of this section without notice to the credit union if the NCUA Board finds it necessary in order to carry out the purposes of part 702 of this chapter. A credit union that is subject to a directive which takes effect immediately may appeal the directive in writing to the NCUA Board. Such an appeal must be received by the NCUA Board within 14 calendar days after the directive was issued, unless the NCUA Board permits a longer period. Unless ordered by the NCUA Board, the directive shall remain in effect pending a decision on the appeal. The NCUA Board shall consider any such appeal, if timely filed, within 60 calendar days of receiving it.

(b) *Contents of notice.* The NCUA Board's notice to a credit union of its intention to issue a directive imposing a discretionary supervisory action must state:

(1) The credit union's net worth ratio and net worth category classification;

(2) The specific restrictions or requirements that the NCUA Board intends to impose, and the reasons therefor;

(3) The proposed date when the discretionary supervisory action would take effect and the proposed date for completing the required action or terminating the action; and

(4) That a credit union must file a written response to a notice within 14 calendar days from the date of the notice, or within such shorter period as the NCUA Board determines is appropriate in light of the financial condition of the credit union or other relevant circumstances.

(c) *Contents of response to notice.* A credit union's response to a notice under paragraph (b) of this section must:

(1) Explain why it contends that the proposed discretionary supervisory action is not an appropriate exercise of discretion under this part;

(2) Request the NCUA Board to modify or to not issue the proposed directive;

(3) Include other relevant information, mitigating circumstances, documentation, or other evidence in support of the credit union's position regarding the proposed directive; and

(4) If desired, request the recommendation of NCUA's ombudsman pursuant to paragraph (g) of this section.

(d) *NCUA Board consideration of response.* The NCUA Board, or an independent person designated by the NCUA Board to act on its behalf, after considering a response under paragraph (c) of this section, may:

(1) Issue the directive as originally proposed or as modified;

(2) Determine not to issue the directive and to so notify the credit union; or

(3) Seek additional information or clarification from the credit union or any other relevant source.

(e) *Failure to file response.* A credit union which fails to file a written response to a notice of the NCUA Board's intention to issue a directive imposing a discretionary supervisory action, within the specified time period, shall be deemed to have waived the opportunity to respond, and to have consented to the issuance of the directive.

(f) *Request to modify or rescind directive.* A credit union that is subject to an existing directive imposing a discretionary supervisory action may request in writing that the NCUA Board reconsider the terms of the directive, or rescind or modify it, due to changed circumstances. Unless otherwise ordered by the NCUA Board, the directive shall remain in effect while such request is pending. A request under this paragraph which remains pending 60 days following receipt by the NCUA Board is deemed granted.

(g) *Ombudsman.* A credit union may request in writing the recommendation of NCUA's ombudsman to modify or to not issue a proposed directive under paragraph (b) of this section, or to modify or rescind an existing directive due to changed circumstances under paragraph (f) of this section. A credit union which fails to request the ombudsman's recommendation in a response under paragraph (c) of this section, or in a request under paragraph (f) of this section, shall be deemed to have waived the opportunity to do so. The ombudsman shall promptly notify the credit union and the NCUA Board of his or her recommendation.

§ 747.2003 Review of order reclassifying a credit union on safety and soundness criteria.

(a) *Notice of proposed reclassification based on unsafe or unsound condition or practice.* When the NCUA Board proposes to reclassify a credit union or subject it to the supervisory actions applicable to the next lower net worth category pursuant to §§ 702.102(b) and 702.302(d) of this chapter (each such action hereinafter referred to as ''reclassification''), the NCUA Board shall issue and serve on the credit union reasonable prior notice of the proposed reclassification.

(b) *Contents of notice.* A notice of intention to reclassify a credit union based on unsafe or unsound condition or practice shall state:

(1) The credit union's net worth ratio, current net worth category classification, and the net worth category to which the credit union would be reclassified;

(2) The unsafe or unsound practice(s) and/or condition(s) justifying reasons for reclassification of the credit union;

(3) The date by which the credit union must file a written response to the notice (including a request for a hearing), which date shall be no less than 14 calendar days from the date of service of the notice unless the NCUA Board determines that a shorter period is appropriate in light of the financial condition of the credit union or other relevant circumstances; and

(4) That a credit union which fails to—

(i) File a written response to the notice of reclassification, within the specified time period, shall be deemed to have waived the opportunity to respond, and to have consented to reclassification;

(ii) Request a hearing shall be deemed to have waived any right to a hearing; and

(iii) Request the opportunity to present witness testimony shall be deemed have waived any right to present such testimony.

(c) *Contents of response to notice.* A credit union's response to a notice under paragraph (b) of this section must:

(1) Explain why it contends that the credit union should not be reclassified;

(2) Include any relevant information, mitigating circumstances, documentation, or other evidence in support of the credit union's position;

(3) If desired, request an informal hearing before the NCUA Board under this section; and

(4) If a hearing is requested, identify any witness whose testimony the credit union wishes to present and the general nature of each witness's expected testimony.

(d) *Order to hold informal hearing.* Upon timely receipt of a written response that includes a request for a hearing, the NCUA Board shall issue an order commencing an informal hearing no later than 30 days after receipt of the request, unless the credit union requests a later date. The hearing shall be held in Alexandria, Virginia, or at such other place as may be designated by the NCUA Board, before a presiding officer designated by the NCUA Board to conduct the hearing and to recommend a decision.

(e) *Procedures for informal hearing.*—(1) The credit union may appear at the hearing through a representative or through counsel. The credit union shall have the right to introduce relevant documents and to present oral argument at the hearing. The credit union may introduce witness testimony only if expressly authorized by the NCUA Board or the presiding officer. Neither the provisions of the Administrative Procedure Act (5 U.S.C. 554–557) governing adjudications required by statute to be determined on the record nor the Uniform Rules of Practice and Procedure (12 CFR part 747) shall apply to an informal hearing under this section unless the NCUA Board orders otherwise.

(2) The informal hearing shall be recorded, and a transcript shall be furnished to the credit union upon request and payment of the cost thereof. Witnesses need not be sworn, unless specifically requested by a party or by the presiding officer. The presiding officer may ask questions of any witness.

(3) The presiding officer may order that the hearing be continued for a reasonable period following completion of witness testimony or oral argument to allow additional written submissions to the hearing record.

(4) Within 20 calendar days following the closing of the hearing and the record, the presiding officer shall make a recommendation to the NCUA Board on the proposed reclassification.

(f) *Time for final decision.* Not later than 60 calendar days after the date the record is closed, or the date of receipt of the credit union's response in a case where no hearing was requested, the NCUA Board will decide whether to reclassify the credit union, and will notify the credit union of its decision. The decision of the NCUA Board shall be final.

(g) *Request to rescind reclassification.* Any credit union that has been reclassified under this section may file a written request to the NCUA Board to reconsider or rescind the reclassification, or to modify, rescind or remove any directives issued as a result of the reclassification. Unless otherwise ordered by the NCUA Board, the credit union shall remain reclassified, and subject to any directives issued as a result, while such request is pending.

(h) *Non-delegation.* The NCUA Board may not delegate its authority to reclassify a credit union into a lower net worth category or to treat a credit union as if it were in a lower net worth category pursuant to §§ 702.102(b) or 702.302(d) of this chapter.

§ 747.2004 Review of order to dismiss a director or senior executive officer.

(a) *Service of directive to dismiss and notice.* When the NCUA Board issues and serves a directive on a credit union requiring it to dismiss from office any director or senior executive officer under §§ 702.202(b)(7), 702.203(b)(8), 702.204(b)(8), 702.304(b) or 702.305(b) of this chapter, the NCUA Board shall also serve upon the person the credit union is directed to dismiss (Respondent) a copy of the directive (or the relevant portions, where appropriate) and notice of the Respondent's right to seek reinstatement.

(b) *Contents of notice of right to seek reinstatement.* A notice of a Respondent's right to seek reinstatement shall state:

(1) That a request for reinstatement (including a request for a hearing) shall be filed with the NCUA Board within 14 calendar days after the Respondent receives the directive and notice under paragraph (a) of this section, unless the NCUA Board grants the Respondent's request for further time;

(2) The reasons for dismissal of the Respondent; and

(3) That the Respondent's failure to—

(i) Request reinstatement shall be deemed a waiver of any right to seek reinstatement;

(ii) Request a hearing shall be deemed a waiver of any right to a hearing; and

(iii) Request the opportunity to present witness testimony shall be deemed a waiver of the right to present such testimony.

(c) *Contents of request for reinstatement.* A request for reinstatement in response to a notice under paragraph (b) of this section must:

(1) Explain why the Respondent should be reinstated;

(2) Include any relevant information, mitigating circumstances, documentation, or other evidence in support of the Respondent's position;

(3) If desired, request an informal hearing before the NCUA Board under this section; and

(4) If a hearing is requested, identify any witness whose testimony the Respondent wishes to present and the general nature of each witness's expected testimony.

(d) *Order to hold informal hearing.* Upon receipt of a timely written request from a Respondent for an informal hearing on the portion of a directive requiring a credit union to dismiss from office any director or senior executive officer, the NCUA Board shall issue an order directing an informal hearing to commence no later than 30 days after receipt of the request, unless the Respondent requests a later date. The hearing shall be held in Alexandria, Virginia, or at such other place as may be designated by the NCUA Board, before a presiding officer designated by the NCUA Board to conduct the hearing and recommend a decision.

(e) *Procedures for informal hearing.*—(1) A Respondent may appear at the hearing personally or through counsel. A Respondent shall have the right to introduce relevant documents and to present oral argument at the hearing. A Respondent may introduce witness testimony only if expressly authorized by the NCUA Board or by the presiding officer. Neither the provisions of the Administrative Procedure Act (5 U.S.C. 554–557) governing adjudications required by statute to be determined on the record nor the Uniform Rules of Practice and Procedure (12 CFR part 747) apply to an informal hearing under this section unless the NCUA Board orders otherwise.

(2) The informal hearing shall be recorded, and a transcript shall be furnished to the Respondent upon request and payment of the cost thereof. Witnesses need not be sworn, unless specifically requested by a party or the presiding officer. The presiding officer may ask questions of any witness.

(3) The presiding officer may order that the hearing be continued for a reasonable period following completion of witness testimony or oral argument to allow additional written submissions to the hearing record.

(4) A Respondent shall bear the burden of demonstrating that his or her continued employment by or service with the credit union would materially strengthen the credit union's ability to—

(i) Become ''adequately capitalized,'' to the extent that the directive was issued as a result of the credit union's net worth category classification or its failure to submit or implement a net worth restoration plan or revised business plan; and

(ii) Correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the directive was issued as a result of reclassification of the credit union pursuant to §§702.102(b) and 702.302(d) of this chapter.

(5) Within 20 calendar days following the date of closing of the hearing and the record, the presiding officer shall make a recommendation to the NCUA Board concerning the Respondent's request for reinstatement with the credit union.

(f) *Time for final decision.* Not later than 60 calendar days after the date the record is closed, or the date of the response in a case where no hearing was requested, the NCUA Board shall grant or deny the request for reinstatement and shall notify the Respondent of its decision. If the NCUA Board denies the request for reinstatement, it shall set forth in the notification the reasons for its decision. The decision of the NCUA Board shall be final.

(g) *Effective date.* Unless otherwise ordered by the NCUA Board, the Respondent's dismissal shall take and remain in effect pending a final decision on the request for reinstatement.

§ 747.2005 Enforcement of orders.

(a) *Judicial remedies.* Whenever a credit union fails to comply with a directive imposing a discretionary supervisory action, or enforcing a mandatory supervisory action under part 702 of this chapter, the NCUA Board may seek enforcement of the directive in the appropriate United States District Court pursuant to 12 U.S.C. 1786(k)(1).

(b) *Administrative remedies*—(1) *Failure to comply with directive.* Pursuant to 12 U.S.C. 1786(k)(2)(A), the NCUA Board may assess a civil money penalty against any credit union that violates or otherwise fails to comply with any final directive issued under part 702 of this chapter, or against any institution-affiliated party of a credit union (per 12 U.S.C. 1786(r)) who participates in such violation or noncompliance.

(2) *Failure to implement plan.* Pursuant to 12 U.S.C. 1786(k)(2)(A), the NCUA Board may assess a civil money penalty against a credit union which fails to implement a net worth restoration plan under subpart B of part 702 or a revised business plan under subpart C of part 702.

(c) *Other enforcement action.* In addition to the actions described in paragraphs (a) and (b) of this section, the NCUA Board may seek enforcement of the directives issued under part 702 of this chapter through any other judicial or administrative proceeding authorized by law.

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 702

Prompt Corrective Action; Risk-Based Net Worth Requirement

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: NCUA proposes to supplement its system of prompt corrective action for federally-insured credit unions with a risk-based net worth requirement for credit unions defined as ''complex.'' In 1998, the Federal Credit Union Act was amended to require NCUA to adopt a system of prompt corrective action to commence when a federally-insured credit union becomes undercapitalized. In a separate component of that system, NCUA is required to define credit unions which are ''complex'' by reason of their portfolio of assets and liabilities and to develop a risk-based net worth requirement to apply to complex credit unions in the ''well capitalized'' or ''adequately capitalized'' statutory net worth categories. The statute classifies complex credit unions in those categories to the ''undercapitalized'' category if their net worth ratios do not meet their risk-based net worth requirement. NCUA seeks public comment on its proposed criteria for defining a ''complex'' credit union and on its proposed Call Report data-based formula for determining a complex credit union's risk-based net worth requirement.

DATES: Comments must be received on or before April 18, 2000.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: *Technical:* Herbert S. Yolles, Deputy Director, Office of Examination and Insurance, at the above address or telephone (703) 518–6360. *Legal:* Steven W. Widerman, Trial Attorney, Office of General Counsel, at the above address or telephone (703) 518–6557.

SUPPLEMENTARY INFORMATION:

A. Background

1. The Credit Union Membership Access Act

On August 7, 1998, Congress enacted the Credit Union Membership Access Act, Pub. L. No. 105–219, 112 State. 913 (1998). Section 301 of the statute added a new section 216 to the Federal Credit Union Act, 12 U.S.C. 1790d (hereinafter referred to as ''CUMAA'' or ''the statute'' and cited as ''§ 1790d''). Section 1790d requires the NCUA Board to adopt by regulation a system of ''prompt corrective action'' (sometimes referred to as ''PCA'') to commence when a federally-insured ''natural person'' credit union becomes undercapitalized. The purpose of PCA is to ''resolve the problems of insured credit unions at the least possible long-term loss to the [National Credit Union Share Insurance Fund (NCUSIF)].'' § 1790d(a)(1). The statute designates three principal components of PCA: (1) a framework of mandatory actions prescribed by statute, § 1790d(c), (e), (f) and (g), and discretionary actions developed by NCUA, which are indexed to five statutory net worth categories and their corresponding net worth ratios, § 1790d(c); (2) an alternative system of PCA to be developed by NCUA for credit unions which CUMAA defines as ''new,'' § 1790d(a)(2); and (3) a risk-based net worth ratio to apply to credit unions which NCUA defines as ''complex.'' § 1790d(d). The third component alone is the subject of this proposed rule.

2. Part 702 Final Rule

Following the statutory mandate, the NCUA Board proposed a comprehensive system of PCA consisting of a framework of mandatory and discretionary supervisory actions and an alternative system of PCA to apply to ''new'' credit unions. 64 FR 27090 (May 18, 1999). Following a 120-day comment period which generated 86 comment letters, the NCUA Board adopted a final rule, 12 CFR 702 *et seq.* (2000) (''part 702 final rule''), to take effect on August 7, 2000. (The final rule is found elsewhere in this issue of the **Federal Register**). The first quarter to which the part 702 final rule will apply is the fourth quarter of 2000, based on data reflected in the Call Report due to be filed January 22, 2001. The part 702 final rule is the product of consultation with the Department of the Treasury, comments from the Federal banking agencies, and extensive collaboration with a committee of representative State credit union supervisors. *See* CUMAA § 301(c).

For credit unions which do not meet the statutory definition of a ''new'' credit union, the part 702 final rule establishes a framework of mandatory and discretionary supervisory actions, indexed to the five net worth categories, and implements statutory conditions triggering conservatorship and liquidation. 12 CFR 702.210–702.206.

For credit unions which CUMAA defines as ''new''—those having been in operation less than ten years and having $10 million or less in assets, § 1790d(o)(4)—the part 702 final rule establishes a similarly-structured alternative system of PCA which recognizes that ''new'' credit unions initially have no net worth and must have reasonable time to accumulate net worth and incentives to ultimately become ''adequately capitalized.'' § 1790d(b)(2)(B). To that end, the system for ''new'' credit unions is modeled on the net worth category structure, but has six categories (including ''uncapitalized'') which differ from the five statutory net worth categories. 12 CFR 702.301–702.307. The net worth ratio and category of a credit union, whether ''new'' or not, is determined quarterly. 12 CFR 702.101(a)(1), 702.302(a).

In addition to the substantive components of PCA, the part 702 final rule implements an independent appeal process by which affected credit unions and officials can appeal decisions by NCUA staff imposing certain prompt corrective actions on a discretionary basis, and decisions by the NCUA Board reclassifying a credit union to a lower net worth category on safety and soundness grounds. 12 CFR 747.2001 *et seq.* Finally, the final rule retains certain of NCUA's current reserve and dividend payment requirements in modified form to reflect repeal of FCUA § 116, 12 U.S.C. 1762, and to conform to CUMAA's earnings retention requirement. § 1790d(e). 12 CFR 702.401 *et seq.*

3. Risk-Based Net Worth Requirement for ''Complex'' Credit Unions

Independently of the general system of PCA in the part 702 final rule, CUMAA requires NCUA to develop the definition of a ''complex'' credit union based on the risk level of a credit union's portfolio of assets and liabilities, § 1790d(d)(1), and to formulate a risk-based net worth (''RBNW'') requirement to apply to credit unions which meet that definition. The RBNW requirement must ''take account of any material risks against which the net worth ratio required for an insured credit union to be adequately capitalized [6%] may not provide adequate protection.'' § 1790d(d)(2). NCUA must, ''for example, consider whether the 6 percent requirement provides adequate protection against interest-rate risk and other market risks, credit risk, and the risks posed by contingent liabilities, as

well as other relevant risks. The design of the [RBNW] requirement should reflect a reasoned judgment about the actual risks involved.'' S. Rep. No. 193, 105th Cong., 2d Sess. 13 (1998) (S. Rep.).

CUMAA demands that a credit union which qualifies as ''complex,'' and whose net worth ratio initially places it in either of the ''adequately capitalized'' or ''well capitalized'' net worth categories, must satisfy a separate RBNW requirement, which may exceed the minimum net worth ratio corresponding to its initial category (6% and 7%, respectively), in order to remain classified in that category. § 1790d(c)(1)(A)(ii) and (c)(1)(B)(ii). A ''well capitalized'' or ''adequately capitalized'' complex credit union which fails to meet its RBNW requirement is reclassified to the ''undercapitalized'' net worth category, and will be subject to certain mandatory and discretionary supervisory actions applicable to that category. § 1790d(c)(1)(c)(ii).

The RBNW requirement also has an indirect impact on the ''undercapitalized'' and lower net worth categories. All credit unions which fall into those categories are required to operate under an approved net worth restoration plan. The plan must provide the means and a timetable for the credit union to reach the 6% net worth ratio ''gate'' to the ''adequately capitalized'' category. § 1790d(f)(5); 12 CFR 702.206(c). However, for credit unions in the ''undercapitalized'' or lower net worth categories which qualify as ''complex,'' the net worth ratio ''gate'' to that category will be the credit union's RBNW requirement, which may be higher than 6%. Thus, to become ''adequately capitalized'' and to remain so, a complex credit union's net worth restoration plan will have to prescribe the steps a credit union will take to reach a higher net worth ratio ''gate'' to that category. *See* 12 CFR 702.206(c)(1)(i)(A).

As directed by CUMAA, NCUA commenced rulemaking by issuing an Advance Notice of Proposed Rulemaking (ANPR) which, among other things, both suggested and invited concepts for an RBNW requirement and criteria for defining a ''complex'' credit union. CUMAA § 301(d)(2)(A). 63 FR 57938 (October 29, 1998). Although there is no deadline for issuing NCUA's proposed rule implementing the RBNW requirement for ''complex'' credit unions, CUMAA set August 7, 2000, as the deadline for issuing the final rule, and January 1, 2001, as its effective date. CUMAA § 301(d)(2)(B) and (e)(2). The first quarter to which the RBNW requirement for ''complex'' credit unions will apply is the first quarter of 2001, based on data reflected in the Call Report due to be filed in April 2001.

4. Advance Notice of Proposed Rulemaking

By the comment deadline of January 27, 1999, NCUA received 34 comment letters from 32 commenters in response to its ANPR soliciting concepts and criteria for a ''risk-based net worth requirement'' for ''complex'' credit unions. The commenters consisted of 13 Federal credit unions, 3 State-chartered credit unions, 8 state credit union leagues, 2 credit union trade associations, 3 banking trade associations, a single State supervisory authority, a single State credit union supervisors association, and a single credit union consulting firm.

The comments in response to the ANPR generally fall into three categories: (1) those which dwell on the four considerations NCUA had raised in the ANPR, two of which were abandoned as arbitrary even before the comment period expired; [1] (2) those which suggest approaches that are contrary to CUMAA's express mandate and, thus, are outside NCUA's authority to adopt; [2] and (3) those which suggest a genuinely new or different approach not at odds with the statutory mandate. Accordingly, this proposed rule addresses neither the considerations NCUA already has abandoned, nor the suggestions which are contrary to CUMAA. Other comments in response to the ANPR are addressed below.

Three commenters urged NCUA to base the RBNW requirement on a credit union's market value of portfolio equity (MVPE) or net economic value (NEV). One of these went further to recommend establishing assumptions for these measures, and to deem a credit union ''complex'' if the after-shock value of its capital is six percent or less. The NCUA Board declines to adopt these suggestions for two reasons. First, MVPE and NEV typically address only one type of risk—interest rate risk-not the range of relevant risks the statute contemplates. Second, relying on general assumptions to calculate MVPE or NEV may produce an inaccurate result; however, institution-specific assumptions may be costly and burdensome to formulate.

Responding to the concept of establishing a threshold ratio of fixed-rate real estate mortgages as a criterion for defining a ''complex'' credit union, one commenter suggested using fixed rate loans with maturities greater than 5 years in excess of 50 percent of assets. The proposed rule adopts this concept with a more inclusive asset threshold than the commenter urged and a 3-year remaining maturity criterion. Another commenter recommended excluding ''conforming'' real estate loans which may be sold on the secondary market—a proposal that has been rejected because it addresses only liquidity risks, while ignoring interest rate, credit and other risks. Two commenters suggested using non-consumer, off-balance sheet commitments and contingencies exceeding 10 percent of assets. This recommendation has been adopted in part in the proposed rule through establishment of a risk portfolio consisting of unused commitments for member business loans.

Four commenters urged using only ''unmatched'' fixed-rate mortgages (*i.e.,* not matched against a like funding source such as Federal Home Loan Bank borrowings or long-term share deposits) in excess of 25 to 35 percent of assets with terms greater than 12 to 15 years. NCUA concludes that the suggested matching criteria are unsuitable either because they cannot be applied on a consistent basis, or because they fail to sufficiently mitigate risk. As with MVPE or NEV calculations, the process of analyzing and monitoring a credit union's ''matched'' versus ''unmatched'' positions would be subject to inconsistent application because the process depends on individual, institution-specific assumptions. The issue of how to treat ''non-maturity'' shares similarly invites inconsistency in maturity matching because it is open to various interpretations. Further, the maturity match proposed by the commenters, particularly in the absence of a market-based penalty for early withdrawal, would not fully mitigate interest rate risk. NCUA believes that longer term real estate loans inherently pose greater risks and therefore are an

[1] The four considerations raised in the ANPAR were: (i) Whether the credit union's securities portfolio is subject to NCUA's 300-basis-point ''shock test,'' 12 CFR 703.90(b)–(c); (ii) Whether the credit union's portfolio exceeds a certain threshold ratio of fixed-rate real estate mortgages; (iii) Whether the credit union has exceeded a certain threshold ratio of borrowed funds; and (iv) Whether the credit union's ''Capital'' and/or ''Asset'' CAMEL components are rated ''4'' or ''5.'' 63 FR at 57940. NCUA abandoned CAMEL components as a criterion because they are not readily accessible to credit unions to use in determining for themselves whether they are ''complex,'' and abandoned the 300-basis point ''shock test'' because the purpose of the investment regulation fundamentally differs from that of a minimum capital requirement.

[2] For example, seven commenters advocated measuring risk by means other than a credit union's portfolio of assets and liabilities (*e.g.,* asset size in relation to size of NCUSIF) and determining complexity according to the lack of diversification of products, geographic distribution of certain portfolios of assets, and lack of diversification of the field of membership (single employer).

appropriate indicator of the complexity of a credit union.

Commenters advocated other criteria for defining a ''complex'' credit union—a defined segment of a credit union's investment portfolio and member business lending. NCUA agrees and has included in the proposed rule a risk portfolio combining three types of long-term investments, and a risk portfolio consisting of member business loans. Both risk portfolios are subject to a threshold percentage of the credit union's total assets.

The commenters were divided as to whether credit union borrowing beyond a certain threshold of assets should be a criterion of ''complexity.'' The opponents argued that using borrowed funds as a criterion could inhibit prudent cash management or risk reduction. The NCUA Board seriously considered, but ultimately rejected, borrowed funds as a criterion because management may use borrowed funds to accomplish different objectives. Properly structured, borrowed funds may be a risk-reducing measure taken by the credit union to improve its asset liability structure.

Addressing the structure of the RBNW requirement, thirteen commenters advocated various basis point ceilings on the net worth ratio ''add on'' proposed in the ANPR. Three commenters favored a 100-basis-point ceiling; another three favored that ceiling if it incorporates intermediate tiers or steps based on a credit union's complexity; one preferred a 50-basis-point maximum; another characterized a ceiling of 100 basis points as excessive; and the final commenter indicated that 100 basis points was not enough to capture all the risks. NCUA concurs with the final commenter because CUMAA sets no limit in directing NCUA to take into account ''any material risks against which [the 6% net worth ratio to be ''adequately capitalized''] may not provide adequate protection.'' § 1790d(d)(2).

Two commenters urged NCUA to model the RBNW requirement for complex credit unions on the risk-based system that has applied to banks since 1992. To do so would not take account of the cooperative character and other unique features of credit unions, 12 U.S.C. 1790d((b)(1)(B), and would not ''reflect a reasoned judgment about the actual risks involved'' in credit unions. S. Rep. at 14. Embracing its mandate, NCUA is determined to develop an RBNW requirement that is tailored to each credit union's individual risk profile and thereby provides ''real protection against real risks.''

Finally, commenters suggested three standards for the definition of a ''complex'' credit union: that size alone should not determine complexity; that a credit union should be able to determine for itself whether it is ''complex''; and that PCA rules should provide ''real protection against real risks.'' NCUA concurs and has incorporated the substance of these standards in its four goals described in section 5 below.

5. Proposed Rule

The proposed rule reflects four goals in developing an RBNW for ''complex'' credit unions. First, to allow a credit union to determine for itself at any point whether it qualifies as ''complex,'' and if so, to ascertain its RBNW requirement on its own. Second, to rely on objective numerical standards to ensure uniformity, rather than on subjective determinations that allow unequal treatment. Third, to rely primarily on already-existing data such as Call Report data, rather than to impose a new additional recordkeeping burden. Fourth, to tailor the RBNW requirement to a credit union's individual risk profile, rather than to impose a ''one size fits all'' requirement.

Through this notice, NCUA invites public comment on all aspects of its proposed rule. As with the final rule implementing the general system of PCA, broad public input addressing the proposed rule will assist the NCUA Board in tailoring an RBNW requirement that is workable, fair and effective in light of the cooperative character of credit unions. *See* S. Rep. at 14. However, commenters are urged to recognize that NCUA lacks discretion to modify the statutory basis for defining a ''complex'' credit union (*e.g.,* the risk level of its portfolio of assets and liabilities) and the impact of failing to meet an RBNW requirement (classification in the ''undercapitalized'' category). Within those limitations, public comments suggesting and justifying modifications to the proposed rule will be most beneficial.

To facilitate consideration of public comments on the proposed rule, the NCUA Board urges commenters to organize their comment letters on a section-by-section basis to correspond to the sections of the proposed rule, and to include general comments, if any, in a separate section.

B. Section-by-Section Analysis of Proposed Rule

While all credit unions determine their net worth ratio quarterly, 12 CFR 702.101(a), the determination whether a credit union is ''complex'' and, if so, the determination of its RBNW requirement, is made on a quarterly basis by credit unions which file Call Reports quarterly, and on a semiannual basis by credit unions which file Call Reports semiannually. Both determinations rely on month-end account balances, including the balance of total assets, as reflected in the Call Report. *See* n. 7 *infra.* Coupling both determinations with the Call Report filing will relieve semiannual filers of the burden of making and reporting those determinations separately for the first and third quarters. However, this may cause semiannual filers either to remain ''complex,'' or to be subject to a higher RBNW requirement than would otherwise be the case.

The proposed rule implements a three-step process involving eight ''risk portfolios'' which are defined in section 702.103. The process applies to all federally-insured credit unions including those defined as ''new.'' [3] 702.302(c)(1)–(2). The first step, reflected in proposed section 702.104, is to determine whether a credit union qualifies as ''complex'' based on whether any of four specific threshold percentages of total assets is exceeded by corresponding ''risk portfolios.'' The second step, reflected in section 702.105, uses eight ''RBNW components'' (derived from the ''risk portfolios'') to calculate the individual RBNW requirement that applies to a credit union which meets section 702.104's definition of ''complex.'' The third and final step, reflected in section 702.106, gives a ''complex'' credit union the opportunity to substitute any of three specific ''RBNW components'' in section 702.105 with a corresponding ''alternative component'' that may reduce the RBNW requirement against which the credit union's net worth ratio is measured.

NCUA relied on several resources to construct the proposed process for identifying ''complex'' credit unions and formulating an RBNW requirement for each. First, NCUA assembled a ''complex'' credit union committee to analyze field staff experience in dealing with risk exposure and capital deficiencies of credit unions. Among the members of the committee is a combined 74 years of regulatory and private sector depository institution and related experience. The committee collaborated extensively with representative state credit union

[3] Throughout the proposed rule, including the tables in the preamble and the rule text, and the appendices which follow the rule text, the terms ''credit union'' and ''CU'' refer to federally-insured credit unions, wherther federal- or State-chartered. 12 CFR 702.2(c).

supervisors. Second, the committee compared its findings against the results of interest rate risk measurement models incorporating Securities Industry Association standard calculation formulas. Finally, the committee consulted historical data from Call Reports identifying the relationship between specific asset and liability portfolios, which the committee identified as having higher than average risk, and capital deficiency. This process was used to construct the ''risk portfolios'' and derivative ''RBNW components'' and ''alternative components,'' as well as to establish the tiers, thresholds and RBNW factors incorporated in each.

1. Section 702.2(k)—Definition of Weighted-Average Life

The proposed rule defines the term ''weighted-average life'' for use in identifying the contents of the ''Long-term investments'' risk portfolio, § 702.103(c)(1), and the contents of the ''Long-term investments'' alternative component for calculating the RBNW requirement, § 702.106(c). The definition is adopted in modified form from Fabozzi, Frank and T. Dessa, eds., *The Handbook of Fixed Income Securities* (4th ed. 1995) at 518, and reflects the method by which credit unions report investments in Schedule C of the Call Report.

The definition treats investments in registered investment companies and collective investment funds differently because their weighted-average lives generally are not disclosed. In the current Call Report, these investments all are combined in a single weighted-average life category—less than or equal to one year. When the Call Report is revised to conform to this part, investments in registered investment companies and collective investment funds will be reported separately. Whereas money market funds will continue to be categorized as having a weighted-average life of less than or equal to one year, investments in a registered investment company or collective investment fund will be categorized as having a weighted-average life of greater than 5 years, but less than or equal to 7 years. That category reflects the interest rate risk of typical mutual funds. The final sentence of the ''weighted-average life'' definition anticipates this revision to the Call Report.

2. Section 702.103—Risk Portfolios Defined

Section 702.103 of the proposed rule identifies eight ''risk portfolios'' which are used in subsequent sections. Five portfolios are used to determine whether a credit union is ''complex.'' *See* Table 1 in § 702.103. If so, all eight are used to calculate what that credit union's risk-based net worth requirement will be. The portfolios consist of assets, liabilities and contingent liabilities, and are based entirely upon Call Report data integrated in a ''PCA Worksheet'' planned for introduction on a trial basis in the Call Report for the last quarter of 2000 (the quarter preceding the first quarter in which the final rule will apply).

(a) *Long-term real estate loans.* This risk portfolio contains loans with above average economic value exposure to interest rate changes.[4] Examination experience indicates the vast majority of member loans with above average exposure to interest rate changes are real estate related. In contrast, short-term fixed-rate and frequently repricing adjustable-rate real estate loans typically do not have above average exposure to interest rate changes. Thus, this portfolio combines all fixed-rate real estate loans and lines of credit with a maturity greater than 3 years, with variable-rate real estate loans that will not reprice within 3 years. NCUA research indicates that a balloon real estate loan with a 5-year original maturity, 30-year amortization schedule, and 3-year remaining maturity, would have less than a 6 percent decline in market value on a 200-basis-point increase in interest rates. This risk portfolio may be expanded when examination experience indicates significant new sources of long-term loans.

(b) *Member business loans outstanding.* This risk portfolio is comprised of all member business loans (MBLs) outstanding, exclusive of unused MBL commitments.[5] Examination experience indicates credit risk of MBLs generally is greater than credit risk of member non-business loans. This portfolio also includes real-estate-related MBLs that generally have above average exposure to interest rate risk.

(c) *Long-term investments.* Long-term investments generally have greater economic value exposure to interest rate changes than investments with shorter terms. This portfolio contains all fixed-rate investments with a weighted-average life greater than 3 years. NCUA research indicates fixed-rate investments with a shorter weighted-average life generally have less than a 6 percent decline in market value for a 200 basis-point increase in interest rates. This risk portfolio also contains infrequently reset variable-rate investments. While no distinction is made between investments of different credit quality, most credit union investments are of high credit quality. The examination process permits NCUA to monitor trends in credit quality of investments on a continuing basis.

(d) *Low-risk assets.* This risk portfolio is comprised of cash and cash equivalents[6] that typically have below average interest rate and credit risk. Such assets also contribute significantly to a credit union's liquidity position. Credit unions generally have well controlled processes for securing cash. Cash equivalents generally are maintained in low-risk investment instruments, which still have some level of credit risk.

(e) *Average-risk assets.* Average-risk assets primarily consist of consumer loans, real estate loans that will contractually refinance, reprice or mature within 3 years, most investments with a weighted-average life or repricing interval of less than 3 years, and land, building and fixed assets. This risk portfolio is calculated by subtracting the preceding four risk portfolios from Call Report month-end total assets. Assets assigned to one of the preceding portfolios (''Long-term real estate loans,'' ''MBLs,'' ''Long-term investments'' and ''Low-risk assets'')

[4] ''Economic value exposure to interest rate changes'' refers to price sensitivity of a credit union's assets (changes in the value of the assets over different interest rate/yield curve scenarios). Interpretive Ruling and Policy Statement No. 98–2, ''Supervisory Policy Statement on Investment Securities and End-User Derivatives,'' 65 FR 20191 at 20195 (April 23, 1998).

[5] In NCUA's rule on member business loans, 12 CFR 723.1(a), and elsewhere in part 702, the term ''Member Business Loan'' [MBL] combines MBLs outstanding and unused MBL commitments. *E.g.*, 12 CFR 702.202(a)(4), 702.304(a)(3). For purposes of sections 702.103 through 702.106, however, MBLs outstanding and unused MBL commitments each constitute a separate risk portfolio, 12 CFR 702.103 (b) and (g), as well as a separate RBNW component. 12 CFR 702.105 (b) and (g). The two risk portfolios are combined into a single portfolio only for the purpose of applying a threshold to define a complex credit union. 12 CFR 702.104(b).

[6] ''Cash'' includes currency on hand, demand deposits with banks or other financial institutions, and other accounts which have the characteristics of demand deposits in that the customer may deposit additional funds at any time and also effectively may withdraw funds at any time without prior notice of penalty. All charges to those accounts are cash receipts or payments to both entity owning the account and the financial institution holding it. Statement of Financial Accounting Standards No. 95 at ¶7, n.1. ''Cash equivalents'' are short-term highly liquid investments that are both readily convertible to known amounts of cash, and so near to maturity that there is an insignificant risk of change in value because of changes in interest rates. *Id.* ¶8. Generally Accepted Accounting Principles often interpret ''so near to maturity'' to mean within 3 months.

have either above or below average risk. All other assets are grouped into this portfolio because they typically are average-risk assets.

(f) *Loans sold with recourse.* Loans sold with recourse are an off-balance sheet account and, therefore, are not included in any of the above portfolios of assets. Credit unions retain credit risk exposure on these contingent liabilities.

(g) *Unused member business loan commitments.* Unused MBL commitments also are an off balance-sheet account. Large draws on unused MBL commitments may cause liquidity problems for credit unions with high levels of commitments. Unused commitments also represent contingent exposure to credit risk.

(h) *Allowance.* This risk portfolio will reduce a credit union's RBNW requirement. The Allowance for Loan and Lease Losses (ALL) reflects provisions made for potential credit losses. Increases in the ALL account result in decreases in net worth, since provisions for ALL represent expense items. As of the June 1999 Call Report, about two-thirds of all credit unions had an ALL of 1.50 percent or less of total loans outstanding. Thus, an ALL account of 1.50 percent or less is fairly typically observed. When the level of potential credit losses increases, the ALL account also should be increased. High levels of ALL accounts therefore reflect high levels of credit exposure. Because the Call Report does not make fine distinctions among loans by credit quality measures, its data cannot be used to finely distinguish different components of the RBNW requirement. Accordingly, the RBNW requirement is designed to reflect average credit risk exposures. Thus, the Allowance risk portfolio (expressed as a percentage of total assets) is limited to the ALL account up to the equivalent of 1.50 percent of total loans. However, a credit union's ALL account will continue to be reviewed during the examination process to ensure its adequacy.

3. Section 702.104—Thresholds to Define Complex Credit Unions

The first step of the proposed process, reflected in proposed section 702.104, is to determine whether a credit union is ''complex.'' A credit union is ''complex'' if any of four specific threshold percentages of total assets is exceeded by corresponding ''risk portfolios.''[7] *See* Table 2 in § 702.104, and Appendix B. In that case, the credit union is ''complex'' and must proceed to calculate its RBNW requirement under section 702.105. Conversely, a credit union which does not exceed any of the four thresholds is not ''complex'' and may disregard the subsequent steps of the process.

NCUA proposes four thresholds only for the following five ''risk portfolios'' because they were designed to reflect above average risk, whereas each of the remaining three ''risk portfolios'' either reflects average or below average risk (''Average-risk assets'' and ''Low-risk assets'') or represents a cushion against loss (''Allowance'').

(a) *Long-term real estate loans.* For long-term real estate loans, NCUA proposes a threshold of 25 percent of total assets. This proposal is based on NCUA's examination of interest rate risk data for a variety of typical loans. For example, a June 1998 analysis by the Office of Thrift Supervision estimates the industry aggregate present value of all thrifts' fixed-rate single-family first-mortgage loans and mortgage-backed securities would decline by about 8 percent for a 200-basis-point increase in interest rates, and decline by about 12 percent for a 300-basis-point increase in interest rates. Office of Thrift Supervision, Division of Risk Management, ''Interest Rate Risk Exposure Report for All Reporting CMR'' as of June 1998. A credit union with a long-term real estate loan portfolio of 25 percent of total assets similar in composition to that of the average thrift institution would have an interest rate risk exposure of 2 percent of total assets for a rate increase of 200 basis points, and 3 percent of total assets for a rate increase of 300 basis points. Increased credit risk in such a higher interest rate environment would result in further declining present value of the long-term real estate loans. In this analysis, the risk of 25 percent of a credit union's assets would absorb half of the minimum net worth required to be ''adequately capitalized'' (*i.e.,* a 6 percent net worth ratio). Accordingly, NCUA concludes that a credit union having greater levels of long-term real estate loans needs additional net worth to adequately protect the NCUSIF.

(b) *Combined member business loans outstanding and unused commitments.* NCUA proposes a threshold of 12.25 percent of total assets for the combined risk portfolios of ''MBLs outstanding'' and ''Unused commitments for MBLs.'' *See* note 5 *supra.* This threshold corresponds to the general MBL limit of 1.75 times 7 percent of total assets. 12 U.S.C. 1757a(a). Credit unions permitted by exception to have greater levels of member business loans, *id.* § 1757a(b), may need additional net worth to adequately protect the NCUSIF. Experience indicates that the value of typical business loan collateral is more volatile than typical non-business loan collateral. In addition, commercial real estate, as a whole, tends to decline far greater in value during recessions than does single family residential real estate. Therefore, MBLs present a higher level of credit risk than non-business loans, justifying a threshold of 12.25 percent instead of 25 percent.

(c) *Long-term investments.* A threshold of 15 percent of total assets is proposed for long-term investments. Long-term investments expose a credit union to significant interest rate risk. For example, a newly issued 10-year, 6-percent-coupon Treasury note declines in value more than 13 percent for a 200-basis-point increase in rates, and more than 19 percent for a 300-basis-point increase in rates. A credit union with a long-term investments portfolio of 15 percent of total assets in such a security would have an economic value exposure of about 2 percent of total assets with a 200-basis-point increase in rates and about 2.85 percent of total assets with a 300-basis-point increase in rates. Under this scenario, risk could absorb 47.5 percent of the minimum net worth required to be ''adequately capitalized'' (*i.e.,* a 6 percent net worth ratio). The investment portfolio typically is viewed as the guardian of a credit union's liquidity. A credit union needs financial assets that are readily convertible to cash to meet member withdrawal demands and to fund new member loans. Because of interest rate risk, long-term investments do not serve to adequately safeguard a credit union's liquidity.

(d) *Loans sold with recourse.* NCUA proposes a threshold of 5 percent of total assets for loans sold with recourse of any kind. A threshold level below 5 percent of total assets generally is not material. Loans sold with recourse are a contingent liability. When a loan is sold with recourse, net worth ratio generally increases; however, credit exposure typically does not decline.

[7] A credit union is required to use its calendar month-end account balances, including the balance of total assets, for purposes of sections 702.103 and 702.106. Since Call Report asset accounts are reported as of calendar month-end, the denominator for the eight ''risk portfolios'' also must be calendar month-end total assets. Otherwise, the sum of the balances in asset accounts (reported on a calendar month-end basis) would not necessarily equal assets (on other than a calendar month-end basis). For all other purposes under part 702, a credit union may elect among four methods for calculating its total assets—a daily average over the quarter, the month-end total, and the average of month-end totals for the most recent four quarters—to apply for that quarter. 12 CFR 702.2(j)(2).

4. Section 702.105—RBNW Components to Calculate Risk-Based Net Worth Requirement

The second step of the proposed process, reflected in section 702.105, is to calculate the RBNW requirement that applies to those credit unions which meet section 702.104's definition of ''complex.'' This is accomplished by tallying eight ''RBNW components,'' each of which is derived by multiplying its corresponding ''risk portfolio'' by an RBNW factor corresponding to its level of risk. *See* Table 3 in § 702.105, and Appendix B. One such component, ''Allowance,'' is credited as an offset against the total of the other seven. The sum total percentage for the ''RBNW components'' yields the ''complex'' credit union's actual RBNW requirement, against which its net worth ratio (generally, retained earnings as a percentage of total assets) is compared.

(a) *Long-term real estate loans.* The ''Long-term real estate loans'' risk portfolio, up to its 25 percent threshold, is weighted by a 6 percent RBNW factor, based on the net worth level at which a non-complex credit union is ''adequately capitalized.'' The interest rate risk of this first 25 percent of total assets potentially is large in comparison to a 6 percent net worth ratio based on 100 percent of total assets. Thus, the next 15 percent of total assets in this risk portfolio is weighted by a 14 percent RBNW factor, a higher marginal rate to protect against additional risk. NCUA research indicates that a typical seasoned portfolio of 30-year mortgage loans declines in value by about 14 percent for a 300-basis-point increase in interest rates. As long-term real estate loans exceed 40 percent of a credit union's total assets, examination experience indicates typical increases in credit concentration risk and in the ratio of new loans to seasoned loans, with new loans having greater risk than seasoned loans. Thus, the portion of this risk portfolio in excess of 40 percent of total assets is weighted by 16 percent. By way of comparison, NCUA research indicates a newly-issued 30-year mortgage backed security declines in value by about 17 percent for a 300-basis-point increase in interest rates.

(b) *Member business loans outstanding.* The ''MBLs outstanding'' risk portfolio also is weighted by a 6 percent RBNW factor up to its threshold of 12.25 percent of total assets. Unused commitments for MBLs are weighted separately, below. MBLs outstanding above 12.25 percent of total assets are weighted by a 14 percent RBNW factor. As the level of MBLs increases, the average factor for all MBLs rises. The average factor is 8 percent when this risk portfolio equals 16.33 percent of total assets, comparable to a bank's 8 percent credit-risk-weighted capital requirement.[8] Unlike a bank's credit-risk-weighted capital requirement, this factor also must account for material interest rate risk and other relevant risks. As the amount of MBLs outstanding increases, interest rate risk also typically increases, as may credit concentration risk. The resulting risk-based net worth requirements typically should adequately protect the NCUSIF.

By way of example, assume a credit union has 25.40 percent of total assets in MBLs, no unused commitments or other contingent liabilities, 74.60 percent of total assets in average risk categories (such as the ''Average-risk assets'' risk portfolio), a total of 70 percent of total assets in loans, and an ALL of 1.50 percent of total loans. Such a credit union would have an RBNW requirement of 6.00 percent, equal to the net worth ratio required for a credit union to be ''adequately capitalized.''[9] If this credit union increased MBLs to 37.90 percent of total assets, its RBNW requirement would be 7.00 percent, equal to the net worth ratio for a credit union to be ''well capitalized.''[10] In an extreme example, a credit union with 100 percent of total assets in MBLs, with no unused commitments or contingent liabilities, and an allowance of 1.50 percent of total loans, would have an RBNW requirement of 11.52 percent.[11]

(c) *Long-term investments.* The portion of the ''Long-term investments'' risk portfolio up to and including its threshold of 15 percent of total assets is weighted by an RBNW factor of 6 percent. Long-term investments in excess of 15 percent of total assets are weighted by an RBNW factor of 12 percent. NCUA research indicates a 6-percent-coupon Treasury note with a maturity slightly longer than 5 years declines in value by about 12 percent for a 300-basis-point increase in interest rates. By way of comparison, a new issue 30-year mortgage-backed security declines in value by about 17 percent for a 300-basis-point increase in interest rates, as is the case for a 6-percent-coupon Treasury note with a maturity slightly longer than 8 years.

(d) *Low-risk assets.* All of the ''Low-risk assets'' portfolio is weighted by an RBNW factor of 3 percent. This reflects the credit risk of typical uninsured overnight or short-term accounts in corporate credit unions, other financial institutions, and Fed Funds sold.

(e) *Average-risk assets.* The ''Average-risk assets'' risk portfolio is weighted by an RBNW factor of 6 percent, equivalent to the net worth level required for a credit union to be ''adequately capitalized.'' The average level of risk for all assets in this portfolio typically is expected to be adequately protected by a 6 percent net worth ratio.

(f) *Loans sold with recourse.* This contingent liability is weighted by an RBNW factor of 6 percent. Examination experience indicates 6 percent is an adequate level to protect against credit risk retained and operation risk of servicing such loans.

(g) *Unused member business loan commitments.* This contingent liability is weighted by an RBNW factor of 6 percent. Examination experience indicates that not all commitments ultimately are drawn as loans. Thus, less net worth is necessary to protect against the total of unused commitments than would be necessary to protect against a similar level of outstanding loans.

(h) *Allowance.* This portfolio is weighted by negative 100 percent, thereby reducing the RBNW requirement otherwise resulting from the aggregate of the seven risk portfolios discussed above. § 702.105(a)–(g) .

5. Section 702.106—Alternative Components to Calculate Risk-Based Net Worth Requirement

The third and final step of the proposed process, reflected in section 702.106, gives ''complex'' credit unions the option to reduce the amount of the RBNW requirement calculated under section 702.105. This entails comparing any of three specific ''RBNW components'' in section 702.105 with its corresponding ''alternative component'' in section 702.106. Each ''alternative component,'' derived from additional financial data (to be included in optional, supplemental schedules of the Call Report), may yield a smaller percentage than its counterpart. *See* Appendix G. When this is the case, any of three ''alternative components'' can

[8] Calculated as ((MBLs to the threshold of 12.25 times 6 percent) plus (MBLs over the threshold of 4.08 times 14 percent)) divided by total MBLs of 16.33.

[9] Calculated as (MBLs to the threshold of 12.25 times 6 percent) plus (MBLs above the threshold of 13.15 times 14 percent) plus (average risk assets of 74.60 times 6 percent) minus (ALL of 1.50 as a percent of total loans times 70 percent total loans/total assets.)

[10] Calculated as (MBLs to the threshold of 12.25 times 6 percent) plus (MBLs above the threshold of 25.65 times 14 percent) plus (average risk assets of 62.10 times 6 percent) minus (ALL of 1.50 as a percent of total loans times 70 percent total loans/total assets.)

[11] Calculated as (MBLs to the threshold of 12.25 times 6 percent) plus (MBLs over the threshold of 87.75 times 14 percent) minus (ALL of 1.50 as a percent of total loans times 100 percent total loans/total assets.)

be substituted for its counterpart ''RBNW component,'' thereby reducing the credit union's RBNW requirement originally calculated under section 702.105.

(a) *Long-term real estate loans.* This ''alternative component'' requires long-term real estate loans to be allocated by remaining maturity into four maturity buckets—greater than 3, but less than or equal to 5 years; greater than 5, but less than or equal to 12 years; greater than 12, but less than or equal to 20 years; and greater than 20 years. These four maturity buckets are weighted by factors of 6, 8, 12, and 16 percent, respectively. The sum of the weighted buckets yields the ''alternative component.'' All long-term real estate loans are included in these four buckets without regard to the 25 percent threshold level in section 702.105(b). *See* Table 4(a) in § 702.106, and Appendix D.

The factors applied to the long-term real estate loan maturity buckets reflect examiner judgment of credit risk and interest rate risk in typical fixed-rate real estate loans. Since such loans are secured by residential real estate, after consideration of an adequate factor for interest rate risk, no additional percentage was judged necessary to adequately cover typical levels of other risks. By way of example, a 4½-year remaining maturity amortizing home equity loan would decline in value by 6-percent for a 300-basis-point increase in interest rates. Similarly, a 6-year remaining maturity amortizing home equity loan would decline in value by about 8 percent for a 300-basis-point increase in interest rates. A pool of 15-year original maturity mortgages, with an average 13-year remaining maturity and assuming a 6 percent constant prepayment rate, would decline in value by about 12 percent for a 300-basis-point increase in interest rates. A pool of 30-year original maturity mortgages, with an average 27-year remaining maturity and assuming a 6 percent constant prepayment rate, would decline in value by about 16 percent for a 300-basis-point increase in interest rates.

(b) *Member business loans outstanding.* This alternative component requires MBLs first to be categorized as fixed-rate or variable-rate. Next, MBLs in each category are allocated by remaining maturity into five maturity buckets—3 years or less; greater than 3, but less than or equal to 5 years; greater than 5, but less than or equal to 7 years; greater than 7, but less than or equal to 12 years; and greater than 12 years.[12] The five maturity buckets of fixed-rate MBLs are weighted by factors of 6, 9, 12, 14, and 16 percent, respectively. The five maturity buckets of variable-rate MBLs are weighted by factors of 6, 8, 10, 12, and 14 percent, respectively. The sum of the weighted buckets yields the ''alternative component.'' All MBLs are included in these ten buckets without regard to the 12.25 percent threshold level in section 702.105(b). *See* Table 4(b) in § 702.106, and Appendix E.

The factors applied to the maturity buckets for fixed- and variable-rate MBLs outstanding reflect examiner judgment of the credit risk and interest rate risk in representative MBLs outstanding. Typical MBLs include operating loans, equipment loans, and commercial real estate loans. Credit union portfolios of shorter (5 years or less) remaining maturity MBLs typically include a mix of types of seasoned MBLs, with reduced levels of credit risk in comparison to longer term loans. For example, a representative fixed-rate MBL is an amortizing loan with a remaining maturity of 1 year and 9 months. Such a loan would decline in value about 2½ percent for a 300-basis-point increase in interest rates. Considering credit risk is not expected to be fully correlated with interest rate risk, 3½ additional percentage points was judged adequate for coverage of credit risk.

For the remaining maturity buckets longer than 5 years, each factor equals the interest rate risk of a representative fixed-rate amortizing MBL for a 300-basis-point increase in interest rates, plus 4 percentage points for adequate coverage of credit risk. Representative fixed rate MBLs are summarized in Table 1 below.

TABLE 1 – REPRESENTATIVE FIXED-RATE MEMBER BUSINESS LOANS

Remaining Maturity Buckets (in years)	*Representative Amortizing Loan*	*Value Decline for 3% Rate Increase (ignoring credit risk change)*	*Adequate Additional Percentage for Credit Risk*	*Proposed Factor (percent)*
3 or less	1 year 9 months	2 ½	3 ½	6
>3 to <5	4 years	5 ½	3 ½	9
> 5 to <7	6 years	8	4	12
> 7 to <12	8 years	10	4	14
>12	13 years	12	4	16

For the variable-rate MBLs, each of the factors for the three categories with a remaining maturity of greater than 5 years was reduced by 2 percent in comparison to the factors for fixed-rate MBLs. The factor for the category with a remaining maturity greater than 3 but less than or equal to 5 years, was reduced by 1 percent in comparison to the factor for the corresponding fixed-rate MBLs. The value of a variable-rate MBL may decline less than the value of

[12] For federally-chartered credit unions, the maturity of MBLs is limited to 12 years, except ''lines of credit are not subject to a statutory or regulatory maturity limit.'' 12 CFR 701.21(c)(4). This limit does not apply to MBLs and lines of credit issued by federally-insured, State-chartered credit unions. Thus, the alternative component for MBLs includes a bucket to accommodate MBLs and lines of credit ''with a remaining maturity greater than 12 years.'' § 702.106(b)(1)(v) and (b)(2)(v).

a similar fixed-rate MBL for a given interest rate change, not considering credit risk. However, credit risk of a variable-rate loan typically increases in a higher rate environment, as the borrower comes under stress from meeting the increased interest expense burden.

(c) *Long-term investments.* This ''alternative component'' requires long-term investments to be allocated in categories by weighted-average life in finer increments than reported in the Call Report investment schedule. The four categories are: greater than 3, but less than or equal to 5 years; greater than 5, but less than or equal to 7 years; greater than 7, but less than or equal to 10 years; and greater than 10 years. These four categories are weighted by factors of 8, 12, 16, and 20 percent, respectively. *See* Table 4(c) in § 702.106, and Appendix F.

The factors applied to the weighted-average life categories approximate the economic value exposure to interest rate risk of representative investment securities. For example, a 300-basis-point increase in interest rates from 6 percent would result in: about an 8 percent decline in value of a 6-percent-coupon Treasury note of just over 3 years remaining maturity; about a 12 percent decline in value of a 6-percent-coupon Treasury note of just over 5 years remaining maturity; about a 16 percent decline in value of a 6-percent-coupon Treasury note of about 7½ years remaining maturity; and about a 20 percent decline in value of a 6-percent coupon Treasury bond of about 10½ years remaining maturity.

C. Impact of Risk-Based Net Worth Requirement

Once calculated, a ''complex'' credit union's RBNW requirement affects its classification among the statutory net worth categories. An ''adequately capitalized'' or a ''well capitalized'' credit union (6 to 6.99% and 7% or greater net worth ratio, respectively) whose net worth ratio meets its RBNW requirement remains classified in its original category. An otherwise ''adequately capitalized'' or ''well capitalized'' credit union whose net worth ratio falls short of its RBNW requirement declines by one or two net worth categories, respectively, to the top tier of the ''undercapitalized'' category, § 1790d(c)(1)(A)(ii) and (B)(ii), and thereby is subject to the four mandatory supervisory actions. 12 CFR 702.202(c).

Using Call Report data as of June 1999, NCUA estimates that 1490 federally-insured credit unions would qualify as ''complex.'' [13] The average estimated RBNW requirement was 6.63 percent for all 1490 of these credit unions. By way of comparison, the individual average net worth ratio for these credit unions is 12.70 percent. The estimated RBNW requirement was less than or equal to 7.01 percent for 75 percent of complex credit unions, and less than or equal to 7.66 percent for 90 percent of complex credit unions. Of the complex credit unions with a net worth ratio of 6 percent or greater, only 35 were estimated to fail their RBNW requirement using RBNW components in section 702.105 and, thus, would decline to the ''undercapitalized'' net worth category. These 35 credit unions still would have the option to substitute one or more ''alternative components'' under section 702.106 in an attempt to reduce their RBNW requirement.

As indicated in Table 2 below, there is a strong relationship between increasing asset size of a federally-insured credit union and the likelihood that it will be deemed ''complex.'' In general, the larger a credit union's asset size, the more likely it is to have the resources to manage the above average risks associated with risk portfolios that would qualify a credit union as ''complex.''

[13] The Call Report as of June 1999 does not provide data in sufficient detail to distinguish money market funds from mutual funds. When revised to conform to part 702, the Call Report will do so.

TABLE 2 – ESTIMATED IMPACT OF "COMPLEX" DEFINITION AND RBNW REQUIREMENT

	A	B	C	D	E
Range of Total Assets (in $millions)	*All CUs*	*Number of Complex CUs*	*Percentage of Complex / All CUs*	*Percentage of All Complex CUs*	*Estimated Number of "Undercap."*
			B/A = C	B/B total = D	
Greater than $500	117	47	40.2%	3.2%	0
Greater than $100 to $500	702	258	36.8%	17.3%	6
Greater than $50 to $100	697	210	30.1%	14.1%	5
Greater than $20 to $50	1,482	282	19.0%	18.9%	7
Greater than $10 to $20	1,481	198	13.4%	13.3%	8
Greater than $5 to $10	1,713	158	9.2%	10.6%	3
Greater than $2 to $5	1,882	132	7.0%	8.9%	3
Less than or equal to $2	2,766	205	7.4%	13.8%	3
Total	10,840	1,490	13.7%		35

The estimates in Table 2 above are based on June 1999 Call Report data as indicated in Tables 3 and 4 below: [14]

[14] Call Report line item references are subject to change when the Call Report is revised to conform with CUMAA and to incorporate the "PCA Worksheet."

TABLE 3 - CALL REPORT LINE ITEMS FOR IDENTIFYING A "COMPLEX" CREDIT UNION

Risk Portfolio	*Assets, Liabilities, and Contingent Liabilities in Risk Portfolio*	*Call Report Reference*
1. Long-term real estate loans	Total real estate loans **Less:** a) The amount of real estate loans that meet the definition of a member business loan. b) Real estate loans that will contractually refinance, reprice or mature within 3 years.	Schedule A, line 3 (Acct. Code 710) **Less:** a) Schedule A, line 9 (Acct. Code 718) b) Schedule A, line 11 (Acct. Code 712)
2. Member business loans	a) Outstanding member business loans. b) Unused Commitments for Commercial Real Estate, Construction, and Land Development.	a) Schedule B, line 3 (Acct. Code 400) b) Schedule G, line 1.D. (Acct. Code 814)
3. Long-term Investments	a) Investments with a weighted average life or repricing interval greater than 3 years. b) Mutual Funds & Common Trust Investments.	a) Schedule C, line 12.(Acct. Code 799C) + (Acct. Code 799D) b) Schedule C, line 4 (Acct. Code 743C)
4. Loans sold with recourse	Outstanding balance of loans sold or swapped with recourse.	Schedule G, line 2.B. (Acct. Code 819)

TABLE 4 - CALL REPORT LINE ITEMS FOR DETERMINING RBNW REQUIREMENT

Risk Portfolio	*Assets, Liabilities, and Contingent Liabilities in Risk Portfolio*	*Call Report Reference*
1. Long-term real estate loans	Total real estate loans **less**: a) The amount of real estate loans that meet the definition of a member business loan. b) Real estate loans that will contractually refinance, reprice or mature within 3 years.	Schedule A, line 3 (Acct. codes 710) **less**: a) Schedule A, line 9 (Acct. code 718) b) Schedule A, line 11 (Acct. code 712)
2. Member business loans	Outstanding member business loans	Schedule B, line 3 (Acct. code 400)
3. Long-term Investments	a) Investments with a weighted-average life or repricing interval greater than 3 years. b) Mutual Funds & Common Trust Investments	a) Schedule C, line 12.(Acct. code 799C) + (Acct. Code 799D) b) Schedule C, line 4 (Acct. code 743C)
4. Low-risk Assets	Cash and Cash Equivalents	Assets, line 1 (Acct. code 730)
5. Average-risk Assets	Total Assets **less:** Risk Portfolios 1- 4.	Assets, line 27 (Acct. code 010) **less**: Risk Portfolio line items 1- 4 above.
6. Loans sold with recourse	Outstanding balance of loans sold or swapped with recourse	Schedule G, line 2.B. (Acct. code 819)
7. Unused MBL Commitments	Commercial Real Estate Construction and Land Development	Schedule G, line 1.D. (Acct. code 814)
8. Allowance for Loan and Lease Losses	Allowance for Loan and Lease Losses	Assets, line 21 (Acct. code 719) (Limited to equivalent of 1.5 percent of total loans.)

D. Potential Impact of New Forms of Regulatory Capital

Many of those who commented on the proposed version of the part 702 final rule advocated a role for new forms of "regulatory capital" in PCA. While NCUA may have the statutory authority to permit new sources of capital,[15] CUMAA's express, limited definition of net worth—retained earnings under

[15] FCUA § 107 permits NCUA to authorize regulatory capital in the form of shares and subordinated debt. NCUA may authorize a federal credit union to (1) "receive from its members, from other credit unions, from an officer, employee or agent of those nonmember units of Federal, Indian Tribal, or local governments and political subdivisions thereof, * * * [shares, share certificates, and share draft accounts]; subject to such terms, rates and conditions as may be established by the board of directors, *within limitations prescribed by the [NCUA] Board";* and (2) "borrow *in accordance with such rules as may be prescribed by the [NCUA] Board,* from any source, in an aggregate amount not exceeding * * * 50 per centum of its paid-in and unimpaired capital and surplus." 12 U.S.C. 1757(7), 1757(9) (emphasis added).

GAAP—clearly precludes all but low income-designated credit unions from classifying such capital as net worth for PCA purposes. § 1790d(o)(2). Nevertheless, NCUA recognizes that, if established, regulatory capital would be available to absorb losses, thereby insulating the NCUSIF from such losses. For this reason, the part 702 final rule makes regulatory capital, should it be established by NCUA, or authorized by State law and recognized by NCUA, a criterion in evaluating net worth restoration plans. 12 CFR 702.206(e).

Depending on how it is structured, regulatory capital on the balance sheet of a ''complex'' credit union could conceivably reduce the risk for which the RBNW requirement is designed to compensate. Therefore, NCUA may consider proposals to incorporate regulatory capital as a risk portfolio in section 702.103. This portfolio could be applied as an RBNW factor to reduce a credit union's RBNW requirement, as the ''Allowance'' RBNW component does in the proposed rule. § 702.105(h).

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis describing any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The proposed rule establishes an RBNW requirement to apply to federally-insured credit unions which meet the definition of ''complex.'' The RBNW requirement is expressly mandated by CUMAA as a component of NCUA's system of prompt corrective action. § 1790d(d).

For the purpose of this analysis, credit unions under $1 million in assets will be considered small entities. As of June 30, 1999, there were 1,690 such entities, with a total of $807.3 million in assets, with an average asset size of $0.5 million. These small entities make up 15.6 percent of all credit unions, but only 0.2 percent of all credit union assets.

The proposed rule implements a three-step process involving eight ''risk portfolios.'' The first step is to determine whether a credit union qualifies as ''complex'' based on whether any of four threshold percentages of total assets is exceeded by corresponding ''risk portfolios.'' The second step uses eight ''RBNW components'' (derived from the ''risk portfolios'') to calculate the individual RBNW requirement that applies to a credit union that qualifies as ''complex.'' The third step provides a ''complex'' credit union the opportunity to substitute any of three specific ''RBNW components'' with a corresponding ''alternative component'' that may reduce the RBNW requirement against which the credit union's quarterly net worth ratio is measured.

The NCUA Board does not believe that the proposed regulation would impose reporting or recordkeeping burdens that require specialized professional skills not available to them. Further, NCUA estimates that fewer than 50 of these small entities will meet the definition of ''complex'' and therefore be subject to the additional requirements of the proposed regulation. There are no other relevant federal rules which duplicate, overlap, or conflict with the proposed regulation.

The NCUA Board welcomes comments about ways to ease the burden on small entities.

Paperwork Reduction Act

NCUA has determined that three requirements of the proposed rule constitute collections of information under the Paperwork Reduction Act. The requirements are: (1) To determine whether the credit union qualifies as ''complex'' based on specific threshold percentages of total assets; (2) If a credit union qualifies as ''complex,'' to calculate the individual RBNW requirement; and (3) If a ''complex'' credit union prefers, to calculate any of three ''alternative components'' which may reduce its RBNW requirement. NCUA is submitting a copy of the proposed regulation to the Office of Management and Budget (OMB) for its review.

NCUA estimates that 10,800 federally insured credit unions would have to determine whether the credit union qualifies as ''complex'' under the proposed rule, based on data already collected in the Call Report. NCUA estimates that 1,500 federally-insured credit unions would qualify as ''complex,'' and would therefore be required to calculate the individual RBNW requirement using data already collected in the Call Report. NCUA further estimates that 35 federally-insured credit unions would opt to calculate the ''alternative components.'' For the 23 credit unions which file Call Reports semiannually, the burden of performing the calculation is 8 hours each (4 hours per quarter for the second and fourth quarters) for a total of 184 burden hours. For the 12 credit unions which file Call Reports quarterly, the burden of performing the calculation is 16 hours each (4 hours per quarter) for a total of 192 burden hours. In total, the burden created by the proposed rule is 376 hours. It is NCUA's view that the additional requirements are necessary for affected federally-insured credit unions to comply with the RBNW requirement implemented in the proposed rule as required by statute.

The Paperwork Reduction Act of 1995 and OMB regulations require that the public be provided an opportunity to comment on information collection requirements, including an agency's estimate of the burden of the collection of information. The NCUA Board invites comment on: (1) whether the collection of information is necessary; (2) the accuracy of NCUA's estimate of the burden of collecting the information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collection of information. Comments should be sent to: OMB Reports Management Branch, New Executive Office Building, Room 10202, Washington, D.C. 20503; Attention: Alex T. Hunt, Desk Officer for NCUA. Please send NCUA a copy of any comments you submit to OMB.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily adheres to the fundamental federalism principles addressed by the executive order. This proposed rule will apply to all federally-insured credit unions, including federally-insured, State-chartered credit unions. Accordingly, it may have a 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. This impact is an unavoidable consequence of carrying out the statutory mandate to adopt a system of prompt corrective action to apply to all federally-insured credit unions.

Agency Regulatory Goal

NCUA's goal is clear, understandable regulations that impose a minimal regulatory burden. Although much of the language of this rule is mandated by Congress, we request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

List of Subjects in 12 CFR Part 702

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on February 3, 2000.

Becky Baker,

Secretary of the Board.

Accordingly, it is proposed that 12 CFR part 702 be amended as set forth below:

PART 702—PROMPT CORRECTIVE ACTION

1. The authority citation for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

2. Paragraph (k) is added to § 702.2 to read as follows:

§ 702.2 Definitions.

* * * * *

(k) *Weighted-average life* means, for purposes of §§ 702.103(c)(1) and 702.106(c), the weighted-average time to the return of a dollar of principal, calculated by multiplying each portion of principal received by the time at which it is expected to be received, and then summing and dividing by the total amount of principal. The time at which the principal is expected to be received must be a reasonable and supportable estimate. The weighted-average life for portfolio investments in registered investment companies or collective investment funds (other than a money market fund) is defined as greater than five (5) years, but less than or equal to seven (7) years.

3. Sections 702.103, 702.104, 702.105 and 702.106 are added to Subpart A of part 702 to read as follows:

§ 702.103 Risk portfolios defined.

A risk portfolio is a portfolio of assets, liabilities, or contingent liabilities as specified below, each expressed as a percentage of the credit union's month-end total assets corresponding to its Call Report period, rounded to two decimal places (Table 1):

(a) *Long-term real estate loans.* Total real estate loans and real estate lines of credit outstanding, exclusive of those outstanding that will contractually refinance, reprice or mature within 3 years, and exclusive of all member business loans (as defined in 12 CFR 723.1 or as approved under 12 CFR 723.20);

(b) *Member business loans outstanding.* All member business loans (as defined in 12 CFR 723.1 or as approved under 12 CFR 723.20) that are outstanding, exclusive of unused commitments;

(c) *Long-term investments.* Investments (as defined by 12 CFR 703.150 or applicable State law) that are either:

(1) Fixed-rate investments with a weighted-average life (as defined in § 702.2(k)) greater than 3 years;

(2) Variable-rate investments with the next rate adjustment period greater than 3 years; or

(3) Investments in a collective investment fund (*e.g.,* a common trust as defined in 12 CFR 703.100) or a registered investment company (*e.g.,* a mutual fund) other than a money market fund as defined in 17 CFR 270.2a–7;

(d) *Low-risk assets.* Cash and cash equivalents as defined under Generally Accepted Accounting Principles;

(e) *Average-risk assets.* One hundred percent (100%) of total assets minus the sum of the risk portfolios in paragraphs (a) through (d) of this section;

(f) *Loans sold with recourse.* Outstanding balance of loans sold or swapped with recourse;

(g) *Unused member business loan commitments.* Unused commitments for member business loans (as defined in 12 CFR 723.1 or as approved under 12 CFR 723.20); and

(h) *Allowance.* The Allowance for Loan and Lease Losses not to exceed the equivalent of one and one-half percent (1.5%) of total loans outstanding.

TABLE 1 -- §702.103 RISK PORTFOLIOS DEFINED

Risk portfolio	*Assets, liabilities or contingent liabilities*
1. Long-term real estate loans	Total real estate loans and real estate lines of credit (excluding MBLs) with a maturity (and next rate adjustment period if variable rate) greater than 3 years
2. MBLs outstanding	Member business loans outstanding
3. Long-term investments	Investments with a weighted-average life (and the next rate adjustment period if variable rate) greater than 3 years; and investments in collective investment funds and registered investment companies other than money market funds
4. Low-risk assets	Cash and cash equivalents
5. Average-risk assets	100% of total assets minus sum of risk portfolios above
6. Loans sold with recourse	Outstanding balance of loans sold or swapped with recourse
7. Unused MBL commitments	Unused commitments for MBLs
8. Allowance	Allowance for Loan and Lease Losses limited to equivalent of 1.50 percent of total loans

§ 702.104 Thresholds to define complex credit unions.

A credit union is deemed complex if it exceeds the threshold percentage of month-end total assets corresponding to its Call Report period, in any of the following risk portfolios (Table 2):

(a) *Long-term real estate loans.* The threshold of long-term real estate loans, as defined in § 702.103(a), is twenty-five percent (25%) of total assets;

(b) *Combined member business loans outstanding and unused commitments.* The threshold of member business loans outstanding, as defined in § 702.103(b), and unused member business loan commitments, as defined in § 702.103(g), in the aggregate, is twelve and one-quarter percent (12.25%) of total assets.

(c) *Long-term investments.* The threshold of long-term investments, as defined in § 702.103(c), is fifteen percent (15%) of total assets; or

(d) *Loans sold with recourse.* The threshold of loans sold with recourse, as defined in § 702.103(f), is five percent (5%) of total assets.

TABLE 2 -- §702.104 THRESHOLDS TO DEFINE COMPLEX CREDIT UNIONS

Risk portfolios to define complex credit unions	*Thresholds to define "complex" (as percent of month-end total assets)*
1. Long-term real estate loans	25.00%
2. Combined portfolios of: a. MBLs outstanding and b. Unused MBL commitments	12.25%
3. Long-term investments	15.00%
4. Loans sold with recourse	5.00%

§ 702.105 RBNW components to calculate risk-based net worth requirement.

For purposes of §§ 702.102 and 702.302, a complex credit union's risk-based net worth requirement is the aggregate of the following RBNW component amounts, each expressed as a percentage of the credit union's month-end total assets corresponding to its Call Report period, rounded to two decimal places (Table 3):

(a) *Long-term real estate loans.* The sum of:

(1) Six percent (6%) of the amount of long-term real estate loans up to twenty-five percent (25%) of total assets; and

(2) Fourteen percent (14%) of the amount in excess of twenty-five percent (25%) up to forty percent (40%) of total assets; and

(3) Sixteen percent (16%) of the amount in excess of forty percent (40%) of total assets;

(b) *Member business loans outstanding.* The sum of:

(1) Six percent (6%) of the amount of member business loans outstanding up to twelve and one-quarter percent (12.25%) of total assets; and

(2) Fourteen percent (14%) of the amount in excess of twelve and one-quarter percent (12.25%) of total assets;

(c) *Long-term investments.* The sum of:

(1) Six percent (6%) of the amount of long-term investments up to fifteen percent (15%) of total assets; and

(2) Twelve percent (12%) of the amount in excess of fifteen percent (15%) of total assets;

(d) *Low-risk assets.* Three percent (3%) of the entire portfolio of low-risk assets;

(e) *Average-risk assets.* Six percent (6%) of the entire portfolio of average-risk assets;

(f) *Loans sold with recourse.* Six percent (6%) of the entire portfolio of loans sold with recourse;

(g) *Unused member business loan commitments.* Six percent (6%) of the entire portfolio of unused member business loan commitments; and

(h) *Allowance.* Negative one hundred percent (−100%) of the balance of the Allowance for Loan and Lease Losses account, not to exceed the equivalent of one and one-half percent (1.5%) of total loans outstanding.

TABLE 3 -- §702.105 RBNW COMPONENTS TO CALCULATE RBNW REQUIREMENT

Risk portfolio	*Amount of risk portfolio (as percent of month-end total assets) to be multiplied by RBNW factor*	*RBNW factor*
1. Long-term real estate loans	0 to 25.00% over 25.00 to 40.00% over 40.00%	.06 .14 .16
2. MBLs outstanding	0 to 12.25% over 12.25%	.06 .14
3. Long-term investments	0 to 15.00% over 15.00%	.06 .12
4. Low-risk assets	All %	.03
5. Average-risk assets	All %	.06
6. Loans sold with recourse	All %	.06
7. Unused MBL commitments	All %	.06
8. Allowance	Limited to equivalent of 1.50% of total loans (expressed as a percent of total assets)	(1.00)
A complex credit union's RBNW requirement is the sum of eight RBNW components. An RBNW component is calculated for each of the eight risk portfolios, equal to the sum of each amount of a risk portfolio times its RBNW factor. A complex credit union is "undercapitalized" if its net worth ratio is less than its RBNW requirement.		

§ 702.106 Alternative components to calculate risk-based net worth requirement.

A complex credit union may substitute an alternative component below, in place of a corresponding RBNW component in § 702.105 above, when any alternative component amount, expressed as a percentage of the credit union's month-end total assets corresponding to its Call Report period, rounded to two decimal places, is smaller (Table 4):

(a) *Long-term real estate loans.* The sum of:

(1) Six percent (6%) of the amount of long-term real estate loans with a remaining maturity of greater than 3 years, but less than or equal to 5 years;

(2) Eight percent (8%) of the amount of such loans with a remaining maturity of greater than 5 years, but less than or equal to 12 years;

(3) Twelve percent (12%) of the amount of such loans with a remaining maturity of greater than 12 years, but less than or equal to 20 years; and

(4) Sixteen percent (16%) of the amount of such loans with a remaining maturity greater than 20 years;

(b) *Member business loans outstanding.* The sum of:

(1) Fixed-rate member business loans outstanding as follows:

(i) Six percent (6%) of the amount of such loans with a remaining maturity of 3 or fewer years;

(ii) Nine percent (9%) of the amount of such loans with a remaining maturity greater than 3 years, but less than or equal to 5 years;

(iii) Twelve percent (12%) of the amount of such loans with a remaining maturity greater than 5 years, but less than or equal to 7 years;

(iv) Fourteen percent (14%) of the amount of such loans with a remaining maturity greater than 7 years, but less than or equal to 12 years; and

(v) Sixteen percent (16%) of the amount of such loans with a remaining maturity greater than 12 years; and

(2) Variable-rate member business loans outstanding as follows:

(i) Six percent (6%) of the amount of such loans with a remaining maturity of 3 or fewer years;

(ii) Eight percent (8%) of the amount of such loans with a remaining maturity greater than 3 years, but less than or equal to 5 years;

(iii) Ten percent (10%) of the amount of such loans with a remaining maturity greater than 5 years, but less than or equal to 7 years;

(iv) Twelve percent (12%) of the amount of such loans with a remaining maturity greater than 7 years, but less than or equal to 12 years; and

(v) Fourteen percent (14%) of the amount of such loans with a remaining maturity greater than 12 years.

(c) *Long-term investments.* The sum of:

(1) Eight percent (8%) of the amount of long-term investments with a weighted-average life (as defined in § 702.2(k) above) greater than 3 years, but less than or equal to 5 years;

(2) Twelve percent (12%) of the amount of such investments with a weighted-average life greater than 5 years, but less than or equal to 7 years;

(3) Sixteen percent (16%) of the amount of such investments with a weighted-average life greater than 7 years, but less than or equal to 10 years; and

(4) Twenty percent (20%) of the amount of such investments with a weighted-average life greater than 10 years.

TABLE 4 -- §702.106 ALTERNATIVE COMPONENTS FOR RBNW REQUIREMENT

a. LONG-TERM REAL ESTATE LOANS

Amount of Long-term real estate loans by remaining maturity	*Alternative factor*
> 3 years to 5 years	.06
> 5 years to 12 years	.08
> 12 years to 20 years	.12
> 20 years	.16

"Alternative component" is the sum of each amount of the Long-term real estate loans risk portfolio by remaining maturity (as a percent of month-end total assets) times its alternative factor. Substitute for corresponding RBNW component if smaller.

b. MEMBER BUSINESS LOANS

Amount of Member business loans by remaining maturity	*Alternative factor*
Fixed-rate MBLs 0 to 3 years	.06
> 3 years to 5 years	.09
> 5 years to 7 years	.12
> 7 years to 12 years	.14
> 12 years	.16
Variable-rate MBLs 0 to 3 years	.06
> 3 years to 5 years	.08
> 5 years to 7 years	.10
> 7 years to 12 years	.12
> 12 years	.14

"Alternative component" is the sum of each amount of the Member business loans risk portfolio by fixed and variable rate and by remaining maturity (as a percent of month-end total assets) times its alternative factor. Substitute for corresponding RBNW component if smaller.

c. LONG-TERM INVESTMENTS

Amount of Long-term investments by weighted-average life	*Alternative factor*
> 3 years to 5 years	.08
> 5 years to 7 years	.12
> 7 year to 10 years	.16
> 10 years	.20

"Alternative component" is the sum of each amount of the Long-term investments risk portfolio by weighted-average life (as a percent of month-end total assets) times its alternative factor. Substitute for corresponding RBNW component if smaller.

4. Appendices A through H are added to subpart A to read as follows:

Appendices to Subpart A

APPENDIX A – EXAMPLE OF THRESHOLDS TO DEFINE COMPLEX CREDIT UNIONS, §702.104 (EXAMPLE CALCULATION IN GREY)

Risk portfolio(s) for complex determination	*Dollar balance*	*Risk portfolio(s) percent of month-end total assets*	*Threshold to define "complex" percent of month-end total assets*
Month-end total assets	200,000,000.00		
1. Long-term real estate loans risk portfolio	60,000,000.00	30.00%	25.00%
2. Combined MBL portfolios: a) MBLs outstanding risk portfolio b) Unused MBL commitments risk portfolio	 20,000,000.00 16,000,000.00	 10.00% 8.00%	
Combined MBL portfolios (sum of percentages for MBLs outstanding risk portfolio and unused MBL commitments risk portfolio)		18.00%	12.25%
3. Long-term investments risk portfolio	32,000,000.00	16.00%	15.00%
4. Loans sold with recourse risk portfolio	40,000,000.00	20.00%	5.00%

APPENDIX B – EXAMPLE RBNW COMPONENTS FOR RBNW REQUIREMENT, §702.105
(EXAMPLE CALCULATION IN GREY)

Risk portfolio	*Dollar balance*	*Percent of month-end total assets*	*Amount thresholds for RBNW factors*	*Amount of risk portfolio*	*RBNW factor*	*RBNW component*
Month-end total assets	200,000,000.00	100.00%				
1. Long-term real estate loans	60,000,000.00	30.00%				
Base amount			0 to 25.00%	25.00%	.06	1.50%
Second amount			over 25.00 to 40.00%	5.00%	.14	0.70%
Third amount			over 40.00%	0.00%	.16	0.00%
2. MBLs outstanding	20,000,000.00	10.00%				
Base amount			0 to 12.25%	10.00%	.06	0.60%
Second amount			over 12.25%	0.00%	.14	0.00%
3. Long-term investments	32,000,000.00	16.00%				
Base amount			0 to 15.00%	15.00%	.06	0.90%
Second amount			over 15.00%	1.00%	.12	0.12%
4. Low-risk assets	40,000,000.00	20.00%	All %	20.00%	.03	0.60%
Sum of risk portfolio nos. 1 through 4	152,000,000.00	76.00%				
5. Average-risk assets	48,000,000.00.	24.00%[a]	All %	24.00%	.06	1.44%
6. Loans sold with recourse	40,000,000.00	20.00%	All %	20.00%	.06	1.20%
7. Unused MBL commitments	16,000,000.00	8.00%	All %	8.00%	.06	0.48%
8. Allowance	1,800,000.00 [b]	0.90%	All %	0.90%	(1.00)	(0.90)%
Sum of RBNW components: **RBNW requirement** [c]						**6.64%**

[a] The Average-risk assets risk portfolio percent of month-end total assets equals 100.00 percent minus the sum of the percentages in the four risk portfolios above (i.e., Long-term real estate loans, MBLs outstanding, Long-term investments, and Low-risk assets).
[b] The Allowance risk portfolio is limited to the equivalent of 1.50 percent of total loans. For an example computation of the permitted dollar balance of Allowance, see worksheet in Appendix C below.
[c] A complex credit union is "undercapitalized" if its net worth ratio is less than its RBNW requirement. The dollar equivalent of RBNW requirement may be computed for informational purposes as the RBNW requirement percent of total assets.

APPENDIX C – ALLOWANCE RISK PORTFOLIO DOLLAR BALANCE WORKSHEET
(EXAMPLE CALCULATION IN GREY)

Balance sheet account	*Dollar balance*	*Percent of total loans*	*Range of ALL permitted*	*Permitted ALL percent of total loans*	*Permitted dollar balance of Allowance*
Allowance for Loan and Lease Losses (ALL)	2,400,000.00	2.00%	0 to 1.50%	1.50%	1,800,000.00
Total loans	120,000,000.00				

APPENDIX D – EXAMPLE LONG-TERM REAL ESTATE LOANS ALTERNATIVE COMPONENT, §702.106(a)
(EXAMPLE CALCULATION IN GREY)

Remaining maturity	*Dollar balance of Long-term real estate loans by remaining maturity*	*Percent of total assets by remaining maturity*	*Alternative factors*	*Alternative component calculation*
> 3 years to 5 years	50,000,000.00	25.00%	.06	1.50%
> 5 years to 12 years	0.00	0.00%	.08	0.00%
> 12 years to 20 years	10,000,000.00	5.00%	.12	0.60%
> 20 years	0.00	0.00%	.16	0.00%
Sum of above equals Alternative component*				2.10%

* Substitute for RBNW component if lower.

APPENDIX E – EXAMPLE MEMBER BUSINESS LOANS ALTERNATIVE COMPONENT, §702.106(b)

(EXAMPLE CALCULATION IN GREY)

Remaining maturity	*Dollar balance of Member business loans by remaining maturity*	*Percent of total assets by remaining maturity*	*Alternative factors*	*Alternative component calculation*
Fixed-rate MBLs 0 to 3 years	6,000,000.00	3.00%	.06	0.18%
> 3 years to 5 years	4,000,000.00	2.00%	.09	0.18%
> 5 years to 7 years	2,000,000.00	1.00%	.12	0.12%
> 7 years to 12 years	0.00	0.00%	.14	0.00%
> 12 years	0.00	0.00%	.16	0.00%
Variable-rate MBLs 0 to 3 years	2,000,000.00	1.00%	.06	0.06%
> 3 years to 5 years	4,000,000.00	2.00%	.08	0.16%
> 5 years to 7 years	2,000,000.00	1.00%	.10	0.10%
> 7 years to 12 years	0.00	0.00%	.12	0.00%
>12 years	0.00	0.00%	.14	0.00%
Sum of above equals Alternative component*				0.80%

* Substitute for RBNW component if lower.

APPENDIX F -- EXAMPLE LONG-TERM INVESTMENTS ALTERNATIVE COMPONENT, §702.106(c)

(EXAMPLE CALCULATION IN GREY)

Weighted-average life	*Dollar balance of Long-term investments by weighted average-life*	*Percent of total assets by weighted average-life*	*Alternative factors*	*Alternative component calculation*
> 3 years to 5 years	20,000,000.00	10.00%	.08	0.80%
> 5 years to 7 years	10,000,000.00	5.00%	.12	0.60%
> 7 years to 10 years	2,000,000.00	1.00%	.16	0.16%
> 10 years	0.00	0.00%	.20	0.00%
Sum of above equals Alternative component*				1.56%

* Substitute for RBNW component if lower.

APPENDIX G -- EXAMPLE RBNW REQUIREMENT USING ALTERNATIVE COMPONENTS (EXAMPLE CALCULATION IN GREY)

Risk portfolio	*RBNW component*	*Alternative component*	*Lower of RBNW or Alternative component*
1. Long-term real estate loans	2.20%	2.10%	2.10%
2. MBLs outstanding	0.60%	0.80%	0.60%
3. Long-term investments	1.02%	1.56%	1.02%
			RBNW component
4. Low-risk assets			0.60%
5. Average-risk assets			1.44%
6. Loans sold with recourse			1.20%
7. Unused MBL commitments			0.48%
8. Allowance			(0.90)%
RBNW requirement* Compare to Net Worth Ratio			**6.54%**

* A complex credit union is "undercapitalized" if its net worth ratio is less than its RBNW requirement.

Appendix H—Structural Overview of §§ 702.103 through 702.106

Sections 702.103 through 702.106 implement a three-step process involving eight "risk portfolios" which are defined in § 702.103. The first step, reflected in § 702.104, is to determine whether a credit union qualifies as "complex" based on whether any of four specific threshold percentages of total assets is exceeded by corresponding "risk portfolios." The second step, reflected in § 702.105, uses eight "RBNW components" (derived from the "risk portfolios" in § 702.103) to calculate the individual RBNW requirement that applies to a credit union which meets § 702.104's definition of "complex." The third and final step, reflected in § 702.106, gives a "complex" credit union the opportunity to substitute any of three specific "RBNW components" with a corresponding "alternative component" that may reduce the RBNW requirement against which the credit union's net worth ratio is measured. While all credit unions determine their net worth ratio quarterly, 12 CFR 702.101(a), the determination whether a credit union is "complex" and, if so, the determination of its RBNW requirement, is made on a quarterly basis by credit unions which file Call Reports quarterly, and on a semiannual basis by credit unions which file Call Reports semiannually.

[FR Doc. 00–3275 Filed 2–17–00; 8:45 am]

BILLING CODE 7535–01–P

Federal Register

Friday,
February 18, 2000

Part IV

Department of Health and Human Services

National Institutes of Health

Office of the Director, National Institutes of Health, Notices of Meeting

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: March 8–10, 2000.

Time: March 8—9:00 am to 5:00 pm; March 9—8:00 am to 5:30 pm; March 10—8:00 am to 5:00 pm.

Agenda: The meeting will be open to the public. The agenda will include a discussion with the Advisory Committee to the Director Working Group on NIH Oversight of Clinical Gene Transfer Research, review of novel human gene transfer protocols, continued deliberation about on issues involving serious adverse event reporting, and a topic raised by a member of the public (separate notice to follow). Additional information is also available at ORDA's web site: http://www.nih.gov/od/oba/.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Amy P. Patterson, MD, Acting Executive Secretary, Office of Biotechnology Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, MD 20892–7010, 301–496–9838.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: February 11, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–4007 Filed 2–17–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Biotechnology Activities; Recombinant DNA Research: Notice

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice.

SUMMARY: The purpose of this document is to inform the public of an additional agenda item that will be considered during the upcoming meeting of the Recombinant DNA Advisory Committee (RAC) meeting. The RAC has been asked to consider a proposal from a member of the public that a moratorium be placed on some human somatic gene therapy protocols using viral vectors.

DATES: The RAC will consider this proposal on the afternoon of the first day of the meeting, March 8–10, 2000.

FOR FURTHER INFORMATION CONTACT: If you have questions, or require additional information about this agenda item, please contact the Office of Biotechnology Activities (OBA) by e-mail at: ci4e@nih.gov, or telephone at: 301–496–9838. For additional information about the March 8–10, 2000, RAC meeting, please visit the NIH/OBA web site at: http://www.nin.gov/od/oba/.

SUPPLEMENTARY INFORMATION: In a letter dated November 22, 1999, Mr. Jeremy Rifkin, Foundation on Economic Trends, requested that the RAC consider the following:

Given the recent death of a patient undergoing somatic gene therapy at the University of Pennsylvania and the disclosure of six other deaths involving patients undergoing gene therapy, the Foundation on Economic Trends is formally requesting that the National Institutes of Health Recombinant DNA Advisory Committee (RCA) vote to impose an immediate moratorium on the consideration of any future human somatic gene therapy protocol that employs retro-, adeno-, or other viral vectors, except where the protocol can legitimately be considered a treatment of last resort for a life threatening illness.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally, NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which recombinant DNA techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: February 10, 2000.

Amy Patterson,

Director, Office of Biotechnology Activities, National Institutes of Health.

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Federal Register

Friday,
February 18, 2000

Part V

The President

Proclamation 7273—To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Wire Rod

Memorandum of February 16, 2000—Action Under Section 203 of the Trade Act of 1974 Concerning Steel Wire Rod

Federal Register
Vol. 65, No. 34
Friday, February 18, 2000

Presidential Documents

Title 3—

The President

Proclamation 7273 of February 16, 2000

To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Wire Rod

By the President of the United States of America

A Proclamation

1. On July 12, 1999, the United States International Trade Commission (USITC) transmitted to the President a report on its investigation under section 202 of the Trade Act of 1974, as amended (the ''Trade Act'') (19 U.S.C. 2252), with respect to imports of certain steel wire rod provided for in subheadings 7213.91, 7213.99, 7227.20 and 7227.90.60 of the Harmonized Tariff Schedule of the United States (HTS). The USITC commissioners were equally divided with respect to the determination required under section 202(b) of the Trade Act (19 U.S.C. 2252(b)) regarding whether such steel wire rod is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industry producing a like or directly competitive article.

2. Section 330(d)(1) of the Tariff Act of 1930, as amended (the ''Tariff Act'') (19 U.S.C. 1330(d)(1)) provides that when the USITC is required to determine under section 202(b) of the Trade Act whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, and the commissioners voting are equally divided with respect to such determination, then the determination agreed upon by either group of commissioners may be considered by the President as the determination of the USITC. Having reviewed the determinations of both groups of commissioners, I have decided to consider the determination of the group of commissioners voting in the affirmative to be the determination of the USITC.

3. Pursuant to section 311(a) of the North American Free Trade Agreement Implementation Act (the ''NAFTA Implementation Act'') (19 U.S.C. 3371(a)), the USITC made negative findings with respect to imports of steel wire rod from Mexico and Canada. The USITC commissioners voting in the affirmative also transmitted to the President their recommendations made pursuant to section 202(e) of the Trade Act (19 U.S.C. 2252(e)) with respect to the action that would address the serious injury or threat thereof to the domestic industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition.

4. Pursuant to section 203 of the Trade Act (19 U.S.C. 2253), and after taking into account the considerations specified in section 203(a)(2) of the Trade Act, I have determined to implement action of a type described in section 203(a)(3) and to provide exclusions for enumerated steel wire rod products (''excluded products''). Pursuant to section 312(a) of the NAFTA Implementation Act (19 U.S.C. 3372(a)), I have determined that imports of steel wire rod from Mexico, considered individually, do not account for a substantial share of total imports and do not contribute importantly to the serious injury, or threat of serious injury, found by the USITC, and that imports from Canada, considered individually, do not contribute importantly to such injury or threat. Accordingly, pursuant to section 312(b) of the NAFTA Implementation Act (19 U.S.C. 3372(b)), I have excluded steel wire rod the product of Mexico or Canada from the action I am taking under section 203 of the Trade Act.

5. Such action shall take the form of a tariff-rate quota on imports of steel wire rod (other than excluded products), provided for in HTS subheadings 7213.91, 7213.99, 7227.20 and 7227.90.60, imposed for a period of 3 years plus 1 day, with annual increases in the within-quota quantities and annual reductions in the rate of duty applicable to goods entered in excess of those quantities in the second and third years, as provided for in the Annex to this proclamation.

6. Except for products of Mexico and of Canada, which shall all be excluded from this restriction, such tariff-rate quota shall apply to imports of steel wire rod from all countries. Pursuant to section 203(a)(1)(A) of the Trade Act (19 U.S.C. 2253(a)(1)(A)), I have further determined that this action will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

7. Section 604 of the Trade Act, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to sections 203 and 604 of the Trade Act, do proclaim that:

(1) In order to establish a tariff-rate quota on imports of steel wire rod (other than excluded products), classified in HTS subheadings 7213.91, 7213.99, 7227.20 and 7227.90.60, subchapter III of chapter 99 of the HTS is modified as provided in the Annex to this proclamation.

(2) Such imported steel wire rod that is the product of Mexico or of Canada shall be excluded from the tariff-rate quota established by this proclamation, and such imports shall not be counted toward the tariff-rate quota limits that trigger the over-quota rates of duty.

(3) I hereby suspend, pursuant to section 503(c)(1) of the Trade Act (19 U.S.C. 2463(c)(1)), duty-free treatment for steel wire rod the product of beneficiary countries under the Generalized System of Preferences (GSP) (Title V of the Trade Act, as amended (19 U.S.C. 2461–2467)); pursuant to section 213(e)(1) of the Caribbean Basin Economic Recovery Act, as amended (CBERA) (19 U.S.C. 2703(e)(1)), duty-free treatment for steel wire rod the product of beneficiary countries under that Act (19 U.S.C. 2701–2707); pursuant to section 204(d)(1) of the Andean Trade Preference Act, as amended (ATPA)(19 U.S.C. 3203(d)(1)), duty-free treatment for steel wire rod the product of beneficiary countries under that Act (19 U.S.C. 3201–3206); and pursuant to section 403(a) of the Trade and Tariff Act of 1984 (19 U.S.C. 2112 note), duty-free treatment for steel wire rod the product of Israel under the United States-Israel Free Trade Area Implementation Act of 1985 (the ''IFTA Act'') (19 U.S.C. 2112 note), to the extent necessary to apply the tariff-rate quota to those products, as specified in the Annex to this proclamation.

(4) During each of the first three quarters of a quota year, any articles subject to the tariff-rate quota that are entered, or withdrawn from warehouse for consumption, in excess of one-third of the annual within-quota quantity for that quota year (as specified in the Annex to this proclamation) shall be subject to the over-quota rate of duty then in effect. During the fourth quarter of a quota year, any articles subject to the tariff-rate quota that are entered, or withdrawn from warehouse for consumption, in excess of the remaining quantity of the annual within-quota quantity for that quota year shall be subject to the over-quota rate of duty then in effect. The remaining quantity shall be determined by subtracting the total quantity of goods entered at the in-quota rate during the first three quarters of the quota year from the annual within-quota quantity for that quota year.

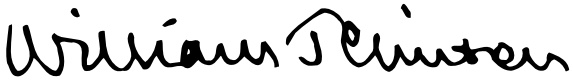
(5) Effective at the close of March 1, 2003, or at the close of the date which may earlier be proclaimed by the President as the termination of the import relief set forth in the Annex to this proclamation, the suspension of duty-free treatment under the GSP, the CBERA, the ATPA and the IFTA Act shall terminate, unless otherwise provided in such later proclamation, and qualifying goods the product of beneficiary countries or of Israel entered under such programs shall again be eligible for duty-free treatment.

(6) Effective at the close of March 1, 2004, or such other date that is one year from the close of this relief, the U.S. note and tariff provisions established in the Annex to this proclamation shall be deleted from the HTS.

(7) Any provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(8) The modifications to the HTS made by this proclamation, including the Annex hereto, shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after March 1, 2000, and shall continue in effect as provided in the Annex to this proclamation, unless such actions are earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of February, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fourth.



Billing code 3195–01–P

ANNEX

Modifications to the Harmonized Tariff Schedule
of the United States

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after March 1, 2000, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by inserting in numerical sequence the following new U.S. note, subheadings and superior text thereto, with the language inserted in the columns entitled "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

"9. For purposes of subheadings 9903.72.01 through 9903.72.15, inclusive, the following steel products (enumerated by reference to common commercial usage) are excluded from such subheadings, and no entries of such products shall be permitted or included therein or counted toward the quantities specified for any quota period:

(a) Tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter, with an average partial decarburization of no more than 70 microns in depth (maximum 200 microns); having no inclusions greater than 20 microns; capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, imported pursuant to a purchase order from a tire manufacturer or a tire cord wire manufacturer in the United States for tire cord quality wire rod, and containing by weight the following elements in the proportions shown:

-- 0.68 percent or more of carbon,

-- less than 0.01 percent of aluminum,

-- 0.040 percent or less, in the aggregate, of phosphorus and sulfur,

-- 0.008 percent or less of nitrogen, and

-- not more than 0.55 percent, in the aggregate, of copper, nickel and chromium;

(b) Valve spring quality wire rod containing by weight 0.43 percent or more but not more than 0.73 percent of carbon, having a maximum inclusion content to ASTM A-877, Table 4, imported pursuant to a purchase order from an automotive valve spring or automotive brake spring manufacturer in the United States for automotive valve spring or automotive brake spring quality wire rod, measuring 5.5 mm or more but not more than 18 mm in cross-sectional diameter and having a partial decarburization of no more than 0.127 mm in depth and seams of no more than 0.075 mm in depth, or if measuring over 9.5 mm but not more than 18 mm in cross-sectional diameter either:

– having a partial decarburization of not over 1.3 percent of the diameter of the rod, a zero ferrite (total) decarburization and seams of no more than 0.075 mm in depth, or

– if AISI grade 6150, having a partial decarburization of not more than 0.127 mm in depth, a zero ferrite (total) decarburization and a seam depth of not more than 1 percent of the diameter;

(c) Class III pipe wrap quality wire rod measuring 10.3 mm in cross-sectional diameter, with an average partial decarburization per coil of no more than 70 microns in depth, having no inclusions greater than 20 microns, free of injurious piping and undue segregation, having a heat tensile strength minimum of 170 ksi and a maximum of 177 ksi, and containing by weight the following elements in the proportions shown:

-- 0.72 percent or more of carbon,

-- 0.50 percent or more but not more than 1.10 percent of manganese,

-- not more than 0.030 percent of phosphorus,

-- not more than 0.035 percent of sulfur, and

-- 0.10 percent or more but not more than 0.35 percent of silicon;

(d) Aircraft quality cold heading quality wire rod measuring 5.5 mm or more but not more than 19.0 mm in cross sectional diameter for the grades enumerated herein, meeting the requirements defined in the aerospace and military specifications listed for each grade:

Grade	Specification
4037	AMS6300, 2301
4130	AMS6370, 2301; MIL-S6758
4140	AMS6382, 2301; MIL-S5626
4340	AMS6415, 2301; MIL-S5000
8740	AMS6322, 2301; MIL-S6049
PWA722	AMS6304, 2301,

having a diameter tolerance of plus 0.25 mm and minus 0.25 mm, having an out of roundness tolerance of not more than 0.30 mm, having surface seam of not more than the greater of 0.07 mm or 1.0 percent of the diameter in depth, free from complete decarburization, partial decarburization no more than the greater of 0.10 mm or 1.0 percent of the diameter in depth, having micro-structure meeting the aircraft cleanliness requirements of AMS2301, and having grain size predominantly No. 5 or finer;

(e) Aluminum cable steel reinforced ("ACSR") quality steel wire rod, measuring either (i) 7.2 mm or more but not more than 7.8 mm in cross-sectional diameter or (ii) 9.2 mm or more but not more than 9.8 mm in cross-sectional diameter, in the following strength/grade/size requirements:

-- 95 kgf/mm^2 for AISI grade 1045 wire rod measuring 7.2 mm or more but not more than 7.8 mm in cross-sectional diameter,

-- 92 kgf/mm^2 for AISI grade 1045 wire rod measuring 9.2 mm or more but not more than 9.8 mm in cross-sectional diameter,

-- 100 kgf/mm^2 for AISI grade 1050 wire rod measuring 7.2 mm or more but not more than 7.8 mm in cross-sectional diameter, or

-- 98 kgf/mm^2 for AISI grade 1050 wire rod measuring 9.2 mm or more but not more than 9.8 mm in cross-sectional diameter,

processed exclusively by heat-treating on an in-line fused salt bath patenting process that results in having a tensile strength tolerance range of plus or minus 5 kgf/mm^2, and having an ovality of no more than 0.30 mm.

(f) Piano wire string quality wire rod measuring either 5.5, 6.0, 6.5, 7.0 or 8.0 mm in cross-sectional diameter, the foregoing with an average partial decarburization of no more than 70 microns in depth (maximum 200 microns), having no inclusions greater than 20 microns, capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, imported pursuant to a purchase order from a piano wire string manufacturer in the United States for piano wire string quality wire rod, and containing by weight the following elements in the proportions shown:

-- 0.72 percent or more but not more than 1.0 percent of carbon,

-- less than 0.01 percent of aluminum,

-- not more than 0.040 percent, in the aggregate, of phosphorus and sulfur,

-- not more than 0.003 percent of nitrogen,

-- not more than 0.55 percent, in the aggregate, of copper, nickel and chromium, and

-- less than 0.60 percent of manganese;

(g) Grade 1085 annealed bearing quality wire rod, of a quality for manufacturing bearings, AISI grade 1085, annealed, 100 percent spheroidized, having maximum inclusions not exceeding ASTM A295, Table 3, with no samples of such rod showing globular oxide inclusions larger than 0.001 inches nor more than ten globular oxide inclusions between 0.0005 and 0.001 inches per square inch of sample area, the foregoing containing by weight the following elements in the proportions shown:

-- 0.80 percent or more but not more than 0.85 percent of carbon,

-- 0.70 percent or more but not more than 1.00 percent of manganese, and

-- not more than 15 ppm of oxygen;

(h) 1080 tire bead wire quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter, with an average partial decarburization of no more than 70 microns in depth (maximum 200 microns), having no inclusions greater than 20 microns, capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton, imported pursuant to a purchase order from a tire manufacturer or a manufacturer of tire wire products in the United States for inclusion in tires, and containing by weight the following elements in the proportions shown:

-- 0.78 percent or more of carbon,

-- less than 0.03 percent of soluble aluminum,

-- not more than 0.040 percent, in the aggregate, of phosphorous and sulfur,

-- not more than 0.004 percent of nitrogen, and

-- not more than 0.055 percent, in the aggregate, of copper, nickel and chromium."

"	Hot-rolled bars and rods of nonalloy or alloy steel, in irregularly wound coils, of circular or approximately circular solid cross section, having a diameter of 5 mm or more but less than 19 mm, except such bars and rods enumerated in U.S. note 9 to this subchapter and except bars and rods of alloy steel containing by weight 24 percent or more of nickel, provided for in subheadings 7213.91, 7213.99, 7227.20 and 7227.90.60, all the foregoing except products of Canada or of Mexico:			
	If entered during the period from March 1, 2000, through February 28, 2001, inclusive:			
9903.72.01	If entered during the period from March 1, 2000, through May 31, 2000, inclusive, in aggregate quantities not in excess of 477,783,962 kg.....	No change	No change	No change
9903.72.02	If entered during the period from June 1, 2000, through August 31, 2000, inclusive, in aggregate quantities not in excess of 477,783,962 kg.....	No change	No change	No change
9903.72.03	If entered during the period from September 1, 2000, through November 30, 2000, inclusive, in aggregate quantities not in excess of 477,783,962 kg.....	No change	No change	No change

	[Hot-rolled...(con.):]			
	[If...(con.):]			
9903.72.04	If entered during the period from December 1, 2000, through February 28, 2001, inclusive, in aggregate quantities not in excess of the remaining quantity, if any, from 1,433,351,886 kg after the aggregate quantity entered under subheadings 9903.72.01 through 9903.72.03, inclusive, is subtracted therefrom	No change	No change	No change
9903.72.05	Other	The rate provided in the Rates of Duty 1 General subcolumn for the applicable subheading (7213.91, 7213.99, 7227.20 or 7227.90.60) + 10%		The rate provided in the Rates of Duty 2 column for the applicable subheading (7213.91, 7213.99, 7227.20 or 7227.90.60) + 10%
	If entered during the period from March 1, 2001, through February 28, 2002, inclusive:			
9903.72.06	If entered during the period from March 1, 2001, through May 31, 2001, inclusive, in aggregate quantities not in excess of 487,339,641 kg	No change	No change	No change
9903.72.07	If entered during the period from June 1, 2001, through August 31, 2001, inclusive, in aggregate quantities not in excess of 487,339,641 kg	No change	No change	No change
9903.72.08	If entered during the period from September 1, 2001, through November 30, 2001, inclusive, in aggregate quantities not in excess of 487,339,641 kg	No change	No change	No change
9903.72.09	If entered during the period from December 1, 2001, through February 28, 2002, inclusive, in aggregate quantities not in excess of the remaining quantity, if any, from 1,462,018,923 kg after the aggregate quantity entered under subheadings 9903.72.06 through 9903.72.08, inclusive, is subtracted therefrom	No change	No change	No change
9903.72.10	Other	The rate provided in the Rates of Duty 1 General subcolumn for the applicable subheading (7213.91, 7213.99, 7227.20 or 7227.90.60) + 7.5%		The rate provided in the Rates of Duty 2 column for the applicable subheading (7213.91, 7213.99, 7227.20 or 7227.90.60) + 7.5%
	If entered during the period from March 1, 2002, through March 1, 2003, inclusive:			
9903.72.11	If entered during the period from March 1, 2002, through May 31, 2002, inclusive, in aggregate quantities not in excess of 497,086,434 kg	No change	No change	No change
9903.72.12	If entered during the period from June 1, 2002, through August 31, 2002, inclusive, in aggregate quantities not in excess of 497,086,434 kg	No change	No change	No change
9903.72.13	If entered during the period from September 1, 2002, through November 30, 2002, inclusive, in aggregate quantities not in excess of 497,086,434 kg	No change	No change	No change
9903.72.14	If entered during the period from December 1, 2002, through March 1, 2003, inclusive, in aggregate quantities in excess of the remaining quantity, if any, from 1,491,259,302 kg after the aggregate quantity entered under subheadings 9903.72.11 through 9903.72.13, inclusive, is subtracted therefrom	No change	No change	No change

	[Hot-rolled...(con.)]		
	[If...(con.)]		
9903.72.15	Other	The rate provided in the Rates of Duty 1 General subcolumn for the applicable subheading (7213.91, 7213.99, 7227.20 or 7227.90.60) +5%	The rate provided in the Rates of Duty 2 column for the applicable subheading (7213.91, 7213.99, 7227.20 or 7227.90.60) + 5%"

[FR Doc. 00–4198
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Presidential Documents

Memorandum of February 16, 2000

Action Under Section 203 of the Trade Act of 1974 Concerning Steel Wire Rod

Memorandum for the Secretary of the Treasury [and] the United States Trade Representative

On July 12, 1999, the United States International Trade Commission (USITC) submitted a report to me of its investigation under section 202 of the Trade Act of 1974, as amended (the ''Trade Act''), with respect to imports of steel wire rod. The USITC commissioners were equally divided in their determinations under section 202(b) of the Trade Act of whether steel wire rod is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat of serious injury to the domestic steel wire rod industry. The report also contained negative findings by the ITC pursuant to section 311(a) of the North American Free Trade Agreement Implementation Act (the ''NAFTA Implementation Act'') with respect to imports of steel wire rod from Canada and Mexico.

Having reviewed the determinations of both groups of commissioners, I have decided pursuant to section 330(d)(1) of the Tariff Act of 1930 to consider the determination of the group of commissioners voting in the affirmative to be the determination of the USITC.

After taking into account all relevant considerations, including the factors specified in section 203(a)(2) of the Trade Act, I have implemented action of a type described in section 203(a)(3) of that Act. I have determined that the most appropriate action is a tariff-rate quota on imports of steel wire rod, other than enumerated steel wire rod products (''excluded products''), with an increase in currently scheduled rates of duties for imports above the tariff-rate quota level. I have proclaimed such action for a period of 3 years and 1 day in order to facilitate efforts by the domestic industry to make a positive adjustment to import competition.

Specifically, I have established a tariff-rate quota for steel wire rod in an amount equal to 1.58 million net tons in the first year (March 1, 2000 through February 28, 2001), an amount that is equivalent to 1998 import levels of covered products from the countries subject to the TRQ plus 2 percent (to account for growth in demand). The tariff-rate quota amount will increase by 2 percent annually in the second and third years of relief. I have established increased rates of duty for imports above the tariff-rate quota level: namely 10 percent *ad valorem* in the first year of relief, 7.5 percent *ad valorem* in the second year of relief, and 5 percent *ad valorem* in the third year of relief. In addition, I have provided that during each quarter of the first three quarters of a quota year, any articles subject to the tariff-rate quota entered or withdrawn from warehouse for consumption in excess of one-third of the total within-quota quantity for that quota year shall be subject to the over-quota rate of duty then in effect. During the fourth quarter of a quota year, the tariff-rate quota shall apply as though the preceding sentence did not have effect, except that any imports subject to the over-quota duty as a result of the preceding sentence shall not be counted against the in-quota quantity for that quota year. In this regard, I instruct the Secretary of the Treasury to publish or otherwise make available on a weekly basis, import statistics that will enable importers to identify the rate at which the in-quota quantity for that quota year, and the portion of the in-quota quantity allotted to that quarter, is being filled. I further

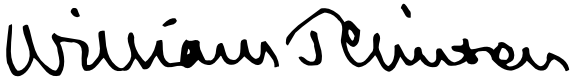
instruct the Secretary of the Treasury to seek to obtain by March 1, 2000 statistical subdivisions in the Harmonized Tariff Schedule for the excluded products (specified in the Annex to the proclamation). The Secretary of the Treasury will monitor imports of the excluded products by country of origin and imports the product of Mexico and Canada throughout the period of this action, and report to the United States Trade Representative on relevant volumes each quarter during the period of this action, or more often as needed, or as the United States Trade Representative may request.

I have further determined, pursuant to section 312(a) of the NAFTA Implementation Act, that imports of steel wire rod produced in Canada and Mexico do not account for a substantial share of total steel wire rod imports or are not contributing importantly to the serious injury or threat of serious injury. Therefore, pursuant to section 312(b) of the NAFTA Implementation Act, the safeguard measure will not apply to imports of steel wire rod that is the product of Canada or Mexico.

I have determined that the actions described above will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs. This action will provide the domestic industry with necessary temporary relief from increasing import competition, while also assuring our trading partners continued access to the United States market.

Pursuant to section 204 of the Trade Act, the USITC will monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition, and will provide to me and to the Congress a report on the results of its monitoring no later than the date that is the mid-point of the period during which the action I have taken under section 203 of that Act is in effect. I further instruct the United States Trade Representative to request the USITC pursuant to section 332(g) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(g)) to examine the effects of this action on both the domestic wire rod industry and the principal users of wire rod in the United States, and to report on the results of its investigation in conjunction with its report under section 204(a)(2).

The United States Trade Representative is authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, February 16, 2000.

[FR Doc. 00–4199
Filed 2–17–00; 11:43 am]
Billing code 3190–01–M

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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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LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S. 1733/P.L. 106–171

Electronic Benefit Transfer Interoperability and Portability Act of 2000 (Feb. 11, 2000)

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