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Federal Register

Tuesday
November 10, 1998

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WHO: Sponosred by the Office of the Federal Register.
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: Tuesday, Nov. 24, 1998 at 9:00 am.
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

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Separate Parts In This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 63, No. 217
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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

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–101–3]

Imported Fire Ant Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rules as final rule.

SUMMARY: We are adopting as a final rule, without change, two interim rules that amended the imported fire ant regulations by designating as quarantined areas all or portions of 9 counties in Arkansas, 10 counties in North Carolina, 3 counties in Oklahoma, 5 counties in South Carolina, 15 counties in Tennessee, and 13 counties in Texas. The interim rules were necessary in order to impose certain restrictions on the interstate movement of regulated articles from these areas to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

EFFECTIVE DATE: Affirmation effective November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Milberg, Operations Officer, Operational Support, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–5255; or e-mail: ron.p.milberg@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on January 28, 1998 (63 FR 4151–4154, Docket No. 97–101–1), we amended § 301.81–3(e) of the imported fire ant regulations by designating as quarantined areas all or portions of 10 counties in North Carolina, 3 counties in Oklahoma, 5 counties in South Carolina, 15 counties in Tennessee, and 13 counties in Texas. In another interim rule, effective and published in the **Federal Register** on July 2, 1998 (63 FR 36155–36156, Docket No. 97–101–2), we amended § 301.81–3(e) of the imported fire ant regulations by designating as quarantined areas 9 counties in Arkansas. The interim rules were necessary in order to impose certain restrictions on the interstate movement of regulated articles from these areas to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

Comments on the first interim rule (Docket No. 97–101–1) were required to be received on or before March 30, 1998. Comments on the second interim rule (Docket No. 97–101–2) were required to be received on or before August 31, 1998. We did not receive any comments on either interim rule. Therefore, for the reasons given in the interim rules, we are adopting the interim rules as a final rule.

This action also affirms the information contained in the interim rules concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, two interim rules that amended 7 CFR 301 and that were published at 63 FR 4151–4154 on January 28, 1998, and 63 FR 36155–36156 on July 2, 1998.

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 30th day of October, 1998.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–30135 Filed 11–9–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

[Docket No. FV99–905–1 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of the Minimum Size Requirement for Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule makes changes in the regulations under the Florida citrus marketing order and the grapefruit import regulations. This rule relaxes the minimum size requirement for red seedless grapefruit and for red seedless grapefruit imported into the United States from size 48 (3$^{9}/_{16}$ inches diameter) to size 56 (3$^{5}/_{16}$ inches diameter). The Citrus Administrative Committee (Committee), the agency that locally administers the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida, unanimously recommended this change. This change allows handlers and importers to ship size 56 red seedless grapefruit through November 7, 1999, and is expected to maximize grapefruit shipments to fresh market channels.

DATES: Effective November 9, 1998. Comments received by January 11, 1999 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, D.C. 20090–6456; Fax: (202) 205–6632; or E-mail: moabdocket__clerk@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 available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (941) 299–

4770, Fax: (941) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders, by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632, or E-mail: Jay__N__Guerber@usda.gov. You may also view the marketing agreements and orders small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos 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.''

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

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

This 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 date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

The order for Florida citrus provides for the establishment of minimum grade and size requirements with the concurrence of the Secretary. The minimum grade and size requirements are designed to provide fresh markets with fruit of acceptable quality and size, thereby maintaining consumer confidence for fresh Florida citrus. This contributes to stable marketing conditions in the interest of growers, handlers, and consumers, and helps increase returns to Florida citrus growers. The current minimum grade standard for red seedless grapefruit is U.S. No. 1. The current minimum size requirement for domestic shipments is size 56 (at least 3$^{5}/_{16}$ inches in diameter) through November 8, 1998, and size 48 (3$^{9}/_{16}$ inches in diameter) thereafter. The current minimum size for export shipments is size 56 throughout the year.

This interim final rule invites comments on a change to the order's rules and regulations relaxing the minimum size requirement for domestic shipments of red seedless grapefruit. This action allows for the continued shipment of size 56 red seedless grapefruit. This rule relaxes the minimum size from size 48 (3$^{9}/_{16}$ inches diameter) to size 56 (3$^{5}/_{16}$ inches diameter) through November 7, 1999. Absent this change, the minimum size will revert to size 48 (3$^{9}/_{16}$ inches diameter) November 9, 1998. The Committee met on September 3, 1998, and unanimously recommended this action.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR part 905.306; 63 FR 19379, April 20, 1998) specifies minimum grade and size requirements for different varieties of fresh Florida grapefruit. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b). This rule adjusts Table I to establish a minimum size of 56 through November 7, 1999. Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106 (7 CFR part 944.106; 63 FR 19379, April 20, 1998). This rule also adjusts § 944.106 to establish a minimum size of 56 through November 7, 1999. Export requirements for Florida red seedless grapefruit are not changed by this rule.

In making its recommendation, the Committee considered estimated supply and demand. The supply of red seedless grapefruit is expected to be slightly higher than last season based on the Department's official crop estimate of 31,500,000 1$^{3}/_{5}$ bushel boxes as compared to last season's utilized supply of 30,600,000 boxes. The fruit is expected to be high quality with a good appearance. The Committee reports that it expects fresh market demand to be sufficient to permit the shipment of size 56 red seedless grapefruit grown in Florida during the entire 1998–99 season.

This size relaxation will enable Florida grapefruit shippers to continue shipping size 56 red seedless grapefruit to the domestic market. This rule will have a beneficial impact on producers and handlers, since it will permit Florida grapefruit handlers to make available those sizes of fruit needed to meet consumer needs. This is consistent with current and anticipated demand in those markets for the 1998–99 season, and will provide for the maximization of shipments to fresh market channels.

The Committee believes that domestic markets have been developed for size 56 fruit and that the industry should continue to supply those markets. This minimum size change pertains to the domestic market, and does not change the minimum size for export shipments which will continue at size 56 throughout the season. The largest market for size 56 small red grapefruit is for export.

Committee members stated that during the first 11 weeks of the season (September 21 through December 6) there is a volume regulation in effect limiting the volume of small red seedless grapefruit entering the fresh market that has been successful in moving smaller-sized fruit to those markets demanding such sizes (63 FR 51511, September 28, 1998). The Committee agreed that this regulation has been helpful in reducing the negative effects of size 56 on the domestic market.

In addition, the currency and economic problems currently facing the Pacific Rim countries remain a concern. These countries traditionally have been good markets for size 56 grapefruit. Current conditions there could reduce demand for grapefruit, and alternative outlets need to be available. It will be advantageous to have the ability to ship size 56 red seedless grapefruit to the domestic market should problems materialize in the export market.

Based on available information, the Committee unanimously recommended that the minimum size for shipping red seedless grapefruit to the domestic market should be size 56 through November 7, 1999. This rule will have a beneficial impact on producers and handlers since it will permit Florida grapefruit handlers to make available those sizes of fruit needed to meet anticipated market demand for the 1998–99 season. Additionally, importers will be favorably affected by this change since the relaxation of the minimum size regulation will also apply to imported grapefruit.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule relaxes the minimum size requirement under the domestic handling regulations, a corresponding change to the import regulations is necessary.

Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106. This rule relaxes the minimum size requirement for imported red seedless grapefruit to 3$^{5}/_{16}$ inches in diameter (size 56) until November 7, 1999, to reflect the relaxation being made under the order for red seedless grapefruit grown in Florida.

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 initial regulatory flexibility analysis.

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

There are approximately 80 grapefruit handlers subject to regulation under the order, approximately 11,000 growers of citrus in the regulated area, and about 25 grapefruit importers. Small agricultural service firms, which includes handlers and importers, 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 for the 1997–98 season, the average annual f.o.b. price for fresh Florida red seedless grapefruit during the 1997–98 season was around $6.30 per $^{4}/_{5}$ bushel cartons, and total fresh shipments for the 1997–98 season are estimated at 15.5 million cartons of red seedless grapefruit. Approximately 20 percent of all handlers handled 60 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in Committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 80 percent of the Florida grapefruit handlers could be considered small businesses under the SBA definition and about 20 percent of the handlers could be considered large businesses. The majority of grapefruit handlers, growers, and importers may be classified as small entities.

Florida shipped approximately 42,410,000 $^{4}/_{5}$ bushel cartons of grapefruit to the fresh market during the 1997–98 season. Of these cartons, about 21,860,000 were exported. In the past three seasons, domestic shipments of Florida grapefruit averaged about 21,148,000 cartons. During the period 1991 through 1996, imports have averaged 734,800 cartons a season. Imports account for less than five percent of domestic shipments.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (63 FR 19379, April 20, 1998) specifies minimum grade and size requirements for different varieties of fresh Florida grapefruit. This rule relaxes the minimum size requirement for domestic shipments of red seedless grapefruit from size 48 (3$^{9}/_{16}$ inches diameter) to size 56 (3$^{5}/_{16}$ inches diameter) through November 7, 1999. No change is being made in the minimum size 56 requirement for export shipments. Absent this rule, the minimum size requirement for domestic shipments will revert to size 48 on November 9, 1998. The motion to allow shipments of size 56 red seedless grapefruit through November 7, 1999, was passed by the Committee unanimously. In addition, there is a volume regulation in effect for the first 11 weeks of this season (September 21 through December 6) that limits the volume of small red seedless grapefruit entering the fresh market (63 FR 51511; September 28, 1998).

This rule will have a positive impact on affected entities. This action allows for the continued shipment of size 56 red seedless grapefruit. This change is not expected to increase costs associated with the order requirements.

This rule relaxes the minimum size from size 48 (3$^{9}/_{16}$ inches diameter) to size 56 (3$^{5}/_{16}$ inches diameter) through November 7, 1999. This change will allow handlers to continue to ship size 56 red seedless grapefruit to the domestic market. This rule will have a beneficial impact on producers and handlers, since it will permit Florida grapefruit handlers to make available those sizes of fruit needed to meet consumer needs. This is consistent with current and anticipated demand in those markets for the 1998–99 season, and will provide for the maximization of shipments to fresh market channels.

The currency and economic problems currently facing the Pacific Rim countries remain a concern. These countries traditionally have been good markets for size 56 grapefruit. Current conditions there could reduce demand for grapefruit, and alternative outlets need to be available. It will be advantageous to have the ability to ship size 56 red seedless grapefruit to the domestic market should problems materialize in the export market.

This change will allow for the continued shipment of size 56 red seedless grapefruit. The opportunities and benefits of this rule are expected to be equally available to all grapefruit handlers, growers, and importers regardless of their size of operation.

In 1996, imports of grapefruit totaled 15,000 tons (approximately 705,880 cartons). The Bahamas were the principal source, accounting for 95 percent of the total. Remaining imports were supplied by the Dominican Republic and Israel. Imported grapefruit enters the United States from October through May. Imports account for less than five percent of domestic shipments.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must

meet the same or comparable grade, size, quality and maturity requirements. Because this rule changes the minimum size for domestic red seedless grapefruit shipments, this change will also be applicable to imported grapefruit. This rule relaxes the minimum size to size 56. This regulation will benefit importers to the same extent that it benefits Florida grapefruit producers and handlers because it allows shipments of size 56 red seedless grapefruit into U.S. markets through November 7, 1999.

The Committee considered one alternative to this action. The Committee discussed relaxing the minimum size to size 56 on a permanent basis rather than just for a year. Members said that each season is different, and they prefer to consider this issue on a yearly basis. Therefore, this alternative was rejected.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large red seedless grapefruit handlers or importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information collection 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. However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.760 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

Further, the Committee's meeting was widely publicized throughout the citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the September 3, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This rule invites comments on a change to the size requirements currently prescribed under the marketing order for Florida citrus. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This rule relaxes the minimum size requirement for red seedless grapefruit grown in Florida and red seedless grapefruit imported into the United States; (2) Florida grapefruit handlers are aware of this action which was unanimously recommended by the Committee, and they will need no additional time to comply with the relaxed size requirement; (3) shipments of the 1998–99 season Florida red seedless grapefruit crop are underway; and (4) this rule provides a 60-day comment period, and any comments received will be considered prior to any finalization of this interim final rule.

List of Subjects

7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

7 CFR Part 944

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

For the reasons set forth above, 7 CFR Parts 905 and 944 are amended as follows:

1. The authority citation for 7 CFR Parts 905 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

2. In § 905.306, Table I in paragraph (a) is amended by revising the entry under ''Grapefruit'' for ''Seedless, red'' to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
GRAPEFRUIT			
* * * * * * *			
Seedless, red	11/9/98–11/7/99	U.S. No. 1	3 5/16
	On and after 11/8/99	U.S. No. 1	3 9/16
* * * * * * *			

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

4. In § 944.106, the table in paragraph (a) is amended by revising the entry for ''Seedless, red'' to read as follows:

§ 944.106 Grapefruit import regulation.

(a) * * *

Grapefruit classification	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * * * * * *			
Seedless, red	11/9/98–11/7/99	U.S. No. 1	3 5/16
	On and after 11/8/99	U.S. No. 1	3 9/16
* * * * * * *			

* * * * *

Dated: November 4, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–30115 Filed 11–6–98; 9:44 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV98–920–3 FIR]

Kiwifruit Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which decreased the assessment rate from $0.0225 per tray or tray equivalent to $0.05 per 22-pound volume fill container or equivalent of kiwifruit established for the Kiwifruit Administrative Committee (Committee) under Marketing Order No. 920 for the 1998–99 and subsequent fiscal periods. The assessment rate of $0.0225 per tray or tray equivalent approximates $0.0675 per 22-pound volume fill container. Thus, the assessment rate of $0.05 per 22-pound volume fill container is less than the 1997–98 assessment rate. The Committee is responsible for local administration of the marketing order which regulates the handling of kiwifruit grown in California. Authorization to assess kiwifruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: December 10, 1998.

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Marketing Assistant or Rose M. Aguayo, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487–5901; Fax: (209) 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) 205–6632. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632, or E-mail: Jay__N__Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the ''order.'' The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California kiwifruit handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable kiwifruit beginning August 1, 1998, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule continues a decrease in the assessment rate and continues a change in the assessable unit established for the Committee for the 1998–99 and subsequent fiscal periods from $0.0225 per tray or tray equivalent to $0.05 per 22-pound volume fill container or equivalent. The assessment rate of $0.0225 per tray or tray equivalent approximates $0.0675 per 22-pound volume fill container. Thus, the assessment rate of $0.05 per 22-pound volume fill container for the 1998–99 and subsequent fiscal periods is less than the 1997–98 assessment rate.

The California kiwifruit marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of California kiwifruit. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have

an opportunity to participate and provide input.

For the 1997–98 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on July 8, 1998, and unanimously recommended 1998–99 expenditures of $135,250 and an assessment rate of $0.05 per 22-pound volume fill container or equivalent of kiwifruit. In comparison, last year's budgeted expenditures were $161,286, and the assessment rate was $0.0225 per tray equivalent, which approximates $0.0675 per 22-pound volume fill container. The assessment rate of $0.05 per 22-pound volume fill container is $0.0175 or 26 percent lower than the 1997–98 equivalent rate. The Committee voted to reduce 1998–99 budgeted expenditures and the assessment rate to lessen the financial burden on California kiwifruit handlers.

The Committee recommended changing the assessable unit to a 22-pound volume fill container or equivalent basis because this container is now the predominant container being used by handlers within the industry. Tray packs had been the container of choice in previous seasons, but handlers have been switching gradually to volume fill containers.

The Committee owes $32,577 to the California Kiwifruit Commission (Commission) and plans to pay off the loan during the 1998–99 fiscal period. The Commission administers a State program utilized to promote kiwifruit grown in California. The Committee and Commission share staff and expenses pursuant to an agreement.

During the 1997–98 fiscal period, the Committee borrowed $32,577 from the Commission pursuant to § 920.41 of the order to cover a funding deficit. Handler assessments received were lower than expected because the 1997–98 crop of 9 million trays or tray equivalents and shipments of 8.5 million trays or tray equivalents were smaller than the Committee anticipated. The Committee had estimated that assessments would total $225,000 for the 1997–98 fiscal period, and that shipments for the period would total 10 million trays or tray equivalents.

The following table compares major budget expenditures (in thousands of dollars) recommended by the Committee for the 1998–99 and 1997–98 fiscal periods:

Budget expense categories	1998–99	1997–98
Administrative Staff and Field Salaries	44.2	102.2
Contingency Fund/ Operating Reserve	29.2	0
Travel, Food and Lodging	5.0	13.8
Accident and Health Insurance	3.8	12.2

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments of California kiwifruit, and additional pertinent factors. Kiwifruit shipments for the year are estimated at 2,705,000 22-pound volume fill containers or equivalents of kiwifruit, which should provide $135,250 in assessment income. Income derived from handler assessments will be adequate to cover budgeted expenses, to reimburse the borrowed funds, and to fund an adequate reserve. It is anticipated that the assessment rate of $0.05 per 22-pound volume fill container or equivalent of kiwifruit handled will provide a reserve of $29,200 at the end of the fiscal year. Currently, there are no funds in the reserve. Reserve funds will be kept within 1 fiscal period's expenses, the maximum permitted under § 920.42 of the order.

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this 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 450 producers of kiwifruit 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. One of the 60 handlers subject to regulation has annual kiwifruit sales of at least $5,000,000, and the remaining 59 handlers have sales less than $5,000,000, excluding receipts from any other sources. Ten of the 450 producers subject to regulation have annual sales of at least $500,000, and the remaining 440 producers have sales less than $500,000, excluding receipts from any other sources. The majority of California kiwifruit producers and handlers may be classified as small entities.

This rule continues a decrease in the assessment rate and continues a change in the assessable unit established for the Committee for the 1998–99 and subsequent fiscal periods from $0.0225 per tray or tray equivalent to $0.05 per 22-pound volume fill container or equivalent. The assessment rate of $0.0225 per tray or tray equivalent approximates $0.0675 per 22-pound volume fill container. Thus, the assessment rate of $0.05 per 22-pound volume fill container for the 1998–99 and subsequent fiscal periods is $0.0175 less than the 1997–98 assessment rate. The Committee unanimously recommended 1998–99 expenditures of $135,250. The quantity of assessable kiwifruit for the 1998–99 fiscal period is estimated at 2,705,000, 22-pound volume fill containers. Thus, the $0.05 rate should provide $135,250 in assessment income and be adequate to meet this year's expenses.

The Committee recommended changing the assessable unit to a 22-pound volume fill container or equivalent basis because this container is now the predominant container being used by handlers within the industry.

Tray packs had been the container of choice in previous seasons, but handlers have been switching gradually to volume fill containers.

The following table compares major budget expenditures (in thousands of dollars) recommended by the Committee for the 1998–99 and 1997–98 fiscal years:

Budget expense categories	1998–99	1997–98
Administrative Staff and Field Salaries	44.2	102.2
Contingency Fund/ Operating Reserve	29.2	0
Travel, Food and Lodging	5.0	13.8
Accident and Health Insurance	3.8	12.2

The Committee owes $32,577 to the California Kiwifruit Commission (Commission) and plans to pay off the loan during the 1998–99 fiscal period. The Commission administers a State program utilized to promote California kiwifruit. The Committee and Commission share staff and expenses through an agency agreement.

The Committee borrowed the money from the Commission pursuant to § 920.41 of the order to cover a fund shortage during the 1997–98 fiscal period. Handler assessments received were lower than expected because the 1997–98 crop of 9 million trays or tray equivalents and shipments of 8.5 million trays or equivalents were smaller than the Committee anticipated. The Committee had estimated that assessments would be $225,000 for the 1997–98 fiscal period and that kiwifruit shipments would be 10 million trays or equivalents.

To lessen the financial burden on handlers, the Committee voted to reduce 1998–99 expenditures and the assessment rate. The reduced rate allows the Committee to meet its expenses, to reimburse the borrowed funds, and to establish an adequate reserve (estimated to be $29,200 at the end of the 1998–99 fiscal period). Currently, there are no funds in the reserve. Section 920.42 of the order provides for a maximum reserve equal to approximately 1 fiscal period's expenses.

Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Finance and Assessment Subcommittee. Alternative expense levels and assessment rates were considered at several industry strategic planning meetings. The assessment rate of $0.05 per 22-pound volume fill container or equivalent of assessable kiwifruit was determined by dividing the total recommended budget for 1998–99 by the quantity of assessable kiwifruit, estimated at 2,705,000 22-pound volume fill containers or equivalents.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicated that the grower price for the 1998–99 season would be approximately $7.59 per 22-pound volume fill container or equivalent of kiwifruit. Therefore, the estimated assessment revenue for the 1998–99 fiscal period as a percentage of total grower revenue is estimated at 0.7 percent.

This action continues a decrease in the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California kiwifruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the July 8, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large California kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on August 20, 1998 (63 FR 44541). Copies of that rule were also mailed or sent via facsimile to all kiwifruit handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on October 19, 1998, and no comments were received.

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

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 920 which was published at 63 FR 44541 on August 20, 1998, is adopted as a final rule without change.

Dated: November 4, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–30121 Filed 11–9–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1, 2, and 11

[Docket No. 98–024–1]

Reorganization; Animal Care

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Animal Welfare and horse protection regulations by removing all references to ''Regulatory Enforcement and Animal Care'' and ''APHIS, REAC Sector Supervisor'' and replacing them with ''Animal Care'' and ''AC Regional Director,'' respectively. This final rule is necessary for the regulations to accurately reflect the current organizational structure of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Jerry DePoyster, Senior Veterinary Medical Officer, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20788–1231, (301) 734–7586.

SUPPLEMENTARY INFORMATION:

Background

In 1996, the Regulatory Enforcement and Animal Care (REAC) program area of the Animal and Plant Health Inspection Service (APHIS) was reorganized and divided into the Investigative and Enforcement Services

(IES) and Animal Care (AC) programs. IES is responsible for investigating instances of noncompliance with APHIS regulations, and AC conducts inspections and other activities to enforce the provisions of the Animal Welfare Act, the Horse Protection Act, and the regulations promulgated under those acts. To reflect this change in APHIS' organization, we are amending the Animal Welfare regulations in 9 CFR parts 1 and 2 and the horse protection regulations in 9 CFR part 11. Specifically, we are removing all references to ''Regulatory Enforcement and Animal Care'' and ''APHIS, REAC Sector Supervisor'' and are replacing them with references to ''Animal Care'' and ''AC Regional Director,'' respectively.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Orders 12866 and 12988. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

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

List of Subjects

9 CFR Part 1

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

9 CFR Part 2

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

9 CFR Part 11

Animal welfare, Horses, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR parts 1, 2, and 11 as follows:

PART 1—DEFINITION OF TERMS

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

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(g).

2. Section 1.1 is amended as follows:

a. By removing the definition of *APHIS, REAC Sector Supervisor* and by adding, in alphabetical order, a definition of *AC Regional Director* to read as set forth below.

b. In the definition of *Deputy Administrator*, by removing the words ''Regulatory Enforcement and Animal Care (REAC)'' and adding in their place the words ''Animal Care (AC)'' and by removing the word ''REAC'' and adding in its place the word ''AC''.

§ 1.1 Definitions.

* * * * *

AC Regional Director means a veterinarian or his designee, employed by APHIS, who is assigned by the Administrator to supervise and perform the official work of APHIS in a given State or States. As used in part 2 of this subchapter, the AC Regional Director shall be deemed to be the person in charge of the official work of APHIS in the State in which the dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale has his principal place of business.

* * * * *

PART 2—REGULATIONS

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

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(g).

§ 2.1 [Amended]

4. Section 2.1 is amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director'' in the following places:

a. Paragraph (a)(1) each time they appear.

b. Paragraph (a)(2).

c. Paragraph (b).

d. Paragraph (d)(2).

e. Paragraph (e)(1).

§ 2.5 [Amended]

5. Section 2.5 is amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director'' in the following places:

a. Paragraph (a)(2).

b. Paragraph (c).

c. Paragraph (f) each time they appear.

§ 2.6 [Amended]

6. In § 2.6, paragraph (a) is amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director''.

§ 2.7 [Amended]

7. In § 2.7, paragraph (a) is amended by removing the words ''APHIS, REAC Sector Supervisor'' each time they appear and adding in their place the words ''AC Regional Director''.

§ 2.8 [Amended]

8. Section 2.8 is amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director''.

§ 2.10 [Amended]

9. In § 2.10, paragraph (a) is amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director''.

§ 2.25 [Amended]

10. In § 2.25, paragraph (a) is amended by removing the words ''APHIS, REAC Sector Supervisor'' each time they appear and adding in their place the words ''AC Regional Director''.

§ 2.26 [Amended]

11. Section 2.26 is amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director''.

§ 2.27 [Amended]

12. Section 2.27 is amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director'' in the following places:

a. Paragraph (a).

b. Paragraph (b)(1) each time they appear.

c. Paragraph (b)(2).

§ 2.30 [Amended]

13. Section 2.30 is amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director'' in the following places:

a. Paragraph (a)(1) each time they appear.

b. Paragraph (b).

c. Paragraph (c)(1).

d. Paragraph (c)(2) each time they appear.

e. Paragraph (c)(3).

§ 2.31 [Amended]

14. In § 2.31, paragraph (d)(1)(x)(C) is amended by removing the words ''Regulatory Enforcement and Animal Care,''.

§ 2.36 [Amended]

15. In § 2.36, paragraph (a) is amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director''.

§ 2.38 [Amended]

16. Section 2.38 is amended as follows:

a. By removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director'' in the following places:

i. Paragraph (c).

ii. Paragraph (g)(7), footnote 1.

iii. Paragraph (i).

b. In paragraph (h)(2), by removing the words ''Regulatory Enforcement and Animal Care,''.

§ 2.52 [Amended]

17. In § 2.52, footnote 4 is amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director''.

§ 2.78 [Amended]

18. In § 2.78, paragraph (b) is amended by removing the words ''Regulatory Enforcement and Animal Care,''.

§ 2.102 [Amended]

19. In § 2.102, paragraphs (a) and (b) are amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director''.

§ 2.127 [Amended]

20. Section 2.127 is amended by removing the words ''APHIS, REAC Sector Supervisor'' and adding in their place the words ''AC Regional Director''.

PART 11—HORSE PROTECTION REGULATIONS

21. The authority citation for part 11 continues to read as follows:

Authority: 15 U.S.C. 1823, 1824, 1825, and 1828; 44 U.S.C. 3506.

22. In § 11.1, the definition of *Sector Supervisor* is removed and a definition of *Regional Director* is added, in alphabetical order, to read as follows:

§ 11.1 Definitions.

* * * * *

Regional Director means the APHIS veterinarian who is assigned by the Administrator to supervise and perform official duties of APHIS under the Act in a specified State or States.[1]

* * * * *

§ 11.7 [Amended]

23. In § 11.7, footnote 6 is amended by removing the words ''Regulatory Enforcement and Animal Care,''.

§ 11.24 [Amended]

24. In § 11.24, paragraphs (a) and (b) are amended by removing the words ''Sector Supervisor'' and adding in their place the words ''Regional Director''.

[1] Information as to the name and address of the Regional Director for the State or States concerned can be obtained by writing to the Animal and Plant Health Inspection Service, Animal Care, 4700 River Road Unit 84, Riverdale, MD 20737–1234.

Done in Washington, DC, this 30th day of October, 1998 .

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–30137 Filed 11–9–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 92, 93, 94, 95, 96, and 98

[Docket No. 94–106–14]

RIN 0579–AA11

Importation of Animals and Animal Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are announcing the availability through the World Wide Web of requests received by the Animal and Plant Health Inspection Service (APHIS) to recognize regions for the purpose of exporting animals or animal products to the United States and to assess the disease risk presented by specific commodities exported from those regions.

ADDRESSES: To review requests received by APHIS, along with information submitted to support those requests, go to the APHIS Regionalization Request page on the World Wide Web. The Web page URL is http://www.aphis.usda.gov/vs/reg-request.html. Once you have reached the Web page, click on the box labeled ''Click Here.''

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231. (301) 734–8590; or e-mail: gary.s.colgrove@usda.gov.

SUPPLEMENTARY INFORMATION: On October 28, 1997, we published in the **Federal Register** (62 FR 56000–56026, Docket No. 94–106–9) a final rule establishing procedures for recognizing regions, rather than only countries, for the purpose of exporting animals and animal products to the United States. The final rule also established procedures by which regions may request permission to export animals and animal products to the United States under specified conditions, based on the regions disease status.

In the final rule, we stated that we will, in general, process applications and risk assessments according to the following procedures:

1. The official of the national government of any country who has the authority in that country to request such a change may submit a request to the Administrator of the Animal and Plant Health Inspection Service (APHIS) that all or part of the country be recognized as a region, be included within an adjacent previously recognized region, or be made part of a region larger than the country.

2. Each request for approval to export a particular type of animal or animal product to the United States from a foreign region must be made to the Administrator, and must include information regarding the following: The veterinary services organization in the region; the disease and vaccination status of the region; the disease status of adjacent regions and the degree of separation from those regions; the control of the movement of animals and products from regions of higher risk; policies and infrastructure for disease control in the region; surveillance practices and diagnostic laboratory capabilities in the region; and livestock demographics and marketing practices in the region.

In the final rule, we also stated that the above information would be made available to the public prior to our initiating any rulemaking action on the request. We are giving notice that this information may be viewed at the Web page described under the heading **ADDRESSES**.

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450, and 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 3rd day of November, 1998.

John R. Clifford,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–30136 Filed 11–9–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 4

[Docket No. 98–18]

RIN 1557–AB65

Organization and Functions, Availability and Release of Information, Contracting Outreach Program

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its disclosure regulation. Among other things, the amendment clarifies that Suspicious Activity Reports are non-public documents and that the OCC may make non-public OCC information available to a supervised entity and to other persons, as in the sole discretion of the Comptroller may be necessary or appropriate, without a request for records or testimony.

DATES: This interim rule is effective on November 10, 1998. Comments must be received by January 11, 1999.

ADDRESSES: Comments should be directed to: Office of the Comptroller of the Currency, Communications Division, 250 E Street, SW, Washington, DC 20219, Attention: Docket No. 98–18. Comments will be available for public inspection and photocopying at the same location. In addition, comments may be sent by facsimile transmission to FAX number (202) 874–5274 or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: Ursula Pfeil, Attorney, Legislative and Regulatory Activities (202) 874–5090; or Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities (202) 874–5090.

SUPPLEMENTARY INFORMATION:

Background and Discussion of Interim Rule

The OCC is amending subpart C of 12 CFR Part 4 which governs the release of non-public OCC information. Part 4 currently requires a person seeking non-public OCC information to submit a request in writing to the OCC. The current rule does not include a procedure for the release of non-public OCC information to supervised entities and other persons without a specific request for the information.

The OCC has authority to prescribe rules governing the release of agency records and information under its grant of statutory authority to promulgate substantive regulations to carry out the responsibilities of the office, 12 U.S.C. 93a, as well as under statutes that contemplate the sharing of information with other agencies and persons. *See, e.g.*, 12 U.S.C. 481; 12 U.S.C. 1867; 12 U.S.C. 1820(d)(6).

In some circumstances, the safety and soundness or financial stability of national banks may be affected unless the OCC discloses non-public information to supervised entities or certain other persons without a request. For example, if the OCC obtains information that a check fraud ring has targeted multiple banks in a particular area, it may be necessary for the OCC to disclose confidential supervisory information obtained from one of the targeted banks to other banks that may also be targets of the same scheme. Similarly, the OCC's ability to help national banks attain Year 2000 readiness depends, in part, on the OCC's ability to share information concerning third parties with supervised entities and other persons.[1]

This interim rule amends part 4 to include a new section on the dissemination of non-public OCC information without a request. This new section authorizes the OCC to make non-public OCC information available to a supervised entity and to other persons, as in the sole discretion of the Comptroller may be necessary or appropriate, without a request for records or testimony.[2] This interim rule defines the term ''supervised entity'' to include a national bank, a subsidiary of a national bank, or a federal branch or agency of a foreign bank licensed by the OCC. The OCC may continue to impose conditions and limitations on the disclosure of information through the entry of a protective order or a written agreement of confidentiality, as provided for under the current rule.

Current § 4.32 defines non-public OCC information as information, confidential or otherwise, that the OCC is not required to release under the Freedom of Information Act (FOIA) (5 U.S.C. 552) or that the OCC has not yet published or made available under 12 U.S.C. 1818(u), the statute requiring publication of certain enforcement orders. FOIA specifically exempts from disclosure several categories of information including records contained in, or related to, examination and operating or condition reports concerning financial institutions. This interim rule adds a new provision to the part 4 definition of non-public OCC information to include a Suspicious Activity Report (SAR) filed by the OCC or a supervised entity under 12 CFR 21.11. This new provision clarifies that SARs, which are sensitive and confidential documents, are subject to the procedures for the release of non-public OCC information under part 4.

This interim rule also clarifies that non-public OCC information remains the property of the OCC even after it is disclosed, and that it may not be disclosed to others except as authorized by the OCC. In addition, no current or former OCC employee or agent may disclose or permit the disclosure of any non-public OCC information to anyone other than an employee or agent of the OCC who is entitled to the information for the performance of OCC duties. Current or former OCC employees or agents subpoenaed or otherwise requested to provide OCC information must notify the OCC immediately under procedures set forth in § 4.37(a)(2).

Effective Date

Section 553 of the Administrative Procedure Act permits an agency to issue a rule without prior notice and comment when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B); 5 U.S.C. 553(d). Likewise, section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), Pub. L. 103–325, authorizes a banking agency to issue a rule without notice and comment to be effective before the first day of the calender quarter that begins on or after the date on which the regulations are published in final form if the agency finds good cause for an earlier effective date. 12 U.S.C. 4802(b)(1).

The OCC finds good cause for issuing this interim rule without prior notice and comment and for the rule to take effect upon publication in the **Federal Register**. Among other things, making this interim rule effective immediately will allow the OCC to disclose non-public OCC information to supervised entities and other persons in certain enforcement contexts requiring immediate action where a request for the information may not be forthcoming or may be delayed. The OCC's ability to help national banks attain Year 2000 readiness in the short time remaining also depends, in part, on the OCC's ability to provide information rapidly concerning third parties to supervised entities and other persons without a request. The OCC's ability to carry out its mission to ensure national banks' safety and soundness, in certain circumstances, may be impaired unless it can make disclosures, as authorized by this interim rule, promptly after acquiring the information in question. For these reasons, the OCC concludes that prior notice and comment

[1] For example, ''other persons'' may include self-regulatory organizations or state banks with whom the OCC seeks to share information.

[2] This approach is consistent with the long-standing disclosure regulation of the Federal Reserve Board (FRB). See 12 CFR 261.20. The FRB disclosure regulation similarly authorizes the FRB to share confidential supervisory information with supervised financial institutions and, from time to time, to make other discretionary disclosures that the FRB determines necessary.

procedures and a delayed effective date are impracticable and would be contrary to the public interest. 5 U.S.C. 553(b)(B).

Request for Comment

The OCC is interested in the views of the public regarding this interim rule and therefore welcomes comments on any and all aspects of this interim rule.

Regulatory Flexibility Act

An initial regulatory flexibility analysis under the Regulatory Flexibility Act is only required whenever an agency is required to publish a general notice of proposed rulemaking. 5 U.S.C. 603. As noted previously, the OCC has determined that it is not necessary to publish a notice of proposed rulemaking for this rule. Accordingly, an initial regulatory flexibility analysis is not required. Nonetheless, since this interim rule imposes no new requirements on any national bank, the OCC finds that this interim rule does not have a secondary or incidental effect on a substantial number of small entities or create any additional burden on small entities.

OCC Executive Order 12866 Statement

The OCC has determined that the interim rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4 (Unfunded Mandates Act), applies only when an agency is required to promulgate a general notice of proposed rulemaking or a final rule for which a general notice of proposed rulemaking was published. 2 U.S.C. 1532. As noted previously, the Agencies have determined that it is not necessary to publish a notice of proposed rulemaking for these Guidelines. Accordingly, an unfunded mandates act analysis is not required. Nonetheless, since this interim rule prescribed no mandate of any kind, the OCC finds that this interim rule will not result in expenditure by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects in 12 CFR Part 4

Freedom of information, National banks, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set out in the preamble, part 4 of chapter I of title 12 of the Code of Federal Regulations is amended as set forth below:

PART 4—ORGANIZATIONS AND FUNCTIONS, AVAILABILITY AND RELEASE OF INFORMATION, CONTRACTING OUTREACH PROGRAM

1. The authority citation for part 4 is revised to read as follows:

Authority: 12 U.S.C. 93a. Subpart A also issued under 5 U.S.C. 552; Subpart B also issued under 5 U.S.C. 552; E.O. 12600 (3 CFR 1987 Comp., p. 235). Subpart C also issued under 5 U.S.C. 301, 552; 12 U.S.C. 161, 481, 482, 484(a), 1442, 1817(a)(3), 1818(u) and (v), 1820(d)(6), 1821(c), 1821(o), 1821(t), 1831m, 1831p-1, 1831o, 1867, 1951 *et seq.*, 2601 *et seq.*, 2801 *et seq.*, 2901 *et seq.*, 3101 *et seq.*, 3401 *et seq.*; 15 U.S.C. 77uu(b), 78q(c)(3); 18 U.S.C. 641, 1905, 1906; 29 U.S.C. 1204; 31 U.S.C. 9701; 42 U.S.C. 3601; 44 U.S.C. 3506, 3510. Subpart D also issued under 12 U.S.C. 1833e.

Subpart C—Release of Non-Public OCC Information

2. Section 4.31 is amended by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 4.31 Purpose and scope.

(a) *Purpose.* * * *

(1) Afford an orderly mechanism for the OCC to process expeditiously requests for non-public OCC information; to address the release of non-public OCC information without a request; and, when appropriate, for the OCC to assert evidentiary privileges in litigation;

* * * * *

(b) *Scope.* (1) This subpart applies to requests for, and dissemination of, non-public OCC information, including requests for records or testimony arising out of civil lawsuits and administrative proceedings to which the OCC is not a party and the release of non-public OCC information without a specific request. Lawsuits and administrative proceedings to which the OCC is not a party include proceedings in which a Federal agency is a party in opposition to the private requester.

* * * * *

3. Section 4.32 is amended by redesignating paragraph (e) as paragraph (f); by removing the word ''and'' from paragraph (b)(1)(v); and by adding new paragraphs (b)(1)(vii) and (e) to read as follows:

§ 4.32 Definitions.

* * * * *

(b) * * *

(1) * * *

(vii) A Suspicious Activity Report filed by the OCC or a supervised entity under 12 CFR 21.11; and

* * * * *

(e) *Supervised entity* includes a national bank, a subsidiary of a national bank, a Federal branch or agency of a foreign bank licensed by the OCC as defined under 12 CFR 28.11(h) and (i), or any other entity supervised by the OCC.

* * * * *

4. Sections 4.36 through 4.39 are redesignated as §§ 4.37 through 4.40, respectively.

5. A new § 4.36 is added to read as follows:

§ 4.36 Disclosure of non-public OCC information.

(a) *Discretionary disclosure of non-public OCC information.* The OCC may make non-public OCC information available to a supervised entity and to other persons, as in the sole discretion of the Comptroller may be necessary or appropriate, without a request for records or testimony.

(b) *Conditions and limitations.* The OCC may impose any conditions or limitations on disclosures under this section, including the restrictions on dissemination contained in § 4.38, that it determines are necessary to effect the purposes of this section.

(c) *Unauthorized disclosures prohibited.* All non-public OCC information remains the property of the OCC. No supervised entity, government agency, person, or other party to whom the information is made available, or any officer, director, employee, or agent thereof, may disclose non-public OCC information without the prior written permission of the OCC, except in published statistical material that does not disclose, either directly or when used in conjunction with other publicly available information, the affairs of any individual, corporation, or other entity. Except as authorized by the OCC, no person obtaining access to non-public OCC information under this section may make a copy of the information and no person may remove non-public OCC information from the premises of the institution, agency, or other party in authorized possession of the information.

6. Paragraph (a) of newly designated § 4.37 is revised to read as follows:

§ 4.37 Persons and entities with access to OCC information; prohibition on dissemination.

(a) *Current and former OCC employees or agents*—(1) *Generally.*

Except as authorized by this subpart or otherwise by the OCC, no current or former OCC employee or agent in any manner, may disclose or permit the disclosure of any non-public OCC information to anyone other than an employee or agent of the Comptroller for use in the performance of OCC duties.

(2) *Duty of person served.* Any current or former OCC employee or agent subpoenaed or otherwise requested to provide information covered by this subpart must immediately notify the OCC as provided in this paragraph. The OCC may intervene, attempt to have the compulsory process withdrawn, and register appropriate objections when a current or former OCC employee or agent receives a subpoena and the subpoena requires the current or former employee or agent to appear or produce OCC information. If necessary, the current or former employee or agent must appear as required and respectfully decline to produce the information sought, citing this subpart as authority and United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951). The current or former OCC employee or agent must immediately notify the OCC if subpoenaed or otherwise asked for non-public OCC information:

(i) In a civil action, by notifying the Director of the OCC's Litigation Division at the Washington, DC office; or

(ii) In a criminal action, by notifying the appropriate district counsel for current and former district employees or agents; or the Director of the OCC's Enforcement and Compliance Division at the Washington, DC office, for current and former Washington employees or agents.

* * * * *

Dated: October 28, 1998.

Julie L. Williams,

Acting Comptroller of the Currency.

[FR Doc. 98–30044 Filed 11–9–98; 8:45 am]

BILLING CODE 4870–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE147, Special Conditions No. 23–094–SC]

Special Conditions: Raytheon Aircraft Company, Model 3000, Airplane Design

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Raytheon Model 3000 airplane. This airplane will have novel or unusual design features associated with the digital electronic engine/propeller controls and the suction defueling system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: December 10, 1998.

FOR FURTHER INFORMATION CONTACT: Dave Keenan, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 601 East 12th Street, Kansas City, Missouri, 816–426–6934, fax 816–426–2169.

SUPPLEMENTARY INFORMATION:

Background

On January 15, 1996, Raytheon Aircraft Company (formerly Beech Aircraft Corporation) applied for a Type Certificate (TC) for their new Model 3000. The Model 3000 is an all-metal, low-wing monoplane of conventional construction, powered by a single Pratt & Whitney (P&W) PT6A–68 engine flat rated at 1100 SHP. The airframe will be stressed for 7g positive and 3.5g negative loading. Maximum takeoff weight will be 6,300 pounds. The crew compartment will be pressurized to a maximum differential of 3.6 psig and accommodate two pilots equipped with zero-zero ejection seats in a stepped tandem seating arrangement. The airplane will feature a 3,000 psi hydraulic system, powered by a single engine driven pump, to operate the landing gear, flaps, and speed brakes. The V_{MO} for the Model 3000 will be 320 KCAS, and the maximum altitude will be 31,000 feet MSL. Each cockpit will be equipped with electronic flight instruments for primary attitude, heading, and navigation information display.

Type Certification Basis

Under the provisions of 14 CFR part 21 21.17, Raytheon Aircraft Company must show that the Model 3000 meets the applicable provisions of part 23, effective February 1, 1965, as amended by Amendments 23–1 through 23–47; 14 CFR part 23, 23.201, 23.203, and 23.207, as amended by Amendment 23–50; 14 CFR part 34, effective September 10, 1990, as amended by the amendment in effect on the date of certification; 14 CFR part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect on the day of certification; The Noise Control Act of 1972; and special conditions for Protection from High Intensity Radiated Fields (HIRF); exemptions, if any; equivalent level of safety findings, if any; and the special conditions adopted by this rulemaking action.

If the Administrator finds that the applicable airworthiness regulations (part 23) do not contain adequate or appropriate safety standards for the Model 3000 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model 3000 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Model 3000 will incorporate the following novel or unusual design features:

Digital Electronic Engine Controls

The Model 3000 design includes a digital electronic engine/propeller control, known as a Power Management Unit (PMU). Although the precedent for electronic engine controls has been previously established, the PMU utilized on the Model 3000 performs functions not envisaged when part 23 was developed. With the Model 3000, the (Power Control Lever) PCL is a single lever, which has a mechanical and electrical interface to the PMU in order to produce ''jet-like'' thrust characteristics during rapid power changes and at low power conditions. PCL movement is transmitted to the PMU, which, in turn, controls fuel flow, gas generator speed, and propeller speed. Propeller pitch is not pilot controllable; therefore, a separate propeller control lever is not supplied.

During normal operation, propeller pitch is governed at 100 percent Np. Low airspeed and power combinations result in propeller pitch going to the mechanical low pitch stop (similar to a fixed-pitch propeller). During large power transitions below 100 percent Np (idle to takeoff power), the PMU will control propeller pitch. The PMU is utilized to control the thrust response of the engine-propeller combination and it prohibits operation of the engine-propeller combination in propeller RPM ranges with adverse vibration characteristics. There is no guidance in part 23 concerning the protection of the PMU from the indirect effects of lightning.

Suction Defuel Capability

The Model 3000 design includes a suction defuel capability not envisaged when part 23 was developed. It is understood that suction defuel is a common feature in part 25 airplanes. The Model 3000 airplane will have pressure fuel and defuel as well as gravity fuel and defuel capability. Pressure defueling essentially entails reversing the pumps on the fueling vehicle and ''sucking'' fuel from the airplane through the servicing port. Section 23.979 addresses pressure fueling but not suction defueling. Any suction defuel system components, in addition to meeting the general requirements for part 23 fuel systems, must also function as intended.

Discussion of Comments

Notice of proposed special conditions No. 23–98–03–SC for the Raytheon Aircraft Company Model 3000 was published in the **Federal Register** on August 27, 1998 (63 FR 45772). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Model 3000. Should Raytheon Aircraft Company apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR part 21, 21.16 and 21.17; and 14 CFR part 11, 11.28 and 11.49.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Raytheon Aircraft Company Model 3000 airplanes.

1. Digital Electronic Engine/Propeller Control (PMU)

(a) Any failure of the Power Management Unit must be annunciated to the crew.

(b) Failures of the Power Management Unit that affect flight characteristics must be identified and evaluated, and appropriate flight manual procedures developed, including possible prohibitions on continued flight or dispatch.

(c) The functioning of the Power Management Unit must be protected to ensure that the control will continue to perform critical functions (functions whose failure condition would prevent continued safe flight and landing) after the aircraft is exposed to lightning.

2. Suction Defuel

(a) The airplane defueling system (not including fuel tanks and fuel tank vents) must withstand an ultimate load that is 2.0 times the load arising from the maximum permissible defueling pressure (positive or negative) at the airplane fueling connection.

Issued in Kansas City, Missouri on October 26, 1998.

Marvin Nuss,

Assistant Manager, Small Airplane Directorate.

[FR Doc. 98–30091 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–56–AD; Amendment 39–10874; AD 98–22–16]

Airworthiness Directives; Robinson Helicopter Company (RHC) Model R44 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 98–22–16 which was sent previously to all known U.S. owners and operators of RHC Model R44 helicopters by individual letters. This amendment supersedes AD 98–12–19, issued August 5, 1998, applicable to RHC Model R44 helicopters, that currently requires main rotor blade inspections and replacement if a crack is found. This amendment requires the same inspections as AD 98–12–19, but mandates replacement of all the affected main rotor blades prior to further flight after November 15, 1998. This amendment is prompted by an incident in which a crack was discovered in a main rotor blade. The actions specified by this AD are intended to prevent failure of a main rotor blade and subsequent loss of control of the helicopter.

DATES: Effective November 10, 1998, to all persons except those persons to whom it was made immediately effective by priority letter AD 98–22–16, issued on October 22, 1998, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before January 11, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–56–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Frederick Guerin, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5232, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On October 22, 1998, the FAA issued priority letter AD 98–22–16, applicable to RHC Model R44 helicopters, which

requires inspecting each main rotor blade for cracks every 5 hours time-in-service (TIS) until each main rotor blade is replaced with a redesigned main rotor blade. The main rotor blade must be replaced prior to further flight after November 15, 1998. The AD was prompted by an incident in which a pilot heard a loud noise and felt severe vibrations while hovering, resulting in a forced landing. Upon inspection, a crack was found in a main rotor blade. The crack started at the mid-span inboard trim tab, ran chordwise to the spar, and turned along the spar for about an inch. The crack originated from a hole in the main rotor blade skin. Subsequent investigations revealed that the manufacturing process utilized to drill the holes in the main rotor blade skin can allow a fatigue crack to originate at these holes and propagate in the skin. That condition, if not corrected, could result in failure of a main rotor blade and subsequent loss of control of the helicopter.

This AD supersedes AD 98–12–19, Amendment 39–10712 (63 FR 43299, August 13, 1998), that required the same inspections as this AD. However, since the issuance of that AD, it has been determined that continued inspections are inadequate to ensure continued operational safety and that mandatory terminating action is required to permanently resolve this unsafe condition. Therefore, this AD mandates replacement of all the affected main rotor blades prior to further flight after November 15, 1998.

The FAA has reviewed RHC R44 Service Bulletin SB–27B, Revision B, which recommends replacing daily preflight inspections with repetitive inspections at intervals not to exceed 5 hours TIS and clarifies the inspection procedure. The FAA has also reviewed RHC R44 Service Bulletin SB–28, which describes procedures for main rotor blade replacement and recommends replacement by December 31, 1998. Both service bulletins are dated June 18, 1998.

RHC has also issued a Safety Alert to all Model R44 helicopter owners, operators, and service centers which states that long term usage of main rotor blades, part number (P/N) C016–1, is not recommended. RHC recently commented to Rules Docket No. 98–SW–25–AD (AD 98–12–19). RHC states that AD 98–12–19 should not permit visual inspections of main rotor blade, P/N C016–1, to continue indefinitely, and requests that the compliance procedures be modified to require the installation of redesigned main rotor blades, P/N C016–2, to ''avoid possible catastrophic failure.'' The commenter also requests that NOTE 5 reference ''Revision B of R44 Service Bulletin 27'' for blade inspection and ''R44 Service Bulletin 28'' for blade replacement. The FAA concurs that as the TIS and total number of repetitive inspections on these main rotor blades increase, so does the possibility for a crack to develop and remain undetected. Based on that re-evaluation, the FAA has determined that the required compliance time for main rotor blade replacement should be earlier than the date stated in RHC R44 Service Bulletin SB–28 in order to ensure public safety.

Since an unsafe condition has been identified that is likely to exist or develop on other RHC Model R44 helicopters of the same type design, the FAA issued priority letter AD 98–22–16 to require repetitively inspecting both holes on both the upper and lower surfaces of each main rotor blade for cracks until the main rotor blades are replaced with redesigned main rotor blades. The main rotor blades must be replaced prior to further flight after November 15, 1998.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on October 22, 1998 to all known U.S. owners and operators of RHC Model R44 helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

The FAA estimates that 96 helicopters of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per helicopter to perform the inspections and 10 work hours to replace both main rotor blades on each helicopter, and the average labor rate is $60 per work hour. Required parts will cost approximately $3,900 per main rotor blade. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $817,920, assuming one inspection and replacement of both main rotor blades on all helicopters.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–56–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10712 (63 FR 43299, August 13, 1998), and by adding a new airworthiness directive (AD), Amendment 39–10874, to read as follows:

AD 98–22–16 **Robinson Helicopter Company:** Amendment 39–10874. Docket No. 98–SW–56–AD. Supersedes AD 98–12–19, Amendment 39–10712, Docket No. 98–SW–25–AD.

Applicability: Model R44 helicopters, serial numbers (S/N) 0002 through 0486, with main rotor blades, part number (P/N) C016–1, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a main rotor blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Within the next 5 hours time-in-service (TIS), perform a dye-penetrant inspection of the main rotor blade skin around both inboard trim tab alignment rivets as follows, referring to Figure 1.

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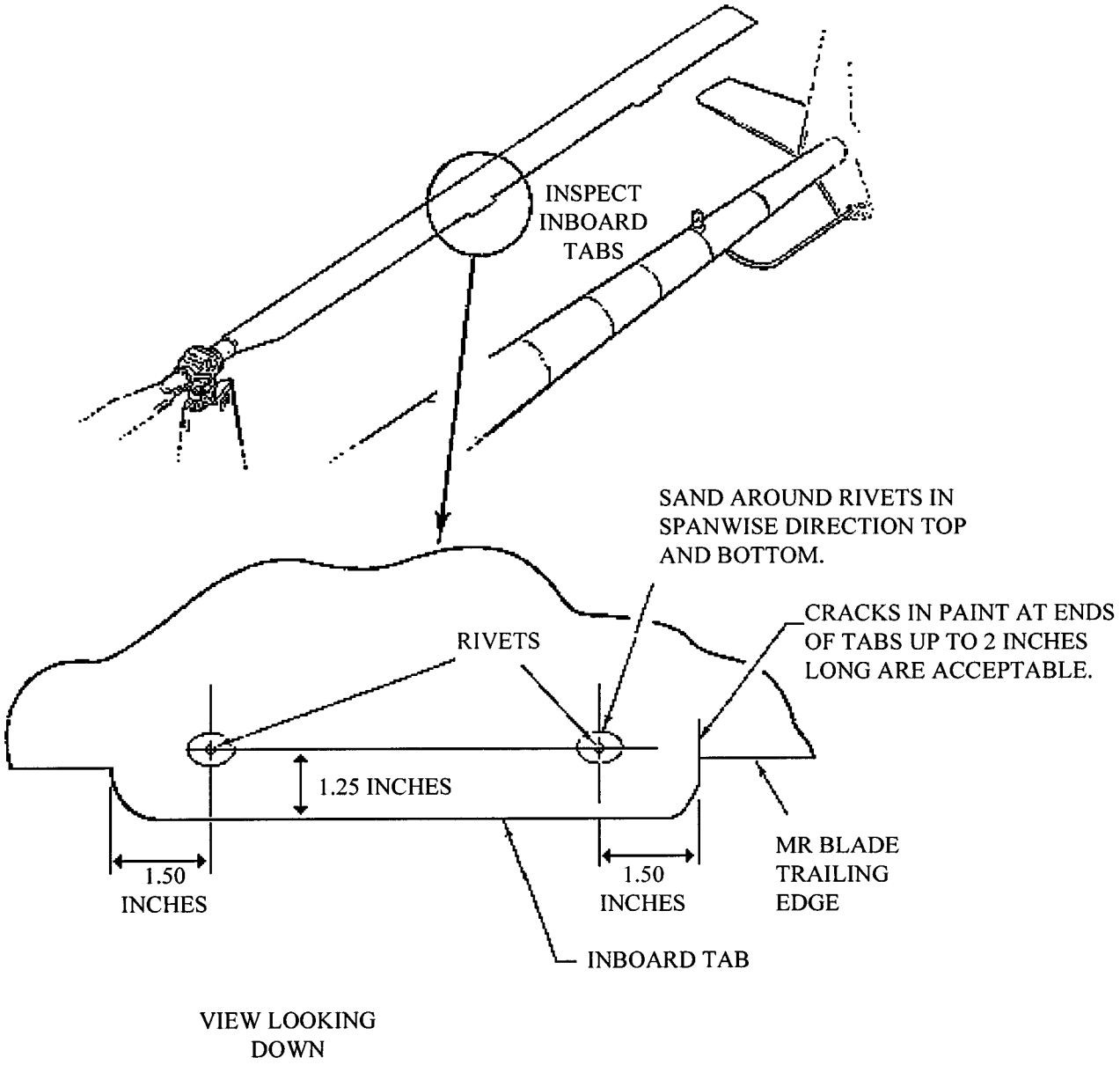

Figure 1

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(1) Remove all paint around both rivets, exposing an area of approximately 3/4″ in diameter, at the inboard trim tab on the top and bottom of each main rotor blade (4 places per main rotor blade). Use 180 grit or finer abrasive paper, followed by 600 grit or finer paper to eliminate course sanding marks. Sand only in a spanwise direction. Do not use chemical paint strippers.

(2) Inspect the main rotor blade skin around the rivets on the upper and lower surfaces (4 locations) using a dye-penetrant inspection method.

Note 2: Chordwise cracks in the paint up to 2 inches long which are located along either inboard or outboard edge of the trim tab are acceptable.

(b) Clean the sanded areas prepared in accordance with paragraph (a) of this AD with 111-Trichloroethane or methyl ethyl ketone (MEK) and then apply clear lacquer to seal the unpainted areas.

Note 3: Do not bend the inboard main rotor blade tabs from their present position or utilize them for any subsequent main rotor blade tracking adjustment.

(c) Thereafter, prior to the first flight of each day, or at intervals not to exceed 5 hours TIS, whichever occurs first, using a 5-power or higher magnifying glass, visually inspect both upper and lower main rotor blade skin surfaces around the inboard trim tab rivets (4 locations) for cracks.

(d) If a crack is found, replace the main rotor blade with an airworthy main rotor blade before further flight.

(e) Prior to further flight after November 15, 1998, install a set of main rotor blades, main rotor blade P/N C016–2. This constitutes terminating action for the inspections required by this AD.

Note 4: Robinson Helicopter Company R44 Service Bulletin SB–27B, Revision B, and Robinson Helicopter Company Service Bulletin SB–28, both dated June 18, 1998, pertain to the subject of this AD.

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

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(g) Special flight permits will not be issued.

(h) This amendment becomes effective on November 10, 1998, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 98–22–16, issued October 22, 1998, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on November 1, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–30046 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–38–AD; Amendment 39–10875; AD 98–23–09]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA 330F, G, and J Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Eurocopter France Model SA 330F, G, and J helicopters, that requires an initial and repetitive inspections of each tail rotor shaft flapping hinge retainer (retainer) for cracks and replacement of a retainer if a crack is discovered. This amendment is prompted by a report of high vibrations due to a cracked retainer occurring on a helicopter while it was in service. The actions specified by this AD are intended to detect cracks in the retainers that, if left undetected, could lead to high tail rotor vibrations, loss of tail rotor control, and subsequent loss of control of the helicopter.

EFFECTIVE DATE: December 15, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Mathias, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5123, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Eurocopter France Model SA 330F, G, and J helicopters was published in the **Federal Register** on April 21, 1998 (63 FR 19672). That action proposed to require an initial and repetitive inspections of each retainer for cracks and replacement of a retainer if a crack is discovered.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 4 helicopters of U.S. registry will be affected by this AD, that it will take approximately 0.5 work hour per helicopter to accomplish each dye-penetrant inspection, 2.0 work hours to replace the retainers on each helicopter, if necessary, and that the average labor rate is $60 per work hour. Required parts will cost approximately $56,900. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $252,080, assuming that the retainers on the tail rotor blades are replaced on all 4 helicopters and each helicopter is dye-penetrant inspected 200 times per year.

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–38–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 98–23–09 Eurocopter France: Amendment 39–10875. Docket No. 97–SW–38–AD.

Applicability: Model SA 330F, G, and J helicopters with tail rotor head assembly, part number 330 A 33 0000 all dash numbers, or 330 A 33 0001 all dash numbers, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To detect cracks on a tail rotor shaft flapping hinge retainer (retainer) that could lead to high tail rotor vibrations, loss of tail rotor control, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, and thereafter before the first flight of each day, perform a dye-penetrant inspection of each retainer for cracks.

(b) If a crack is found on any retainer, replace it with an airworthy retainer before further flight.

Note 2: Eurocopter Service Bulletin No. 05.84, Revision No. 1, dated January 29, 1996, pertains to the subject of this AD.

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

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

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

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 96–076–075(AB)R1, dated November 5, 1997.

(e) This amendment becomes effective on December 15, 1998.

Issued in Fort Worth, Texas, on November 2, 1998.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–30045 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASW–32]

Revision of Class D Airspace; McKinney, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class D airspace at McKinney, TX.

EFFECTIVE DATE: The direct final rule published at 63 FR 40169 is effective 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 28, 1998 (63 FR 40169). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 3, 1998. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

Issued in Fort Worth, TX, on October 5, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–30089 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 274

[Release Nos. 33–7608; IC–23522; File No. S7–19–97]

RIN 3235–AG73

Update of Registration Form To Reflect Fee Rate Change for Registration of Certain Investment Company Securities

AGENCY: Securities and Exchange Commission.

ACTION: Amendments to form.

SUMMARY: The Securities and Exchange Commission (''Commission'') is updating the fee rate information in the instructions to the form under the Investment Company Act of 1940 that prescribes the method by which certain investment companies calculate and pay registration fees on securities they issue (the form was last published in its entirety at 62 FR 47941 (Sept. 12, 1997), and was last amended at 62 FR 64687 (Dec. 9, 1997)). On October 21,1998, legislation was enacted that sets a new fee rate of $278 per $1,000,000 offered or sold (prorated for amounts less than $1,000,000). Registration fees under this new rate are calculated by multiplying the aggregate offering or sales amount by .000278. This amendment updates the reference to the current fee rate in the instructions to the form.

EFFECTIVE DATE: November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Robin Gross Lehv, Staff Attorney, Office of Regulatory Policy at (202) 942–0690, or Carolyn A. Miller, Senior Financial Analyst, Office of Financial Analysis at (202) 942–0513, Division of Investment Management, Securities and Exchange Commission, 450 5th Street, N.W., Mail Stop 5–6, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is amending Instruction C.9 to Form 24F–2 [17 CFR 274.24] under the Investment Company Act of 1940 [15 U.S.C. 80a] (the ''Investment Company Act'').

Form 24F–2 is the Form on which certain investment companies file an annual notice of securities sold pursuant to rule 24f-2 under the Investment Company Act [17 CFR 270.24f-2]. The Instruction to Item 5(vii) explains that the multiplier for calculation of the registration fee is determined by the Commission in accordance with section 6(b) of the Securities Act of 1933 [15 U.S.C. 77f(b)]. The Instruction informs filers of the multiplier that was in effect as of the date of the most recent printing of the

Form, but indicates that this rate is subject to change from time to time, without notice, by act of Congress through appropriations for the Commission or other laws.

On October 21, 1998, legislation was enacted that sets the fee rate at $278 per $1,000,000 offered or sold (prorated for amounts less than $1,000,000). Fees will be calculated by multiplying the aggregate offering or sales amount by .000278.

The Commission is amending the Instruction to Item 5(vii) of Form 24F–2 to reflect the change in the fee rate.

Statutory Authority

The Commission is amending Form 24F–2 pursuant to the authority set forth in sections 24 and 38(a) of the Investment Company Act [15 U.S.C. 80a-24, -37(a)].

Text of Form Amendments

For the reasons set out in the preamble, Form 24F–2, referenced in § 274.24, Title 17, Chapter II of the Code of Federal Regulations, is amended as follows:

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a-8, 80a-24, and 80a-29, unless otherwise noted.

2. Form 24F–2 (referenced in § 274.24) is amended by revising the second and third sentences of Instruction C.9 to Item 5(vii) to read as follows:

Note: Form 24F–2 does not, and the amendments will not, appear in the *Code of Federal Regulations.*

Form 24F–2

Annual Notice of Securities Sold Pursuant to Rule 24f–2

* * * * *

Instructions

* * * * *

C. Computation of Registration Fee

* * * * * *

9. Item 5(vii)–* * * As of October 22, 1998, the fee rate was $278 per $1,000,000 offered or sold (prorated for amounts less than $1,000,000). The registration fee is calculated by multiplying the aggregate offering or sales amount by .000278. * * *

* * * * *

For the Commission, by the Office of the Secretary, pursuant to delegated authority.

Dated: November 4, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–30011 Filed 11–9–98; 8:45 am]

BILLING CODE 8010–01–U

DEPARTMENT OF JUSTICE

28 CFR Parts 0 and 27

[A.G. Order No. 2190–98]

RIN 1105–AA60

Whistleblower Protection For Federal Bureau of Investigation Employees

AGENCY: Department of Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule establishes procedures under which employees of the Federal Bureau of Investigation may make disclosures of information protected by the Civil Services Reform Act of 1978 (Pub. L. No. 95–454) and the Whistleblower Protection Act of 1989 (Pub. L. No. 101–12), codified at 5 U.S.C. 2303. It also establishes procedures under which the Department of Justice (the Department) will investigate allegations by Federal Bureau of Investigation (FBI) employees of retaliation for making such disclosures and provide appropriate corrective action.

DATES: *Effective date:* November 10, 1998.

Comment Date: Comments are due on or before January 11, 1999.

ADDRESSES: Interested parties should submit written comments to: Stuart Frisch, General Counsel, Office of the General Counsel, Justice Management Division, United States Department of Justice, 10th and Pennsylvania Ave., N.W., Washington, D.C., 20530.

E-mail comments submitted over the Internet should be addressed to caterini@justice.usdoj.gov.

FOR FURTHER INFORMATION CONTACT: Stuart Frisch, General Counsel, or John Caterini, Attorney-Advisor, Office of the General Counsel, Justice Management Division, U.S. Department of Justice, (202) 514–3452.

SUPPLEMENTARY INFORMATION:

A. Background

Under sections 1214 and 1221 of title 5 of the United States Code, most Federal employees who believe they have been the victim of a prohibited personnel practice, including retaliation for whistleblowing, have the right to request an investigation by the Office of Special Counsel (OSC) (section 1214) or, in appropriate circumstances, to pursue an individual right of action before the Merit Systems Protection Board (MSPB) (sections 1214(a)(3) & 1221). Under 5 U.S.C. 2302(a)(2)(C)(ii), the FBI is expressly excluded from the scheme established by sections 1214 and 1221. Section 2303(a) of title 5, however, separately prohibits employees of the FBI from retaliating against whistleblowers. Section 2303(b) charges the Attorney General with prescribing regulations to ensure that such retaliation not be taken, and section 2303(c) charges the President with providing for the enforcement of section 2303 ''in a manner consistent with applicable provisions of section 1214 and 1221.''

On April 14, 1997, the President delegated to the Attorney General his ''functions concerning employees of the Federal Bureau of Investigation vested in [him] by . . . section 2303(c) of title 5, United States Code,'' and directed the Attorney General to establish ''appropriate processes within the Department of Justice to carry out these functions.'' *See* 62 FR 23123 (1997).

Accordingly, this interim rule implements 5 U.S.C. 2303 (b) & (c). It supersedes and replaces 28 CFR 0.39c, which gave the Counsel for the Department's Office of Professional Responsibility authority to request a stay of a personnel action when he determined that there were reasonable grounds to believe that the action was taken as a reprisal for whistleblowing.

The rule designates the Department's Office of Professional Responsibility (OPR), the Department's Office of Inspector General (OIG), and the FBI's Office of Professional Responsibility as offices to which an FBI employee (or applicant for employment with the FBI) may disclose information that the employee or applicant reasonably believes evidences: violation of any law, rule or regulation; mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety. Any such disclosure to one of these offices is protected, and the rule prohibits retaliation for making it. The rule further provides that OPR and OIG will investigate whistleblower retaliation claims, recommend stays of personnel actions, and recommended corrective action where appropriate. The Director, Office of Attorney Personnel Management (the Director), or his designee, will decide whistleblower retaliation claims presented to him by OPR or OIG, as well as those claims brought to him directly by an employee or applicant in appropriate circumstances. He will also grant stays

of personnel actions and order corrective action when appropriate. The rule grants powers and functions to the investigating offices (*i.e.*, OPR or OIG) and to the Director that are consistent with those granted to the OSC and MSPB in sections 1214 and 1221. Time frames specified in the statute generally were imported from those provided for in the OSC/MSPB system. The regulations allow for an extension of any time limit in extenuating circumstances.

Sections 1214(c) and 1221(h) of title 5 provide for judicial review by the Court of Appeals for the Federal Circuit. Section 2303(c), however, authorizes the Executive Branch to resolve allegations of whistleblower reprisal involving the FBI without reference to judicial review. Because only Congress is empowered to waive sovereign immunity, and section 2303 does not include such a waiver, this rule does not provide for judicial review. The rule provides for review of the Director's decision by the Deputy Attorney General or his designee, who will review the decision under the standard set forth in 5 U.S.C. 7703(c). That is, the Deputy Attorney General shall review the record and modify or set aside the Director's actions, findings, or conclusions found to be: (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) obtained without procedures required by law, rule, or regulation having been followed; or (3) unsupported by substantial evidence. The Deputy Attorney General has full discretion to review and modify corrective action ordered by the Director, provided, however, that if the Deputy Attorney General upholds a finding that there has been a reprisal, then the Deputy Attorney General shall order appropriate corrective action. The regulation provides this discretionary review because the Attorney General, as head of the Department, must retain ultimate authority over any decision that might relate to or affect the management of the FBI; under 28 CFR 0.15, the Deputy Attorney General is generally authorized to exercise all the power and authority of the Attorney General.

This interim rule is effective upon publication in the **Federal Register**, although the Department invites post-promulgation comments and will address any such comments in a final rule. The Department finds that good cause exists under 5 U.S.C. 553(b) and (d)(3) for adopting this as an interim rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553. This rule provides formal procedures under which employees of, or applicants for employment with, the FBI may make certain protected disclosures of information and establishes procedures under which the Department will investigate allegations of reprisal for making any such disclosure. It provides a benefit to FBI employees or applicants for employment with the FBI. These procedures provide additional protection to such employees and applicants, and it is in the public interest to provide such protection without delay.

B. Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this regulation and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. This rule merely establishes procedures under which employees or applicants for employment with the FBI, may make certain protected disclosures of information and establishes procedures under which the Department will investigate allegations of retaliation against such individuals.

C. Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866. The Department has determined that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

D. Executive Order 12612

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

E. Unfunded Mandates Reform Act of 1995

This rule will not, in the aggregate, result in the expenditure by State, local and tribal governments, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

F. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 27

Government Employees; Justice Department; Organization and functions (Government agencies); Whistleblowing.

For the reasons stated in the preamble, title 28 of the Code of Federal Regulations is amended as follows:

§ 0.39c [Removed]

1. In Subpart G–2 of Part 0, remove section 0.39c.

2. Add Part 27 to read as follows:

PART 27—WHISTLEBLOWER PROTECTION FOR FEDERAL BUREAU OF INVESTIGATION EMPLOYEES

Subpart A—Protected Disclosures of Information

Subpart B—Investigating Reprisal Allegations and Ordering Corrective Action

Authority: 5 U.S.C. 301, 3151; 28 U.S.C. 509, 510, 515–519; 5 U.S.C. 2303; President's Memorandum to the Attorney General, Delegation of Responsibilities Concerning FBI Employees Under the Civil Service Reform Act of 1978, 3 CFR p. 284 (1997).

Subpart A—Protected Disclosures of Information

§ 27.1 Making a protected disclosure.

(a) When an employee of, or applicant for employment with, the Federal Bureau of Investigation (FBI) (FBI employee) makes a disclosure of information to either the Department of Justice's (Department's) Office of Professional Responsibility (OPR), the Department's Office of Inspector

General (OIG), or the FBI Office of Professional Responsibility (collectively, Receiving Offices), the disclosure will be a ''protected disclosure'' if the person making it reasonably believes that it evidences:

(1) A violation of any law, rule or regulation; or

(2) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(b) When a Receiving Office receives a protected disclosure, it shall proceed in accordance with existing procedures establishing jurisdiction among the respective Receiving Offices.

§ 27.2 Prohibition against reprisal for making a protected disclosure.

(a) Any employee of the FBI, or of any other component of the Department, who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or fail to take a personnel action, as defined below, with respect to any FBI employee as a reprisal for a protected disclosure.

(b) Personnel action means any action described in clauses (i) through (x) of 5 U.S.C. 2302(a)(2)(A) taken with respect to an FBI employee other than one in a position which the Attorney General has designated in advance of encumbrance as being a position of a confidential, policy-determining, policy-making, or policy-advocating character.

Subpart B—Investigating Reprisal Allegations and Ordering Corrective Action

§ 27.3 Investigations: Office of Professional Responsibility and Office of the Inspector General.

(a)(1) An FBI employee who believes that another employee of the FBI, or of any other Departmental component, has taken or has failed to take a personnel action as a reprisal for a protected disclosure (reprisal), may report the alleged reprisal to either the Department's OPR or the Department's OIG (collectively, Investigative Offices). The report of an alleged reprisal must be made in writing.

(2) For purposes of this Subpart, references to the FBI include any other Departmental component in which the person or persons accused of the reprisal were employed at the time of the alleged reprisal.

(b) The Investigative Office that receives the report of an alleged reprisal shall consult with the other Investigative Office to determine which office is more suited, under the circumstances, to conduct an investigation into the allegation. The Attorney General retains final authority to designate or redesignate the Investigative Office that will conduct an investigation.

(c) Within 15 calendar days of the date the allegation of reprisal is first received by an Investigative Office, the office that will conduct the investigation (Conducting Office) shall provide written notice to the person who made the allegation (Complainant) indicating—

(1) That the allegation has been received; and

(2) The name of a person within the Conducting Office who will serve as a contact with the Complainant.

(d) The Conducting Office shall investigate any allegation of reprisal to the extent necessary to determine whether there are reasonable grounds to believe that a reprisal has been or will be taken.

(e) Within 90 calendar days of providing the notice required in paragraph (c) of this section, and at least every 60 calendar days thereafter (or at any other time if the Conducting Office deems appropriate), the Conducting Office shall notify the Complainant of the status of the investigation.

(f) The Conducting Office shall determine whether there are reasonable grounds to believe that there has been or will be a reprisal for a protected disclosure. The Conducting Office shall make this determination within 240 calendar days of receiving the allegation of reprisal.

(g) If the Conducting Office decides to terminate an investigation, it shall provide, no later than 10 business days before providing the written statement required by paragraph (h) of this section, a written status report to the Complainant containing the factual findings and conclusions justifying the termination of the investigation. The Complainant may submit written comments on such report to the Conducting Office. The Conducting Office shall not be required to provide a subsequent written status report after submission of such comments.

(h) If the Conducting Office terminates an investigation, it shall prepare and transmit to the Complainant a written statement notifying him/her of—

(1) The termination of the investigation;

(2) A summary of relevant facts ascertained by the Conducting Office;

(3) The reasons for termination of the investigation; and

(4) A response to any comments submitted under paragraph (g) of this section.

(i) Such written statement prepared pursuant to paragraph (h) of this section may not be admissible as evidence in any subsequent proceeding without the consent of the Complainant.

(j) Nothing in this part shall prohibit the Receiving Offices, in the absence of a reprisal allegation by an FBI employee under this part, from conducting an investigation, under their pre-existing jurisdiction, to determine whether a reprisal has been or will be taken.

§ 27.4 Corrective action and other relief: Director, Office of Attorney Personnel Management.

(a) If, in connection with any investigation, the Conducting Office determines that there are reasonable grounds to believe that a reprisal has been or will be taken, the Conducting Office shall report this conclusion, together with any findings and recommendations for corrective action, to the Director, Office of Attorney Personnel Management (the Director). If the Conducting Office's report to the Director includes a recommendation for corrective action, the Director shall provide an opportunity for comments on the report by the FBI and the Complainant. The Director, upon receipt of the Conducting Office's report, shall proceed in accordance with paragraph (f) of this section.

(b) At any time, the Conducting Office may request the Director to order a stay of any personnel action for 45 calendar days if it determines that there are reasonable grounds to believe that a reprisal has been or is to be taken. The Director shall order such stay within three business days of receiving the request for stay, unless the Director determines that, under the facts and circumstances involved, such a stay would not be appropriate. The Director may extend the period of any stay granted under this paragraph for any period that the Director considers appropriate. The Director shall allow the FBI an opportunity to comment to the Director on any proposed extension of a stay. The Director may terminate a stay at any time, except that no such termination shall occur until the Complainant and the Conducting Office shall first have had notice and an opportunity to comment.

(c)(1) The Complainant may present a request for corrective action directly to the Director within 60 calendar days of receipt of notification of termination of an investigation by the Conducting Office or at any time after 120 calendar days from the date the Complainant first notified an Investigative Office of an alleged reprisal if the Complainant has not been notified by the Conducting

Office that it will seek corrective action. The Director shall notify the FBI of the receipt of the request and allow the FBI 25 calendar days to respond in writing. If the Complainant presents a request for corrective action to the Director under this paragraph, the Conducting Office may continue to investigate the reprisal allegation only with the consent of the Complainant. If the Complainant refuses such consent, the Conducting Office will discontinue investigation of the reprisal allegation and will not prepare a report for the Director. In such event, however, the Conducting Office may continue to investigate any separate violation of law, rule, or regulation discovered during the investigation of reprisal that is otherwise within the Conducting Office's pre-existing jurisdiction. When the Complainant presents a request for corrective action directly to the Director and does not consent to the Conducting Office continuing an independent investigation of the reprisal allegation, the Conducting Office shall submit to the Complainant and to the FBI its Memoranda of Interviews (or portions thereof) that relate to the reprisal investigation, consistent with the Conducting Office's obligations regarding confidentiality and privacy.

(2) The Director may not direct the Conducting Office to reinstate an investigation that the Conducting Office has terminated in accordance with section 27.3(h).

(d) Where a Complainant has presented a request for corrective action directly to the Director under paragraph (c)(1) of this section, the Director may hold a hearing at which the Complainant may present evidence in support of his or her claim, in accordance with such procedures as the Director may adopt. The Director is hereby authorized to compel the attendance and testimony of, or the production of documentary or other evidence from, any person employed by the Department if doing so appears reasonably calculated to lead to the discovery of admissible evidence, is not otherwise prohibited by law or regulation, and is not unduly burdensome. Any privilege available in judicial and administrative proceedings relating to the release of documents or the giving of testimony shall be available to the parties in the hearing before the Director. All assertions of such privileges shall be decided by the Director. Upon the request of either the Complainant, the Conducting Office, or the FBI, the Director may certify a ruling on an assertion of privilege for review by the Deputy Attorney General.

(e) Where a Complainant has presented a request for corrective action to the Director under paragraph (c) of this section, the Complainant may at any time request the Director to order a stay of any personnel action allegedly taken or to be taken in reprisal for a protected disclosure. The request for a stay must be in writing, and the FBI shall have an opportunity to respond. The request shall be granted within 10 business days of the receipt of any response by the FBI if the Director determines that such a stay would be appropriate. A stay granted under this paragraph shall remain in effect for such period as the Director deems appropriate. The Director may modify or dissolve a stay under this paragraph at any time if the Director determines that such a modification or dissolution is appropriate.

(f) The Director shall determine, based upon all the evidence, whether a protected disclosure was a contributing factor in a personnel action taken or to be taken. If the Director determines that a protected disclosure was a contributing factor in a personnel action taken or to be taken, he shall order corrective action as he deems appropriate. The Director may conclude that the disclosure was a contributing factor in the personnel action based upon circumstantial evidence, such as evidence that the employee taking the personnel action knew of the disclosure or that the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action. Corrective action may not be ordered, however, if the FBI demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

(g) If the Director orders corrective action, such corrective action may include: placing the Complainant, as nearly as possible, in the position he would have been in had the reprisal not taken place; reimbursement for attorneys fees, reasonable costs, medical costs incurred, and travel expenses; back pay and related benefits; and any other reasonable and foreseeable consequential damages.

(h) If the Director determines that there has not been a reprisal, the Director shall report this finding in writing to the Complainant, the FBI, and the Conducting Office.

§ 27.5 Review.

The Complainant or the FBI may request from the Deputy Attorney General a review of the Director's decision within 30 calendar days. The Deputy Attorney General (or a designee) shall set aside or modify the Director's actions, findings, or conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; obtained without procedures required by law, rule, or regulation having been followed; or unsupported by substantial evidence. The Deputy Attorney General has full discretion to review and modify corrective action ordered by the Director, provided, however, that if the Deputy Attorney General upholds a finding that there has been a reprisal, then the Deputy Attorney General shall order appropriate corrective action.

§ 27.6 Extensions of time.

The Director may extend, for extenuating circumstances, any of the time limits provided in these regulations relating to proceedings before him and to requests for review by the Deputy Attorney General.

Dated: October 29, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–29700 Filed 11–9–98; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 560

Iranian Transactions Regulations: Reporting on Foreign Affiliates' Oil-Related Transactions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: The Treasury Department is amending the Iranian Transactions Regulations to terminate the reporting requirement for subsidiaries' Iranian petrochemical transactions and Iran-related sales of services (including insurance and financing) and goods (including oilfield supplies and equipment).

EFFECTIVE DATE: November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Layne, Blocked Assets Division (tel: 202/622–2440), or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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Background

The Office of Foreign Assets Control (''OFAC'') introduced reporting requirements on certain oil–related transactions by foreign affiliates of U.S. persons as an amendment to the Iranian Transactions Regulations in September 1995 (60 FR 47061, Sept. 11, 1995 — the ''Regulations''). This amendment implemented the President's declaration of national emergency and imposition of sanctions against Iran, contained in Executive Order 12957 of March 15, 1995, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; and Executive Order 12959 of May 6, 1995, 60 FR 24757, 3 CFR, 1995 Comp., p. 356. On November 15, 1996, OFAC clarified that the scope of the reporting requirements in § 560.603 extends beyond transactions directly involving crude oil or natural gas to include transactions involving petrochemicals and the provision of certain goods (including oilfield supplies and equipment) and services (including financing and insurance) (61 FR 58480, Nov. 15, 1996). On April 23, 1997, OFAC further amended the § 560.603 reporting requirements to require U.S. persons to file reports only with respect to foreign affiliates engaging in a reportable transaction or transactions totaling $1,000,000 or more during the calendar quarter. The foreign affiliate's relationship to the U.S. person, including percentage of direct and indirect ownership, no longer had to be reported. Reports were to be filed within 60 days, rather than 15 days, of the end of each calendar quarter. The present amendment eliminates Iranian–origin petrochemicals from the definition of ''reportable transactions'' and terminates the reporting requirements for subsidiaries' sales of the services and goods noted above. The revised § 560.603 retains the reporting requirements covering crude oil and natural gas.

Since the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the collections of information related to the Regulations have been approved by the Office of Management and Budget (''OMB'') under control number 1505–0106. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 560

Administrative practice and procedure, Agricultural commodities, Banks, banking, Exports, Foreign trade, Imports, Information, Investments, Iran, Penalties, Reporting and recordkeeping requirements, Services, Specially designated nationals, Terrorism, Transportation.

For the reasons set forth in the preamble, 31 CFR part 560 is amended as follows:

PART 560—IRANIAN TRANSACTIONS REGULATIONS

1. The authority citation for part 560 is revised to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2332d; 22 U.S.C. 2349aa–9; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217.

Subpart F—Reports

2. Section 560.603 is revised to read as follows:

§ 560.603 Reports on oil transactions engaged in by foreign affiliates.

(a) *Requirement for reports.* A report must be filed with the Office of Foreign Assets Control with respect to each foreign affiliate of a United States person that engaged in a reportable transaction, as defined in paragraph (b) of this section, during the calendar quarter. Reports are due within 60 days after the end of each calendar quarter.

(b) *Definitions.* For purposes of this section:

(1) The term *reportable transaction* means any purchase, sale, or swap of Iranian–origin crude oil or natural gas. For purposes of this paragraph (b), a purchase, sale, or swap is deemed to have occurred as of the date of the bill of lading used in connection with such transaction.

(2) The term *foreign affiliate* means a person or entity other than a United States person (see § 560.314) which is organized or located outside the United States and which is owned or controlled by a United States person or persons.

(c) *Who must report.* A United States person must file a report with respect to each foreign affiliate owned or controlled by it which engaged in a reportable transaction or transactions during the calendar quarter. For the calendar quarter beginning October 1, 1996, and all subsequent quarters, a United States person must file a report only as to each foreign affiliate owned or controlled by it which engaged in a reportable transaction or transactions totaling $1,000,000 or more during the calendar quarter. A single United States entity within a consolidated or affiliated group may be designated to report on each foreign affiliate of the United States members of the group. Such centralized reporting may be done by the United States person who owns or controls, or has been delegated authority to file on behalf of, the remaining United States persons in the group.

(d) *What must be reported.* (1) Part I of the report must provide the name, address, and principal place of business of the United States person; its place of incorporation or organization if an entity; and the name, title, and telephone number of the individual to contact concerning the report.

(2) Part II of the report must provide, with respect to the foreign affiliate, its name and address; the type of entity, *e.g.*, corporation, partnership, limited liability company; the country of its incorporation or organization; and its principal place of business.

(3) Part III of the report must include the following information with respect to each reportable transaction (a separate Part III must be submitted for each reportable transaction):

(i) The nature of the transaction, *e.g.*, purchase, sale, swap;

(ii) A description of the product involved;

(iii) The name of the Iranian or third country party or parties involved in the transaction;

(iv) The currency and amount of the transaction, and corresponding United States dollar value of the transaction if not denominated in United States dollars.

(e) *Where to report.* Reports must be filed with the Compliance Programs Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220. Reports may be submitted by facsimile transmission at 202/622–1657. A copy must be retained for the reporter's records.

(f) *Whom to contact.* Blocked Assets Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220; telephone: 202/622–2440.

Dated: October 9, 1998.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: October 22, 1998.

Elisabeth A. Bresee

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 98–30126 Filed 11–5–98; 3:17 pm]

BILLING CODE 4810–25–F

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 575

Iraqi Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: The Office of Foreign Assets Control is amending the Iraqi Sanctions Regulations to permit U.S. persons to enter into executory contracts for the sale of oilfield parts and equipment to the Government of Iraq in conformity with United Nations Security Council Resolutions No. 1153 and 1175.

EFFECTIVE DATE: November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief, Licensing (tel.: 202/622–2480) or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

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Background

United Nations Security Council Resolution (''UNSCR'') No. 1153 of February 20, 1998, authorizes the exportation from Iraq of $5.256 billion in petroleum and petroleum products within a 180–day period. UNSCR No. 1175 of June 19, 1998, authorizes the exportation to Iraq of the necessary parts and equipment to enable Iraq to achieve the level of exports authorized in Resolution No. 1153. Pursuant to Executive Orders 12722 of August 2, 1990 (55 FR 31803, 3 CFR, 1990 Comp., p. 294), and 12724 of August 9, 1990 (55 FR 33089, 3 CFR, 1990 Comp., p. 297), and in accordance with UNSCRs No. 1153 and 1175, the Office of Foreign Assets Control is amending § 575.522 of the Iraqi Sanctions Regulations, 31 CFR Part 575 (the ''Regulations''), to authorize United States persons to enter into executory contracts with the Government of Iraq for the sale and exportation to Iraq of parts and equipment necessary to enable Iraq to export petroleum and petroleum products in accordance with UNSCRs No. 1153 and 1175.

Since the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553)(the ''APA'') requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply. This final rule imposes no paperwork burden.

List of Subjects in 31 CFR Part 575

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign trade, Humanitarian aid, Imports, Iraq, Oil imports, Penalties, Petroleum, Petroleum products, Reporting and recordkeeping requirements, Specially designated nationals, Terrorism, Travel restrictions.

For the reasons set forth in the preamble, 31 CFR part 575 is amended as follows:

PART 575—IRAQI SANCTIONS REGULATIONS

1. The authority citation for part 575 is revised to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2332d; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–513, 104 Stat. 2047–2055 (50 U.S.C. 1701 note); E.O. 12722, 55 FR 31803, 3 CFR, 1990 Comp., p. 294; E.O. 12724, 55 FR 33089, 3 CFR, 1990 Comp., p. 297; E.O. 12817, 57 FR 48433, 3 CFR, 1992 Comp., p. 317.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Section 575.522 is amended by revising the section heading, removing the word ''and'' from the end of paragraph (a)(2), removing the period at the end of paragraph (a)(3) and adding ''; and'', and adding a new paragraph (a)(4) to read as follows:

§ 575.522 Executory contracts with the Government of Iraq for trade in petroleum, pipeline parts and equipment, humanitarian goods, and oil field equipment authorized.

(a) * * *

(4) The sale and exportation to Iraq of oilfield parts and equipment to the extent necessary to enable Iraq to export petroleum and petroleum products in accordance with United Nations Security Council Resolutions No. 1153

and 1175 and other relevant UNSC Resolutions.

* * * * *

Dated: October 20, 1998.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: October 27, 1998.

Elisabeth A. Bresee

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 98–30125 Filed 11–5–98; 3:43 pm]

BILLING CODE 4810–25–F

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AJ17

Minimum Income Annuity and Gratuitous Annuity

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations to provide that if the Department of Defense (DOD) or the Department of Transportation determines that an individual who is entitled to a minimum income annuity for certain surviving spouses also is entitled to a certain gratuitous annuity, VA will combine the payment of the gratuitous annuity with the minimum income annuity payment. This amendment reflects statutory provisions contained in the National Defense Authorization Act for Fiscal Year 1998. The responsibility for paying the gratuitous annuity was transferred from DOD to VA.

DATES: *Effective Date:* November 10, 1998.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: Section 645 of the National Defense Authorization Act for Fiscal Year 1998, Pub. L. 105–85, § 645, 111 Stat. 1629, 1801–1802 (1997) (10 U.S.C. 1448 note), transferred responsibility for paying the gratuitous annuity authorized by section 653 of the National Defense Authorization Act, Fiscal Year 1989, Pub. L. 100–456, § 653, 102 Stat. 1918, 1991–1992 (1988), from DOD to the Secretary of Veterans Affairs. However, DOD or the Department of Transportation remains responsible for funding this annuity and determining basic eligibility. This gratuitous annuity, initially in the amount of $165 a month, but since adjusted for changes in the Consumer Price Index, is paid to certain surviving spouses of persons who died before November 1, 1953, and were entitled to retired or retainer pay on the date of death. The statute provides that VA will combine the payment of this gratuitous annuity with the payment of the minimum income annuity authorized by Pub. L. 92–425, § 4, 86 Stat. 706, 712 (1972) (10 U.S.C. 1448 note). Section 638 of the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, § 638, 110 Stat. 2422, 2581 (1996), transferred responsibility for paying a guaranteed minimum annual income (the so-called minimum-income-widow annuity, or minimum income annuity) to the Secretary of Veterans Affairs from DOD. We have amended 38 CFR 3.811 accordingly.

This document merely restates statutory provisions. Accordingly, the provisions of 5 U.S.C. 553 regarding prior notice and public comment and delayed effective date are not applicable.

The Secretary hereby certifies that this rule will 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. This rule restates statutory provisions which only affect individuals. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

The Catalog of Federal Domestic Assistance program number is 64.105.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: October 29, 1998.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is 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 § 3.811, paragraph (d) is redesignated as paragraph (e); and the section heading and the heading for paragraph (a) are revised, a new paragraph (d) is added, and the authority citation at the end of the section is revised, to read as follows:

§ 3.811 Minimum income annuity and gratuitous annuity.

(a) *Eligibility for minimum income annuity.* * * *

* * * * *

(d) If the Department of Defense or the Department of Transportation determines that a minimum income annuitant also is entitled to the gratuitous annuity authorized by Pub. L. 100–456 as amended, which is payable to certain surviving spouses of servicemembers who died before November 1, 1953, and were entitled to retired or retainer pay on the date of death, VA will combine the payment of the gratuitous annuity with the minimum income annuity payment.

* * * * *

(Authority: Sec. 4, Pub. L. 92–425, 86 Stat. 706, 712, as amended (10 U.S.C. 1448 note))

[FR Doc. 98–30055 Filed 11–9–98; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–80–1–7353; FRL–6173–8]

Approval and Promulgation of Implementation Plans(SIP); Texas: 1990 Base Year Emissions Inventories, 15% Rate of Progress Plans, Contingency Plans, and Motor Vehicle Emission Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Conditional interim final rule.

SUMMARY: In this action, the EPA is granting conditional interim approval of the 15% Rate-of-Progress (ROP) Plans and associated Motor Vehicle Emissions Budgets (MVEB) for the Dallas/Fort Worth, El Paso and Houston/Galveston ozone nonattainment areas. In addition, EPA is fully approving revisions to the 1990 base year emissions inventories and the contingency plans for the three areas. The 15% ROP Plans and MVEB's are receiving conditional interim approval, instead of full approval, because they rely on emission reductions from the Texas Inspection and Maintenance (I/M) Program which received final conditional interim approval on July 11, 1997 (62 FR

37138). This action will aid in ensuring the attainment of the National Ambient Air Quality Standard (NAAQS) for ozone as required by the Clean Air Act (Act), as amended in 1990.

DATES: This conditional interim final rule is effective on December 10, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711–3087.

FOR FURTHER INFORMATION CONTACT: Mr. Guy R. Donaldson, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7242.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(1) of the Act requires ozone nonattainment areas with classifications of moderate and above to develop plans to reduce area-wide Volatile Organic Compound (VOC) emissions by 15% from a 1990 baseline during the first six years after enactment (November 15, 1996). In addition, section 172(c)(9) of the Act requires that contingency measures be included in the plan revision to be implemented if reasonable further progress is not achieved or if the standard is not attained.

In Texas, four moderate and above ozone nonattainment areas are subject to the 15% Rate of Progress (ROP) requirements. These are the Beaumont/Port Arthur (moderate [1]), Dallas/Fort Worth (serious [2]), El Paso (serious), and Houston/Galveston (severe) areas.

The Governor of Texas submitted revisions to the State Implementation Plan(SIP) in a letter dated August 9, 1996, including revisions to the 15% ROP Plans for the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso and Houston/Galveston areas. The revisions also included changes to the 1990 Base Year Inventory, the El Paso Section 179B International Border analysis, the Post-96 ROP Plan for Houston and the Houston/Galveston Employee Commute Options SIP.

The EPA proposed conditional interim approval of the 15% ROP plans for the Dallas/Fort Worth, El Paso and Houston areas on July 11, 1997 (62 FR 37175). For further information, including specification of the measures included in the 15% ROP Plans, please see that **Federal Register** notice.

In this **Federal Register** action, EPA is approving only the Emissions Inventories, 15% ROP Plans, MVEB and Contingency measures for the Dallas/Fort Worth, El Paso and Houston/Galveston areas. The EPA is taking no action on the other portions of the August 9, 1996, submittal, including the Beaumont/Port Arthur 15% ROP Plan. Final action approving the Beaumont/Port Arthur 15% ROP Plan and associated Contingency Plan, revisions to the 1990 Emissions Inventory for Beaumont/Port Arthur, and MVEB for Beaumont/Port Arthur was published in the **Federal Register** on February 10, 1998 (63 FR 6659). The other portions of the submittal will be processed in separate **Federal Register** actions.

II. Public Comments and EPA Responses

The EPA received comment letters from the Houston Airport System, the Air Transport Association, American Airlines, and the Dallas/Fort Worth International Airport Board. All of the comments address related issues. The commentors' concerns are summarized below.

1. The City of Houston, Department of Aviation requested a 180-day extension to the comment period so a revised emissions inventory for the Houston/Galveston area could be prepared to reflect the area's actual and projected aircraft emissions. The City of Houston's comment is based on the belief that the SIP inventory of 1.82 tons/day understates the actual emissions attributable to commercial aviation in the City of Houston.

2. The Air Transport Association of America (ATA) requested a 90-day extension to the comment period. The ATA believes that current emissions and emission calculations associated with growth of the DFW International Airport have not been properly taken into account. The ATA also refers to a document entitled ''DOT/FAA Final Environmental Impact Statement: Dallas/Fort Worth International Airport Runway 16/34 East—Runway 16/34 West'' (1991). The ATA believes that information from this document was not incorporated in the Dallas/Fort Worth 15% ROP plan.

3. American Airlines also asked for a 90-day extension to the comment period to allow for revision of the 1990 emissions inventory and the 15% ROP Plan. American Airlines refers to the 1991 Environmental Impact Statement as providing documentation that the 1990 base year inventory for Dallas/Fort Worth area is incorrect and the projected emissions do not accurately project anticipated emissions growth at DFW Airport. Their analysis indicated that: turboprop aircraft were not included in the emission estimate for the DFW Airport; the inventory is based on default times for the various stages of aircraft operations (i.e. take-off, climb-out, approach and idle/taxi) in the landing/take-off (LTO) cycle, which are not specific to the DFW airport; and the EIS was based on LTO cycle times appropriate to the DFW airport and included turboprop aircraft.

4. The DFW International Airport Board requested a 180-day extension to the comment period. They also commented that the estimate of emissions from commercial aircraft is significantly understated and conflicts with the 1991 Environmental Impact Statement. In addition, the ROP Plan does not consider projections for anticipated growth in aircraft activity in the Dallas/Fort Worth Area. The DFW Airport Board expressed the same concerns that were identified by American Airlines regarding the emission calculations.

All of the commentors expressed concern that if emissions growth is underestimated, future planned expansions at the airports in the nonattainment areas will not be able to conform to the applicable SIP.

Response to Comments

Comment: All of the commentors asked for an extension of the comment period. During that time they would develop documentation for a revised emission inventory and projected emissions.

Response: The EPA does not believe that additional time for comment is appropriate. The EPA approved the State's estimate of 1990 commercial aircraft emissions in the **Federal Register** action on the 1990 emissions inventories for the Houston/Galveston and Dallas/Fort Worth areas on November 8, 1994 (59 FR 55586). No comments were received on the 1994 action that referred to the commercial aircraft inventory. In the July 11, 1997, **Federal Register**, EPA did not propose to revise the approved estimates of the 1990 commercial aircraft emissions, nor did Texas submit a revision to this portion of the inventories. Thus, the

[1] Previously classified serious. On April 2, 1996, EPA corrected the classification of Beaumont/Port Arthur to moderate (61 FR 14496).

[2] Reclassified to serious (63 FR 8128, February 18, 1998).

July 11, 1997, **Federal Register** proposal did not reopen the 1990 base year emissions inventory for commercial aircraft. In addition, the amount of emissions growth allocated for commercial aviation is at the discretion of the State. Therefore, the commentors' appropriate course of action for revising the base year inventories and projected future emissions estimates for commercial aircraft, is to work with Texas with the goal of the State submitting to EPA revisions to the inventories and the SIP. If revisions are submitted to EPA, they would be acted upon in a separate action published in the **Federal Register**.

Comment: The Emissions Inventories should be disapproved because the level of commercial aircraft emissions are understated.

Response: The EPA approved the 1990 emission inventory for commercial aircraft in a previous **Federal Register** action and did not propose to revise it in the July 11, 1997 **Federal Register** proposal. Since EPA did not propose to revise the commercial aircraft emissions in the approved inventory, we cannot address this comment in this rulemaking.

However, EPA believes that the major potential source of discrepancy is that the approved 1990 emission inventory is calculated using default values for the idle/taxi times at the airports. The approach of using default times for estimating airport emissions is reasonable and follows EPA guidance and, therefore, can be approved. The EPA encourages States to use site specific measured values in place of default values whenever possible. However, since Texas did not do so in this case, the appropriate course of action is for the commenters to work with the State on this issue.

Comment: The 15% ROP SIPs should be disapproved because they do not accurately project the growth in commercial aircraft emissions.

Response: The issue of whether the State has projected adequate growth in emissions for commercial aircraft emissions is of particular concern because the section 176 General Conformity requirements of the Act could impede future planned expansions if the SIP does not allow for sufficient projected emissions. The EPA believes that States must account for growth in emissions so that the air quality planning efforts have a reasonable chance of success. In the case of commercial aircraft emissions, the State followed EPA guidance and projected that aircraft emissions would grow based on the Economic Growth Analysis System (EGAS). The EGAS projects growth in emissions based on economic projections for particular industries. The State followed EPA's guidance in projecting growth. The EPA believes the State's estimate is reasonable and can be accepted. If growth in emissions in excess of the State's estimate is desired by the airports, they should work with the State to ensure that the desired growth is accounted for in the SIP. The State has the discretion to provide for future emissions growth in the SIP and EPA can accept projections that are reasonable and based on EPA guidance.

III. Rulemaking Action

Pursuant to sections 110 and Part D of the Act, EPA is approving the revised emissions inventories for the Dallas/Fort Worth, El Paso and Houston/Galveston areas and Contingency Plans. The EPA is giving conditional interim approval to the 15% ROP Plans and associated MVEB for the Dallas/Fort Worth, El Paso and Houston/Galveston areas.

The 15% ROP Plans for the three areas can only receive a conditional interim approval because the plans all rely, in part, on emission reductions from the revised I/M program. The EPA published conditional interim approval of the I/M program for the three areas on July 11, 1997 (62 FR 37138). Therefore, the 15% ROP Plans can only receive conditional interim approval.

Interim Approval

Section 348 of the National Highway Systems Designation Act (NHSDA) allows States to make a ''good faith'' estimate of the reductions that will be achieved by the I/M program. The I/M program can be given interim approval during a 18-month period during which the program is evaluated to validate the ''good faith'' estimate. At the end of the 18-month interim period (February 11, 1999), the interim approval for the I/M program will automatically lapse pursuant to the NHSDA. It is expected that, by that time, the State will be able to make a demonstration of the program's effectiveness using appropriate evaluation criteria. If the State fails to provide such a demonstration of the program's effectiveness to EPA by February 11, 1999, the interim approval will lapse. A lapse of the I/M approval resulting from the State failing to provide a program demonstration could result in EPA disapproval of the I/M SIP. Lapse of the I/M interim approval will result in a 15% ROP Plan approval lapse unless emission reductions are submitted and approved which can replace the projected emission reductions from I/M. Information from the I/M program evaluation showing the program achieves a lesser amount of emissions reductions than originally projected will be considered in any future actions on the 15% ROP Plans. Further discussion of the requirements for final approval of the I/M program is contained in the October 3, 1996, **Federal Register** (61 FR 51651).

Conditional Approval

The EPA is granting conditional approval of the 15% Plans contingent upon the State meeting the conditions outlined in the I/M conditional approval. These include the State obtaining the appropriate legislative authority as needed to implement the program outlined in the Governor's Executive Order. If the State fails to meet the conditions within 12 months of the effective date of the conditional interim final approval, this action on the 15% Plans will convert to a disapproval. However, the State submitted in a letter, dated May 29, 1997, a revision to the SIP including the items identified in the conditions. A completeness letter was sent on August 18, 1997. Therefore, there will be no automatic conversion of the I/M or 15% Rate of Progress plans to disapproval. The EPA is evaluating whether the SIP revision meets the requirements of the conditional approval and will take action in a separate **Federal Register** document.

Motor Vehicle Emissions Budgets

The Clean Air Act, section 176(c), and the transportation conformity rule require States to establish MVEB in any control strategy SIP that is submitted for attainment and maintenance of the National Ambient Air Quality Standards. The EPA is granting conditional interim approval to the MVEB listed below, for the Dallas/Fort Worth, El Paso, and Houston/Galveston areas.

1996 VOC MOTOR VEHICLE EMISSION BUDGET

Area	VOC (tons/day)
Dallas/Fort Worth	165.49
El Paso	21.63
Houston/Galveston	152.12

IV. Administrative Requirements

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental

factors and in relation to relevant statutory and regulatory requirements.

A. Regulatory Flexibility Analysis

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

If the conditional approval is converted to a disapproval under section 110(k), based on the state's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, I certify that this disapproval action will not have a significant economic impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

B. Unfunded Mandates

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

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Since this action does not impose any mandate, it is also not subject to Executive Order 12875 concerning Federal mandates.

C. Submission to Congress and the Comptroller General

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

D. Executive Orders 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866 entitled, ''Regulatory Planning and Review.''

E. Executive Order 12875

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

F. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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. If the mandate is unfunded, EPA must 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, representatives of Indian tribal governments are ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

G. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under 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.

This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 11, 1999. Filing a petition for reconsideration by the Administrator of this conditional interim final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 23, 1998.

Gregg A. Cooke,

Regional Administrator, Region 6.

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

PART 52—[AMENDED]

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

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

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(113) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(113) The Texas Natural Resource Conservation Commission submitted a revision to the State Implementation Plan (SIP) on August 9, 1996. This revision contained, among other things, 15% Rate-of-Progress plans for the Dallas/Fort Worth, El Paso and Houston/Galveston ozone nonattainment areas which will aid in ensuring the attainment of the National Ambient Air Quality Standards for ozone. This submittal also contained revisions to the 1990 base year emissions inventories, the associated Motor Vehicle Emission Budgets and contingency plans.

(i) Incorporation by reference. Texas Natural Resource Conservation Commission (TNRCC) order adopting amendments to the SIP; Docket Number 96–0465–SIP, issued July 31, 1996.

(ii) Additional material.

(A) TNRCC certification letter dated July 24, 1996, and signed by Gloria Vasquez, Chief Clerk, TNRCC.

(B) The SIP narrative plan and tables dated July 24, 1996 entitled, ''Revisions to the State Implementation Plan (SIP) for the Control of Ozone Air Pollution,'' as it applies to the Dallas/Fort Worth, El Paso and Houston areas' 15% Rate-of-Progress plans, emissions inventories, motor vehicle emissions budgets and contingency plans.

* * * * *

3. Section 52.2309 is amended by adding paragraph (e) to read as follows:

§ 52.2309 Emissions inventories.

* * * * *

(e) The Texas Natural Resource Conservation Commission submitted a revision to the State Implementation Plan (SIP) on August 9, 1996. This revision was submitted for the purpose of satisfying the 15% Rate-of-Progress requirements of the Clean Air Act, which will aid in ensuring the attainment of the National Ambient Air Quality Standards for ozone. This submittal also contained revisions to the 1990 base year emissions inventories for the Dallas/Fort Worth, El Paso and Houston/Galveston areas.

[FR Doc. 98–29812 Filed 11–9–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ29–2–185 FRL–6174–4]

Approval and Promulgation of Implementation Plans; State of New Jersey; Clean Fuel Fleet Opt Out

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State Implementation Plan revision submitted by the State of New Jersey for the purpose of meeting the requirement to submit the federal Clean Fuel Fleet program (CFFP) or a substitute program that meets the requirements of the Clean Air Act (Act or CAA). EPA is approving the State's plan for implementing a substitute program to opt out of the federal CFFP.

EFFECTIVE DATE: This rule will be effective December 10, 1998.

ADDRESSES: Copies of the State submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

New Jersey Department of Environmental Protection, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625

FOR FURTHER INFORMATION CONTACT: Michael P. Moltzen, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(c)(4)(A) of the Clean Air Act requires states containing areas designated as severe ozone nonattainment areas, including New Jersey, to submit for EPA approval a state implementation plan (SIP) revision that includes measures to implement the federal Clean Fuel Fleet program (CFFP). Under this program, a specified percentage of vehicles purchased by covered fleet operators must meet emission standards that are more stringent than those that apply to conventional vehicles. Covered fleets are defined as having 10 or more vehicles that are centrally fueled or capable of being centrally fueled. A CFFP meeting federal requirements would be a state-enforced program which requires covered fleets to assure that an annually increasing percentage of new vehicle purchases are certified clean vehicles. In New Jersey, the program would apply in the State's portion of the New York-Northern New Jersey-Long Island ozone nonattainment area and in New Jersey's portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area; thus all counties in New Jersey except for Warren, Atlantic and Cape May Counties would be covered under the federal CFFP.

The federal CFFP is divided into two components. The first component is a light duty federal CFFP which applies to covered fleets of passenger cars and trucks of gross vehicle weight rating (GVWR) of 6,000 pounds and less, and trucks between 6,000 and 8,500 pounds GVWR. Covered fleets which fall under the light duty federal CFFP are required

to assure that 30 percent of new purchases are clean vehicles in the first year of the program, 50 percent in the second year and 70 percent in the third and subsequent years.

The second component is a heavy duty (HD) federal CFFP which applies to covered fleets of trucks over 8,500 pounds GVWR and below 26,000 pounds GVWR. The HD federal CFFP requires that 50 percent of covered fleets' new purchases be clean fueled vehicles in the first and subsequent years.

Under the federal CFFP, the vehicle exhaust emission standards for light duty vehicles are equivalent to those established by the California Air Resources Board (CARB) as light duty low emission vehicles (LEVs), for use in the California LEV program. In addition to LEVs, this certification exists for vehicles meeting four additional levels of emissions stringency, including zero emission vehicles (ZEVs). For further information regarding emission standards associated with all of the clean fuel vehicles which are applicable under the LEV program and the federal CFFP, the reader is referred to the federal CFFP final rule, published on March 1, 1993 at 58 FR 11888.

Section 182(c)(4)(B) of the Act allows states to ''opt out'' of the federal CFFP by submitting for EPA approval a SIP revision consisting of a program or programs that will result in at least equivalent long term reductions in ozone-producing and toxic air emissions as achieved by the federal CFFP. The Clean Air Act directs EPA to approve a substitute program if it achieves long term reductions in emissions of ozone-producing and toxic air pollutants equivalent to those that would have been achieved by the federal CFFP or the portion of the federal CFFP for which the measure is to be substituted.

On February 15, 1996 New Jersey submitted its New Jersey Clean Fleets (NJCF) program as a substitute for the federal CFFP. This submittal, comprising the State's federal CFFP substitute which EPA is now taking action to approve, was in addition to prior federal CFFP-related submittals of November 1992 and May 1994. The reader is referred to EPA's proposed approval of the NJCF program, published at 62 FR 61948 on November 20, 1997 for further detail on those previous submittals. The NJCF program is an essentially voluntary mix of incentive-based programs which are intended to spur public and private fleets within New Jersey to purchase clean, alternatively fueled vehicles (AFVs).

On March 29, 1996, and on March 6, 1997, New Jersey supplemented the federal CFFP SIP revision with (1) a clarifying letter from New Jersey Department of Environmental Protection (NJDEP) Commissioner Shinn, and (2) with material from its October 21, 1996 public hearing, respectively. The 1996 letter from Commissioner Shinn clarified that the NJCF program substitution includes, to the extent necessary to meet SIP obligations, New Jersey's LEV program (NJ LEV) which had been adopted by that time. Because the emissions reductions relied upon in the NJCF program will largely result from voluntary measures, the NJ LEV program essentially serves the role of a ''backstop'' to the NJCF program. This means that in the event the NJCF program fails to achieve the emissions reductions claimed by the State, emission reductions achieved with the separate LEV program will be used by the State to account for those reductions that would have originally been realized through the federal CFFP. In that event EPA would then recognize NJ LEV as the effective opt out measure.

Unlike the federal CFFP, NJ LEV will impose requirements on auto manufacturers and their yearly vehicle sales. The adopted NJ LEV regulation states that New Jersey's primary intention is to participate in the National LEV (NLEV) program (discussed in more detail in section III. C. of this notice) as the preferred means of achieving cleaner vehicle sales throughout the State. The NJ LEV regulation also states that New Jersey would operate its own California LEV program if the NLEV program ultimately was not implemented (the reader is referred to the NJCF proposal at 62 FR 61948 for details regarding California LEV as it relates to the NJ LEV regulation). The NLEV regulation was designed with the understanding that EPA cannot require NLEV. NLEV must be mutually agreed upon by the participating states and the auto manufacturers because in the Clean Air Act, Congress disallows EPA from changing vehicle emission standards until at least model year 2004 (see CAA § 202). However, during the time following EPA's proposed approval of the NJCF program as an opt-out substitute for the federal CFFP, EPA promulgated a supplemental final rule for NLEV (see 62 FR 925, January 7, 1998). As per provisions of that final rule, with NLEV opt-in commitments from 9 of the 13 Ozone Transport Commission (OTC) States (including New Jersey) and the 23 major domestic and foreign auto manufacturers, on March 2, 1998, EPA officially found NLEV to be in effect.

Therefore, as per its State-specific LEV regulation, and as indicated in a January 28, 1998 letter from New Jersey Governor Christine Todd Whitman to the EPA Administrator, the State will participate in NLEV and receive creditable emission reductions through the proscribed federal enforcement of NLEV. As stated in its regulation, with its decision to participate in NLEV, the State will not operate California LEV in New Jersey, at least until such time that EPA implements more stringent Tier 2 vehicle emission standards, which will not be sooner than model year 2004 (see CAA § 202 and 63 FR 925–987). Therefore NLEV is now the applicable enforceable backstop to the NJCF program.

The NLEV program requires that auto manufacturers must meet an average vehicle emission standard, based on the certified emission standards of all annual vehicle sales. The annual average vehicle emission standard (referred to as the non-methane organic gas (NMOG) average) increases in stringency on an annual basis. Quantitatively, NLEV will achieve long term vehicle emission reductions which are far greater than what the federal CFFP could have achieved.

The Clean Air Act requires states to observe certain procedural requirements in developing implementation plan revisions for submission to EPA. Sections 110(a)(2) and 172(c)(7) of the Act require states to provide reasonable notice and public hearing before adoption by the state and submission to EPA for approval. Section 110(1) of the Act also requires states to provide reasonable notice and hold a public hearing before adopting SIP revisions. EPA must also determine whether a state's submittal is complete before taking further action on the submittal. See section 110(k)(1). EPA's completeness criteria for SIP submittals are set out in 40 CFR Part 51, Appendix V (1993). New Jersey's SIP revision which EPA is approving in this notice has met all of the procedural requirements and completeness criteria.

II. State Submittal

New Jersey submitted SIP revisions on February 15, 1996, March 29, 1996 and March 6, 1997 which substitutes the State's NJCF program, backstopped by the enforceable NJ LEV program, for the federal CFFP.

The NJCF program consists of the following four components: (1) Incentive Development program, (2) the Department of Energy's (DOE's) EPAct fleet requirements, (3) DOE's Clean

Cities program, and (4) the Advanced Technology Vehicle (ATV) agreement associated with the NLEV program. Components (1), (3) and (4) are voluntary in nature, while the second component, the EPAct fleet requirements, is a mandatory DOE program. However although the EPAct mandate requires purchases of alternative fuel vehicles (see Section C. 2. for additional details), it does not require vehicle emissions standards to be met, as the federal CFFP does. New Jersey will track clean alternative fueled EPAct vehicle purchases as well as those from the other NJCF components in determining the degree to which its federal CFFP substitute is achieving equivalent reductions, and subsequently the amount of credit which will be needed from its backstop, the NLEV program.

Because NLEV has been found to be in-effect by EPA, the State's regulation states that New Jersey will participate in the NLEV program (discussed in more detail in section III. C. of this notice). The NLEV program will begin with model year 1999 vehicle sales in the Northeast Trading Region (NTR), which is comprised of NLEV opt-in states Connecticut, Delaware, Maryland, New Jersey, New Hampshire, Pennsylvania, Rhode Island, Virginia and Washington, D.C. The NLEV program requires that those vehicles be certified to meet a specific NMOG standard when their total emissions are averaged as a fleet. Manufacturers must ensure that each model year of vehicles produced for sale meet a yearly NMOG fleet average over the entire NTR. The NLEV fleet-average NMOG standard will be 0.148 grams per mile for model year 1999. The NMOG average becomes increasingly stringent annually, and for model year (MY) 2001 and later the standard is 0.075 grams per mile.

III. Analysis of State Submission

A. Opt Out Criteria and Requirements

Section 182(c)(4) of the Clean Air Act, which allows states required to implement a federal CFFP to opt out of the program by submitting a SIP revision consisting of a substitute program, requires that the substitute program result in long term emission reductions equal to or greater than the federal CFFP. Also, EPA can only approve such substitute programs that consist exclusively of provisions other than those required under the Clean Air Act for the area. New Jersey's NLEV-backstopped NJCF program satisfies both of these requirements.

B. Equivalency of Substitute

The Clean Air Act requires that any substitute for the federal CFFP must provide equivalent long term emission reductions. In its SIP revision, the State estimated the emission reductions which would be attributable to operation of the federal CFFP in New Jersey. It is this amount of long term reduction, discussed below, which the State's substitute must achieve.

Light Duty Vehicle Analysis

New Jersey first analyzed the potential for emissions reductions to result from long term compliance with the light duty vehicle portion of the federal CFFP in New Jersey. The light duty vehicle purchase requirements of the federal CFFP are intended to ensure a gradual turnover of conventional light duty fleet vehicles to clean light duty vehicles in covered fleets. Under the federal CFFP, in the long term a substantial portion of light duty vehicles in covered fleets would meet at least the LEV standard, where otherwise they would not have met those more stringent standards (i.e., if the State was not also operating a LEV program as described above). In its SIP revision however, New Jersey pointed out that the light duty vehicle portion of the federal CFFP, in the long term, would essentially duplicate the regional and Statewide, more comprehensive NLEV program which has already been adopted as part of the NJ LEV regulation [Adopted on November 22, 1995 at 27 N.J.R. 5016(a)(December 18, 1995), codified at N.J.A.C. 7:27–26]. EPA has determined that, in light of the NLEV program, operation of the light duty federal CFFP in New Jersey would yield essentially no benefit above that from the NLEV. For additional details regarding the light duty vehicle analysis, the reader is referred to EPA's November 20, 1997 proposed approval of NJCF as an opt-out substitute for the federal CFFP at 62 FR 61948 and to the Response to Comments section of this action.

Heavy Duty Vehicle Analysis

The heavy duty vehicle portion of the federal CFFP requires that on an annual basis, 50 percent of heavy duty fleet vehicles purchased each year must meet clean fuel vehicle emission standards. Through appropriate modeling, New Jersey has determined that the estimated emission reduction benefit that would result from applying the federal CFFP's heavy duty vehicle requirements in New Jersey would be approximately 4.5 tons per day (tpd) of volatile organic compounds (VOC) and oxides of nitrogen (NOx) combined in 2010 (for additional details regarding modeling techniques and assumptions used to arrive at this figure, the reader is referred to EPA's November 20, 1997 NJCF proposal at 62 FR 61948). New Jersey's SIP submittal states that modeling emission reductions out to the year 2010 is adequate for the purpose of determining the long term reductions which could be expected of the heavy duty federal CFFP in New Jersey. EPA agrees with this reasoning. The NJCF program must achieve that amount of emission reductions within the same time frame in order to be an acceptable substitute for the federal CFFP. If it does not, as will be verified through the program emission reduction tracking system that the State committed to implement (described below), the State has also committed to use enforceable emission reduction credit generated from the NLEV program to make up any emission reduction shortfall which may result.

C. NJCF Program Details and Goals

NJDEP has estimated that, in order to meet the Clean Air Act requirement of an approvable federal CFFP substitute, the NJCF program must provide emission reductions equivalent to those from approximately 50,750 medium heavy duty certified clean fueled vehicles by 2010. NJDEP has determined that in order to contribute towards the emission reductions needed for a substitute program, a medium or heavy duty vehicle must be certified by CARB to meet LEV (or cleaner) standards.

1. Incentive Development Program

The incentive development program was developed by a public/private workgroup which includes representatives of local and national fleet operators, municipalities, alternative and clean fuel providers, and government officials. The Workgroup's efforts are intended to spur use of clean alternative fuel vehicles. Major areas of focus for the Workgroup, as it implements its Action Plan, include development of a New Jersey alternative fuel mechanic training program and promotion of a State policy with legislative and regulatory support of the use of alternative fuels and AFVs. Examples of such legislation include a bill which would provide sales and use tax exemption for clean alternative fuel vehicle purchases in New Jersey.

2. EPAct Purchase Mandates

The second component of the NJCF program is the alternative fuel vehicle purchase requirements under the federal EPAct, 42 U.S.C. 13201 *et seq.* Under

EPAct, all state, federal, and fuel-provider fleets must ensure that a percentage of their new light duty vehicle purchases operate on alternative fuels. In the long term, 75% of new state and federal purchases and 90% of fuel-provider purchases must be AFVs. In its SIP submittal, New Jersey reported that at least 61 State vehicles run on clean alternative fuels as a result of EPAct compliance, and alternative fuel vehicles are available for purchase by public agencies through the State purchase contract.

3. New Jersey Clean Cities Program

Clean Cities is a voluntary federal program designed to accelerate and expand the use of clean AFVs and related refueling infrastructure in communities throughout the country. In 1995 the State's Division of Energy initiated its North Jersey Clean Cities programs in the metropolitan areas of Elizabeth, Jersey City, Newark and Trenton; in 1997 this program received official Clean Cities designation status from the U.S. Department of Energy (USDOE). New Jersey plans to expand this program in other areas of the State as well, and expects the program to have a significant long term emission reduction benefit.

4. Advanced Technology Vehicle Program

The fourth component of the NJCF program is an Advanced Technology Vehicle (ATV) cooperative agreement between states and auto manufacturers which emerged during their negotiations on the NLEV program. The regulatory portion of the NLEV program does not address an agreement regarding advanced technology vehicles (ATV), and advancing technology is not a legally-required criterion of the NLEV program, however EPA recognizes that a separate agreement between states and auto manufacturers regarding an ATV component could be a useful means of achieving additional environmental benefits beyond the emissions reductions which will be achieved through NLEV. In EPA's June 6, 1997 NLEV rulemaking, an ATV was defined as any vehicle certified by CARB or EPA that is either: (1) A dual-fuel, flexible-fuel, or dedicated alternatively fueled vehicle certified as a transitional low emission vehicle (TLEV), LEV, or ultra low emission vehicle (ULEV) when operated on the alternative fuel; (2) certified as a ULEV or ILEV; or (3) a dedicated or hybrid electric vehicle. As discussed in that rulemaking, EPA acknowledges the suggestion that advancing motor vehicle pollution control technology through a states-manufacturers partnership can be an important result of the basic NLEV agreement. Furthermore, EPA agrees with New Jersey's intention to use an ATV agreement with the auto manufacturers as part of its substitute (backstopped by the enforceable NLEV program) for the federal CFFP. The ATV program, as New Jersey and other states intend, would involve a cooperative effort among the NLEV opt-in states, EPA, DOE, fuel providers, aftermarket converters, fleet operators, and the full range of motor vehicle manufacturers to develop ways to increase use of ATVs. In its SIP submittal, the NJDEP stated it expects to begin implementing this ATV program, in cooperation with other states, the auto manufacturers, and fuel providers, soon after the NLEV program's implementation and agreement on an ATV component is reached.

In order to facilitate implementation of the NJCF program, New Jersey has stated in its latest SIP submittal that it is relying on EPA to support the ATV initiative by approving emission reduction SIP credits, where appropriate, upon the introduction of ATVs into the fleet. EPA is prepared to assist the State in this manner (i.e. by allowing long term emission reductions generated by a cooperative ATV program to be used in part as a substitute SIP measure for the federal CFFP), provided emissions reductions from the ATV provision, along with those generated from the other NJCF program components, can be documented by the State. It is for this purpose that New Jersey has incorporated a planned system to track NJCF program emissions reductions.

This system, described below, will serve to identify the need, if any should exist in the future, to utilize the credit from the backstop should the planned reductions not occur as intended with the voluntary NJCF program.

NJCF Program Backstop

New Jersey, along with the states of Connecticut, Delaware, Rhode Island, Maryland, New Hampshire, Pennsylvania, Virginia, and Washington, D.C. have opted into the NLEV program. Upon its NLEV opt-in, NLEV became the effective backstop to the NJCF, as discussed in section I. of this action.

NLEV is a voluntary nationwide program to make new cars significantly cleaner emitting than today's current cars. NLEV, which began as the ''OTC-LEV'' program before it included provisions for cleaner vehicle sales for the entire nation, has also been referred to in the past as ''49-State LEV'' and ''the 49-State Car program.'' The NLEV program represents an alternative, more effective method of regulatory development through extensive interaction between EPA and stakeholders. NLEV will achieve substantial air pollution reductions nationwide while providing the automotive industry flexibility to meet the new requirements in the most efficient manner. The NLEV program requires that each model year of vehicles produced for sale in the Northeast opt-in states, beginning with model year 1999, be certified to meet a specific NMOG standard when their total emissions are averaged as a fleet. Manufacturers must ensure that each model year of vehicles produced for sale, meet a yearly NMOG fleet average which becomes increasingly more stringent annually, and for model year 2001 and later the standard is 0.075 grams per mile. Manufacturers will meet the annual NMOG averages through a sales mix of vehicles certified to meet emission standards of varying stringency. Like CARB certified vehicles and as discussed earlier in section I. of this action, such standards exist for TLEVs, LEVs, ULEVs, ZEVs and the existing Tier I federal standards.

On December 16, 1997 the EPA Administrator signed the final rule for NLEV and began the opt in clocks for the states of the Northeast, the auto manufacturers and EPA. According to the rule, those states had forty-five days to opt in, and the manufacturers had sixty days from the rule signature to make that decision. Nine northeastern states and 23 major auto manufacturers took the opportunity to opt into the National LEV program within the specified time frames. New Jersey did so with a January 28, 1998 letter to the Administrator from Governor Whitman committing to the State to participation in the NLEV. EPA determined that the opt-ins from both sets of parties met the criteria necessary for the NLEV program to be in effect and enforceable, and on March 2, 1998, the EPA Administrator made the official finding that the NLEV program is in effect.

NLEV will result in substantial reductions in NMOG and NO_X, which contribute to ozone nonattainment in many states including New Jersey. Emission reduction estimates are based on a start date of MY 1999 in Northeast and MY 2001 nationwide. EPA estimates that nationally, by 2007, NO_X will be reduced by 496 tons per day and NMOG will be reduced by 311 tons per day as a result of NLEV implementation. NLEV will also result in reductions in toxic air pollutants such as benzene, formaldehyde, acetaldehyde, and 1,3

butadiene. Benzene is classified as a human carcinogen, while the others are considered probable carcinogens.

NLEV in New Jersey will assure reductions of ozone-forming and air toxics emissions that are at least equivalent to those that would be realized through the light duty portion of a federal CFFP; in the event that the NJCF program fails to reduce long term emissions to the level which would have been achieved by the federal CFFP, NLEV will make up the resultant shortfall.

Vehicle Tracking System

In its most recent NJCF SIP revision submittals, New Jersey has committed to implement an automated tracking system to track clean fueled vehicle purchases and conversions associated with the NJCF program (detailed above) throughout the State beginning in 1998. The State will periodically track the variety of clean NJCF vehicles purchased in New Jersey, but most notably CARB and EPA certified LEVs (and vehicles certified to more stringent standards, such as ULEVs). The information gathered from the automated tracking system will provide an accurate indication of the number of vehicles purchased in New Jersey that are certified to meet the applicable LEV, etc. standards. In this manner the State will accumulate a database with which it can calculate emission reduction benefits associated with certified clean vehicle purchases resulting from the NJCF program, and determine if necessary the need to employ the LEV backstop discussed above. New Jersey further clarified the method it will employ to track these vehicle purchases as a means of assessing the NJCF program's long term effectiveness. Specifically, NJDEP will receive reports on at least an annual basis from the New Jersey Division of Motor Vehicles, the New Jersey Department of Treasury and the USDOE which will contain updates of the numbers of certified clean vehicles and AFVs purchased statewide in New Jersey.

IV. Public Comment

EPA proposed to approve the New Jersey federal CFFP opt-out SIP revision on November 20, 1997, 62 FR 61948. Comments were received from one interested party. EPA evaluated the comments, which have been incorporated into the docket for the rulemaking. The comments were evaluated with respect to the proposed approval, and the summary of the comments and EPA's responses follow.

Comment: New Jersey should move to supplement its mobile source reduction strategies as opposed to using reductions in place of the federal CFFP. The federal government conditionally leaves the option available to the State of New Jersey to find a substitute for the Clean Fuel Fleet Programs. New Jersey should use all available mobile source reduction strategies, including a LEV program combined with the NJCF program, in its effort to achieve attainment of the ozone standards.

The commentor also asserts that New Jersey has completely abandoned any clean fuel requirements for heavy duty fleet vehicles. The commentor questions why emission reduction credits generated from the NJCF program or the NLEV program should be used for mobile sources, when New Jersey fails to control emissions from heavy duty trucks, which would be included in the Clean Fuel Fleet Program. If all vehicles and stationary sources are subject to emissions reductions, the commentor states that there seems to be a significant omission of the exercise of regulatory authority in disregarding heavy duty truck emissions.

Response: The Clean Air Act allows states to opt out of the federal CFFP with an equivalent substitute, as the commentor points out. EPA is directed to approve the State's opt out SIP revision provided it meets the statutory requirements of equivalent long term reductions through a provision or provisions not otherwise required by Act, which New Jersey has done. In enforcing the requirements of the Clean Air Act, EPA consistently works to afford as much flexibility to states in meeting those requirements, and does not second-guess state policy choices regarding how to achieve attainment.

Regarding the comment that New Jersey has abandoned clean fuel requirements for heavy duty fleet vehicles, again, EPA abstains as much as possible from dictating states' policy choices regarding which sources to regulate, as long as they meet requirements of Clean Air Act. This applies to the degree to which the substitute NJCF program does or does not target heavy duty fleet vehicles, as long as the program will achieve equivalent reductions, which EPA has determined that it will.

Comment: NJDEP has not satisfied the federal criteria in Section 182(C)(4)(B) of the Clean Air Act, which requires that ''the Administrator may approve of such revisions only if it consists exclusively of provisions other than those required under this Act for the area.'' The commentor asserts that the reason OTC-LEV fails as an adequate substitute is that the adoption of the OTC-LEV program was required throughout the Ozone Transport Region (OTR) in order to bring certain areas of the OTR into ozone attainment pursuant to Section 184(c)(1) of the Clean Air Act. Therefore, the commentor wrote, New Jersey was compelled to adopt this LEV requirement, making such a LEV program a Clean Air Act requirement and unavailable for use as a substitute federal CFFP measure. The commentor further believes that comparison to OTC-LEV in an equivalency demonstration is misplaced because New Jersey anticipated participation in NLEV, employing OTC-LEV only as a fall-back measure if NLEV did not become effective. Lastly the commentor states that New Jersey cannot use OTC-LEV as a backstop because as adopted by the State, OTC-LEV can only become effective in New Jersey if a threshold of other state LEV programs is reached.

Response: The Clean Air Act directs EPA to approve a substitute program if it achieves long-term reductions in emissions of ozone-producing and toxic air pollutants equivalent to those that would have been achieved by the federal CFFP or the portion of the federal CFFP for which the measure is to be substituted, and is not otherwise required by the Clean Air Act. EPA maintains that both the NJCF program, and its backstop, the NLEV program will assure emissions reductions at least equivalent to the federal CFFP and neither program is otherwise required by the Clean Air Act.

New Jersey originally intended to opt out of the federal CFFP with the LEV program in a submittal dated May 15, 1994. Although EPA could not take action to approve that submittal because the LEV regulation was only in the proposal stage at that time, New Jersey intended to adopt a LEV program and to use it as a federal CFFP opt out measure before it was compelled to adopt such a program for any other reason (see 62 FR 61948 under Section I. Background for further detail on the State's earlier submissions).

Subsequent to New Jersey's original intended opt out with LEV, on December 19, 1994 EPA approved a petition by the OTC to require OTC-LEV, or an equivalent substitute, e.g. NLEV, throughout the OTR. However, as stated in the November 20, 1997 **Federal Register** notice, a Federal Circuit Court has since remanded that requirement. [*Virginia* v. *EPA*, No. 95–1163 (D.C. Cir. March 11, 1997)]. The Court's vacatur of OTC-LEV, and the equivalent NLEV, as a SIP requirement of the OTR States effectively made these programs ''not otherwise required by the Act'' and thus eligible for use by the States as a

substitute measure, as permitted under Section 182(c)(4) of the Clean Air Act.

EPA rejects the assertion that the proposed approval's comparison to OTC-LEV in an equivalency demonstration is misplaced. Rather, EPA believes that the equivalency demonstration, and the analysis of the demonstration, was appropriate. The analysis examined the effect of federal CFFP operation concurrent to operation of either OTC-LEV (also referred to as the State LEV and ''California'' LEV program) or NLEV, in recognition that one or the other would be in effect through the long term. Results of the examination yielded the quantity of emissions reductions necessary to be achieved by the substitute (or its backstop) for it to be equivalent to the federal CFFP. The substitute meets the equivalency requirement because New Jersey has committed to bring about the sale of additional clean vehicles which will reduce as much emissions as the federal CFFP would have, to track those reductions on a regular basis and to substitute emission reductions from the backstop NLEV program if necessary.

The commentor's assertion that New Jersey cannot use OTC-LEV as a backstop because its effectiveness is dependant on a certain threshold of other state LEV programs is invalidated because NLEV is the effective backstop (see section I. of this action), and does not rely on such a threshold.

Comment: The commentor asserts that NJDEP's LEV program lacks State enforceability because the NJLEV rule excludes from enforcement action any failure to comply with the fleet average requirement.

Response: New Jersey had indicated that if it had eventually operated the OTC-LEV program, active program enforcement would have been provided if it was determined necessary for compliance subsequent to implementation. However, this issue is now moot since New Jersey has opted into NLEV (see the above response to comment and also section I. of this approval).

Comment: NJDEP has not adequately documented an equivalency demonstration for the long-term emission reductions which would have been associated with a light duty federal CFFP. Although NJDEP stated, and EPA agreed in its proposed approval, that an explicit demonstration was unnecessary because of the duplicative nature LEV program operation, the commentor states that the Clean Air Act does not make this exception to the State's duty to establish the equivalency of any substitute program. New Jersey is ''guesstimating'' that it will achieve the equivalent reductions. There are no quantifiable methods established to demonstrate that there will be ''equivalent'' reductions.

Response: Clean Air Act section 182(c)(4)(B) states that the EPA Administrator shall approve a federal CFFP substitute measure ''that in the Administrator's judgement will achieve long-term reductions in ozone-producing and toxic air emissions equal to those achieved under part C of title II, or the percentage thereof attributable to the portion of the clean-fuel vehicle program for which the revision is to substitute.'' Thus the Clean Air Act does not explicitly require the State to document an equivalency demonstration, as the commentor asserts, but rather defers to EPA's judgement of the long-term equivalency of the substitute measure. In judging the equivalency of the NJCF, for the purpose of comparison, EPA (and the State) set out to determine the long-term emissions reductions which would have been achieved by operation of the light duty federal CFFP in New Jersey. EPA concluded that those reductions would be negligible to zero because light duty federal CFFP purchase requirements would duplicate existing, further reaching NLEV sales requirements in New Jersey (vehicle emission standard requirements of both programs are essentially identical). Therefore, since in EPA's judgement the amount of long-term reductions attributable to the light duty federal CFFP would be zero, a demonstration that the light duty federal CFFP portion of the substitute program will achieve at least zero reductions would be superfluous and is unnecessary.

The commentor asserts that there are no quantifiable methods established to demonstrate that there will be equivalent reductions. However, as detailed in EPA's proposed NJCF Program approval at 62 FR 61961, New Jersey performed a modeling analysis which determined that the federal CFFP substitute must achieve approximately 4.5 tons per day of NOx and VOC combined by 2010 in order to achieve equivalent reductions. The State further determined that the requisite reductions can be achieved through acquisition of 50,750 medium heavy duty clean vehicles by 2010. As detailed above, New Jersey has initiated an automated tracking system to track clean fueled vehicle purchases and conversions associated with the NJCF program throughout the State beginning in 1998. The reader is referred to the subsection titled ''Vehicle Tracking System'' under section III. C. of this notice, and to the proposal at 62 FR 61952 for further information on the tracking system. The State has committed in its SIP submittal that it will monitor its progress toward procurement of that number and type of vehicles on a regular basis, and will backstop any shortfall with NLEV emission reductions if that goal is not reached by 2010.

Comment: Regarding claims that the NJCF Program will still create a shortfall as compared to the light duty federal CFFP, New Jersey believes that any loss of emission reduction benefits that would occur from gasoline powered LEVs operated on Federal RFG rather than the fuel that they were certified to operated on (e.g., California RFG) would be relatively small in the long-term. There is no basis other than the anticipation by NJDEP that in the long-term, more vehicles will be operating on alternative fuels and to support that assertion. The commentor requests that this basis for satisfying this shortfall in needed emissions reduction, be further explained.

Response: The commentor is referring to New Jersey's further examination of the relative effects of programs associated with the Light Duty Vehicle Analysis, discussion of which can be found under section III. B. of EPA's February 20, 1997 proposed approval (see 62 FR 61948). As explained above, EPA has judged that light duty federal CFFP emissions reductions would be at most negligible due to concurrent operation of NLEV in New Jersey. However, in its SIP submittal, New Jersey went further to discuss qualitatively the potential effects of operation of LEVs on Federal RFG vs. California RFG. California RFG is the fuel for which gasoline-powered CARB LEVs are certified to operate on. New Jersey stated, and EPA agreed, that in the aggregate, long-term loss of emissions benefit from operating CARB certified LEVs on Federal RFG would likely be small, if any. EPA believes this is especially true when considering that in the long term, Federal RFG phase 2 (effective throughout New Jersey on January 1, 2000) will be in place. Federal RFG phase 2 will be substantially cleaner than both conventional gasoline and Federal RFG phase 1, and closer in composition to California RFG, specifically with respect to sulfur levels. Sulfur in gasoline inhibits the performance of catalytic converters, which are used on all current gasoline-fueled vehicles to reduce VOCs, carbon monoxide and NOx. EPA may soon propose gasoline sulfur standards which would result in sulfur levels lower than Federal RFG phase 2 levels, to be implemented in the long term.

The commentor asserts that the only basis for the assumption that in the long term more vehicles will be operating on alternative fuels (and thus reduce the number of cleaner gasoline-powered vehicles) is New Jersey's anticipation of such. EPA disagrees with this assertion, and further believes that the State has thoroughly established that basis through the provision of the NJCF Program elements. The NJCF Program will both assure and encourage alternative fuel and AFV development and use through elements such as EPAct purchase mandates and the Incentive Development Program. The reader is referred to section III. C. of this notice and the proposed approval at 62 FR 61951 for further detail regarding the NJCF Program elements. Additionally since the publication of the NJCF Program proposed approval, New Jersey supplemented its SIP revision with a March 30, 1998 letter from NJDEP which details further enhancements to the NJCF program. These include: an ATV Incentive Plan which will encourage the purchase of ULEV and cleaner technology vehicles; plans for a Mobile Source Outreach Strategy for the Northeast, which includes a LEV component; and a broadening of State alternative fueling station use to include access by local governments, contingent on NJCF Program approval in the SIP.

Comment: The State did not properly preserve its right to Opt Out of the federal CFFP as it did not indicate any specific substitute measures that would be used to achieve the required reductions. The NRDC Appellate Court Decision does not allow any preservation of this option.

Response: The commentor is asserting that failure to specify an opt out program prior to May 1992 means that the State can no longer opt out of the federal CFFP. EPA has interpreted that states' continued ability to opt out now does not depend on them having submitted such a specification prior to May of 1992. As stated in EPA's proposed approval of the NJCF program published on November 20, 1997 at 62 FR 61948, in its decision that EPA's conditional approval policy was contrary to law [*NRDC* v. *EPA*, 22 F.3d. 1125 (D.C. Cir. 1994)], the court did not want to penalize states for their reliance on EPA's actions. Therefore, EPA is considering all relevant submissions made thus far by the State that are intended to substitute for the federal CFFP. Moreover, EPA has interpreted that the May 1992 deadline is a deadline without a consequence, and therefore there is no time constraint regarding EPA's approval of such an opt out program.

V. Summary of Action

In this final rule, EPA is approving New Jersey's SIP revision submitted to fulfill the federal Clean Fuel Fleet requirements of the Clean Air Act. EPA believes New Jersey's Clean Fleet program, backstopped by the adopted New Jersey LEV program implementing NLEV is an adequate substitute for the federal Clean Fuel Fleet program under section 182(c)(4).

VI. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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. If the mandate is unfunded, EPA must 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 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. This action does not involve or impose any requirements that affect Indian Tribes Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already

imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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

D. Submission to Congress and the Comptroller General

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

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 11, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: September 30, 1998.

William J. Muszynski,

Acting Regional Administrator, Region III.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(65) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(65) Revision to the New Jersey State Implementation Plan (SIP) for ozone, submitting a New Jersey Clean Fleets program with Ozone Transport Commission Low Emission Vehicle (OTC–LEV) program as an effective backstop, substituted for the Clean Fuel Fleet program, dated February 15, 1996, March 29, 1996, and March 6, 1997, submitted by the New Jersey Department of Environmental Protection (NJDEP).

(i) Incorporation by reference. Title 7, Chapter 27, Subchapter 26, ''Ozone Transport Commission Low Emission Vehicles Program,'' effective December 18, 1995.

(ii) Additional material.

(A) Letter dated February 15, 1996 from NJDEP Commissioner Shinn to Region 2 Administrator Jeanne M. Fox transmitting first version of NJCF program.

(B) Letter dated March 29, 1996 from NJDEP Commissioner Shinn to Region 2 Administrator Jeanne M. Fox supplementing February 15, 1996 submittal.

(C) ''SIP Revision for the Attainment and Maintenance of the Ozone National Ambient Air Quality Standards, New Jersey Clean Fleets (NJCF) SIP,'' March 6, 1997.

(*1*) NJCF Appendix D: ''New Jersey Clean Fleets (NJCF) Program (1996 Action Plan Recommendations).''

(*2*) NJCF Appendix H: Response to Public Comments, NJCF Program, dated February 14, 1997.

(*3*) February 20, 1998 letter from Sharon Haas, Principal Environmental Specialist, NJDEP, to George Krumenacker, Transportation Services Specialist I, Bureau of Transportation Services, New Jersey Department of Treasury.

(*4*) March 25, 1998 Memo from Colleen Woods, Acting Director, Motor Vehicle Services, to Sharon Haas, Principal Environmental Specialist, NJDEP.

3. In § 52.1605 the table is amended by adding a new entry for Subchapter 26 under the heading ''Title 7, Chapter 27'' to the table in numerical order to read as follows:

§ 52.1605 EPA-approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
*	*	*	* * * *
Title 7, Chapter 27			

State regulation	State effective date	EPA approved date	Comments
* *	*	*	* * *
Subchapter 26, ''Ozone Transport Commission Low Emission Vehicles Program''.	12/18/95	Nov. 10, 1998, 63 FR 62955.	Approves Subchapter 26 ''OTC–LEV program'' which as adopted states that New Jersey will not implement its California LEV program in the event that EPA finds National LEV to be ''in-effect.'' EPA's March 2, 1998 National LEV in-effect finding thus makes National LEV the effective program contained in Subchapter 26. Subchapter 26 is approved here as an effective enforceable backstop to voluntary New Jersey Clean Fleets program.

* * * * *

[FR Doc. 98–29968 Filed 11–9–98; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50632A; FRL–6042–2]

RIN 2070–AB27

Significant New Uses of Certain Chemical Substances; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA issued a document (FR Doc. 98–22441) in the **Federal Register** of August 20, 1998 issuing significant new use rules (SNURs) for 73 substances. This document inadvertently did not assign an exemption to notification requirements for a substance subject to one of these SNURs. EPA did not intend to omit this exemption to notification requirements. This action is necessary in order to issue the correct notification requirements.

DATES: This document is effective on November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–531, 401 M St., SW., Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a document (FR Doc. 98–22441) in the **Federal Register** of August 20, 1998 (63 FR 44562) (FRL–5788–7) which inadvertently did not assign an exemption to notification requirements for a substance for which a SNUR was issued. This correction adds the exemption to notification requirements for § 721.9719.

I. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule does not impose any requirements. It only implements a correction to the Code of Federal Regulations. As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*., or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) or Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). In addition, since this type of action does not require any proposal, no action is needed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq*.).

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), 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. If the mandate is unfunded, EPA must provide to OMB, 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. This rule does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

II. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 28, 1998.

Ward Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

In FR Doc. 98–22441 published on August 20, 1998 (63 FR 44562) make the following correction:

§ 721.9719 [Corrected]

On page 44583, in the first column, in § 721.9719(a)(2)(i), beginning in the third line, ''(a), (b), (c), (d), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(5).'' is corrected to read ''(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(5).''.

[FR Doc. 98–29813 Filed 11–9–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–57; RM–9251]

Radio Broadcasting Services; Center & Jacksonville, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 272C2 for Channel 272A at Jacksonville, Texas, and modifies the license for Station KLJT at Jacksonville, to specify operation on Channel 272C2, in response to a petition filed by Robert W. Shivey. *See* 63 FR 24158, May 4, 1998. The coordinates for Channel 272C2 at Jacksonville are 31–52–52 and 95–09–30. To accommodate the substitution at Jacksonville, we shall also substitute Channel 263A for Channel 272A at Center, Texas, and modify the license for Station KDET accordingly. The coordinates for Channel 263A are 31–42–13 and 94–06–05. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 14, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–57, adopted October 21, 1998, and released October 30, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 272A and adding Channel 272C2 at Jacksonville and by removing Channel 272A and adding Channel 263A at Center.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–30074 Filed 11–9–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–7; RM–9211 & RM–9261]

Radio Broadcasting Services; Roxton, TX and Soper, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 243A to Soper, Oklahoma, in response to a counterproposal filed by Soper Broadcasting Company. Lake Broadcasting, Inc. originally proposed the allotment of Channel 274A at Roxton, Texas, but withdrew its interest in response to the *Notice. See* 63 FR 6144, February 6, 1998. The coordinates for Channel 243A at Soper are 34–01–56 and 94–45–55. There is a site restriction 6.5 kilometers (4.0 miles) west of the community. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 14, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–7, adopted October 21, 1998, and released October 30, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Soper, Channel 243A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–30073 Filed 11–9–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–52; RM–9239]

Radio Broadcasting Services; Hague, NY, Addison, VT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of John Anthony Bulmer, substitutes Channel 229C3 for Channel 229A, reallots Channel 229C3 from Hague, NY, to Addison, VT, as the community's first local aural service, and modifies Station WWFY's construction permit accordingly. *See* 63 FR 20562, April 27, 1998. Channel 229C3 can be allotted to Addison, Vermont, in compliance with the Commission's minimum distance separation requirements, with respect to all domestic allotments, with a site restriction of 14.2 kilometers (8.8 miles) west, at coordinates 44–02–30 North Latitude; 73–28–00 West Longitude, to accommodate petitioner's desired transmitter site. Addison is located within 320 kilometers of the U.S.-Canadian border and the allotment will result in a short-spacing to Station CBM–FM, Channel 228C1, Montreal, Quebec, Canada. Therefore, the allotment has been concurred in by the Canadian Government as a specially-negotiated short-spaced allotment. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 14, 1998.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–52, adopted October 21, 1998, and released October 30, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Hague, Channel 229A.

3. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by adding Addison, Channel 229C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–30072 Filed 11–9–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–127; RM–9303]

Radio Broadcasting Services; Boulder, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 299A to Boulder, Montana, in response to a petition filed by Boulder Broadcasting Company. *See* 63 FR 39805, July 24, 1998. The coordinates for Channel 299A at Boulder are 46–14–18 and 112–07–06. Canadian concurrence has been obtained for this allotment. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 14, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–127, adopted October 21, 1998, and released October 30, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Boulder, Channel 299A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–30071 Filed 11–9–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 385

[FHWA Docket Nos. MC–94–22 and MC–96–18; FHWA–97–2252]

RIN 2125–AC71

Safety Fitness Procedures

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; corrections.

SUMMARY: The FHWA is making corrections to the November 6, 1997, final rule on Safety Fitness Procedures. The final rule established a means of determining whether a motor carrier has complied with the fitness requirements of the Motor Carrier Safety Act of 1984. The final rule included several minor errors which this document corrects.

DATES: Effective November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Hill, Vehicle and Operations Division, Office of Motor Carrier Research and Standards, (202) 366–4009, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours a day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Background

On November 6, 1997, the FHWA published a final rule incorporating the agency's safety fitness rating methodology (SFRM) as an appendix to 49 CFR part 385, Safety Fitness Procedures (62 FR 60035). The SFRM is used to measure the safety fitness of motor carriers against the standard contained in 49 CFR Part 385. The final rule also included a procedure which provides motor carriers with a 45-day period during which a proposed rating can be challenged before it becomes effective. The final rule included several minor errors.

Errors in Final Rule

There are references to commercial motor vehicles used to transport ''15 or more passengers, including the driver,'' in the Summary, Discussion of Comments, Rulemaking Analysis, and Appendix B to Part 385. The definition of a ''commercial motor vehicle'' in § 390.5 includes a passenger-carrying threshold which reads as follows: ''The vehicle is designed to transport more than 15 passengers, including the driver.'' Therefore, the wording used in the rule includes vehicles that are not subject to the FMCSRs. To correct this problem, the agency is replacing ''15 or more passengers, including the driver'' with ''more than 15 passengers, including the driver.''

In addition, the vehicle out-of-service (OOS) rate was omitted from section II.A.2 of Appendix B. The first sentence in this section currently reads ''If a carrier's vehicle OOS rate is less than percent, the initial factor rating will be *satisfactory*.'' The sentence is being revised to read ''If a carrier's vehicle OOS rate is less than 34 percent, the initial factor rating will be *satisfactory*.''

The motor carrier Rating Table in section III.A. of the Appendix is being revised to replace ''0'' with ''1'' on the third line of the first column. As revised, the table indicates that 1 unsatisfactory factor rating and 2 or fewer conditional factor ratings, will result in an overall safety rating of conditional.

Under section III.B. of the Appendix, Proposed Safety Rating, the word ''OR'' was omitted between ''Your proposed safety rating is SATISFACTORY'' and ''Your proposed safety rating is CONDITIONAL.'' The words ''safety'' and ''days'' were omitted from the sentence following ''Your proposed safety rating is CONDITIONAL.'' The sentence is being revised to read as follows: ''The proposed safety rating will become the final safety rating 45 days after you receive this notice.''

Under section VII of the Appendix, List of Acute and Critical Regulations, §§ 391.87(f)(5) through 391.115(c) are being deleted to conform to a final rulemaking for technical amendments which was published on July 11, 1997 (62 FR 37150). That rule removed Subpart H (Controlled Substances Testing) of 49 CFR Part 391 because the FHWA's alcohol and controlled substances regulations are now codified at 49 CFR Part 382. Subpart H included §§ 391.81–391.125, and the list of acute and critical regulations is therefore being amended to remove the references to these sections.

It has been brought to our attention that the discussion of preventable accidents in section II.B.(e) of Appendix B may be subject to misinterpretation. If a carrier has a proposed or current unsatisfactory accident factor rating, and the carrier believes the accident factor would not be unsatisfactory if evaluated on the basis of a preventable accident rate, it should seek an administrative review under § 385.15. Some readers apparently believe that motor carriers who contend that an accident was not preventable are required to present the FHWA with a very detailed analysis or investigation of the incident, perhaps based on the work of accident reconstructionists and attorneys. That was not the agency's intention. Although there is nothing to prevent a carrier from submitting extensive evidence of non-preventability, the FHWA believes that a copy of an accident report prepared by a government agency would generally be sufficient, providing the report did not identify any actions the driver could have taken to prevent the accident. The carrier could offer any additional information or explanation it considered appropriate. For example, the driver of a commercial motor vehicle (CMV) that is struck from behind when it stops at a toll booth, or from the side when crossing an intersection on a green light, has no realistic opportunity to avoid the accident.

Rulemaking Analyses and Notices

This final rule makes minor corrections to the November 6, 1997, final rule concerning safety fitness procedures. Since the amendments to the final rule are simply corrections, the FHWA finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to promulgate this final rule without notice and comment rulemaking and to make it effective on the date of publication in the **Federal Register** pursuant to 5 U.S.C. 553(d)(3).

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866. The agency has also determined that this action is not a significant regulatory action under the Department of Transportation's regulatory policies and procedures. This final rule is clerical in nature and does not include substantive changes to the November 6, 1997, final rule concerning safety fitness procedures.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities and has determined that it will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (the Act) (Pub. L. 104–4) requires each agency to assess the effects of its regulatory actions on State, local, and tribal governments and the private sector. Any agency promulgating a rule likely to result in a Federal mandate requiring expenditures by a State, local, or tribal government or by the private sector of $100 million or more in any one year must prepare a written statement incorporating various assessments, estimates, and descriptions that are delineated in the Act. The FHWA has determined that the changes in this rule will not have an impact of $100 million or more in any one year.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that

this rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 385

Highway safety, Motor carriers, and Safety fitness procedures.

Issued on: October 29, 1998.

Gloria J. Jeff,

Deputy Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulations, Chapter III, Appendix B to Part 385 as set forth below:

PART 385—SAFETY FITNESS PROCEDURES

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

Authority: 49 U.S.C. 104, 504, 521(b)(5)(A), 5113, 31136, 31144, and 31502; 49 CFR 1.48.

2. Appendix B to Part 385 is amended by revising section II.A.(a)2., the motor carrier safety table in section III.A., and sections III.B.(a) and III.B.(c); and in section VII by removing the citations and text for §§ 391.87(f)(5) through 391.115(c), to read as follows:

Appendix B to Part 385—Explanation of Safety Rating Process

* * * * *

II. Converting CR Information Into A Safety Rating

* * * * *

A. Vehicle Factor

(a) * * *

2. If a carrier's vehicle OOS rate is less than 34 percent, the initial factor rating will be *satisfactory.* If noncompliance with an acute regulation or a pattern of noncompliance with a critical regulation is discovered during the examination of Part 396 requirements, the factor rating will be lowered to *conditional.* If the examination of Part 396 requirements discovers no such problems with the systems the motor carrier is required to maintain for compliance, the Vehicle Factor remains *satisfactory.*

* * * * *

III. Safety Rating

A. Rating Table

* * * * *

MOTOR CARRIER SAFETY RATING TABLE

Factor ratings		Overall Safety rating
Unsatisfactory	Conditional	
0	2 or fewer	Satisfactory
0	more than 2	Conditional
1	2 or fewer	Conditional
1	more than 2	Unsatisfactory
2 or more	0 or more	Unsatisfactory

B. Proposed Safety Rating

(a) The proposed safety rating will appear on the CR. The following appropriate information will appear after the last entry on the CR, MCS–151, part B.

''Your proposed safety rating is SATISFACTORY.''

OR

''Your proposed safety rating is CONDITIONAL.'' The proposed safety rating will become the final safety rating 45 days after you receive this notice.

OR

''Your proposed safety rating is UNSATISFACTORY.'' The proposed safety rating will become the final safety rating 45 days after you receive this notice

* * * * *

(c) Proposed *unsatisfactory* safety ratings will indicate that, if the *unsatisfactory* rating becomes final, the motor carrier will be subject to the provision of § 385.13, which prohibits motor carriers rated *unsatisfactory* from transporting hazardous materials requiring placarding or more than 15 passengers, including the driver.

* * * * *

[FR Doc. 98–30105 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

[Docket No. 950427117–8275–04; I.D. No. 100598B]

RIN 0648–AH97

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS notifies fishermen that it has extended the authorization for shrimp trawlers to use limited tow times in the inshore waters of Alabama as an alternative to the otherwise required use of Turtle Excluder Devices (TEDs) through November 30, 1998. Without this extension, the authorization would have expired November 6, 1998. NMFS has been notified by the Director of the Marine Resources Division of the Alabama Department of Conservation and Natural Resources (Alabama Director) that debris conditions in Alabama's inshore waters resulting from the passage of Hurricane Georges have persisted or even worsened. Because the use of TEDs may continue to be impracticable, NMFS has extended the authorization to use limited tow times. The intent of this extension is to provide adequate protection for threatened and endangered sea turtles when debris conditions may make TED-use impracticable.

DATES: This extension is effective from November 5, 1998 through November 30, 1998. Comments on this notification are requested, and must be received by December 7, 1998.

ADDRESSES: Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 813–570–5312, or Barbara A. Schroeder, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take of these species, as a result of shrimp trawling activities, have been documented in the Gulf of Mexico and along the Atlantic. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 227.72. Existing sea turtle conservation regulations (50 CFR part 227, subpart D) require most shrimp trawlers operating in the Gulf and Atlantic areas to have a NMFS-approved TED installed in each net rigged for fishing, year round.

The regulations provide for the use of limited tow times as an alternative to the use of TEDs for vessels with certain specified characteristics or under certain special circumstances. The provisions of 50 CFR 227.72 (e)(3)(ii) specify that the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), may authorize ''compliance with tow time restrictions as an alternative to the TED requirement, if [he] determines that the presence of algae, seaweed, debris or other special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable.'' The provisions of 50 CFR 227.72(e)(3)(i) specify the maximum tow times that may be used when authorized as an alternative to the use of TEDs. The tow times may be no more than 55 minutes from April 1 through October 31 and no more than 75 minutes from November 1 through March 31. NMFS has selected these tow time limits to minimize the level of mortality of sea turtles that are captured by trawl nets that are not equipped with TEDs.

Recent Events

On September 27, Hurricane Georges hit the Mississippi and Alabama coasts. The hurricane remained nearly stationary over the coastal area and South Alabama for about two days and deposited as much as 36 inches of rain on some areas. The combination of heavy rains and hurricane storm surge produced severe flooding in south Mississippi and South Alabama rivers.

The Alabama Director stated in a September 30, 1998, letter to the NMFS Southeast Regional Administrator that the flooding ''has deposited a tremendous amount of debris in Alabama's bays.'' He further stated that the ''inordinate amount of debris is causing extraordinary difficulty with the performance of TEDs in these areas'' and that ''the debris clogs the TEDs making them inoperable for the exclusion of turtles and reduces the catch of shrimp.'' His letter requested that NMFS use its authority to allow the use of 55–minute tow times as an alternative to TEDs for a 30-day period in Alabama's inshore waters that are open to shrimping.

As a result of the special environmental conditions that may have made trawling with TED-equipped nets impracticable, the Assistant Administrator issued an emergency notification to authorize the use of restricted tow times as an alternative to the use of TEDs in the inshore waters of Alabama (63 FR 55053, October 14, 1998). That notification was effective from October 7, 1998 through November 5, 1998.

The Alabama Director recently informed the NMFS Southeast Regional Administrator in a November 3, 1998 letter that debris conditions in Mississippi Sound have been worsening as debris has been flushed out of Mobile Bay and into Mississippi Sound. Shrimpers continue to collect large amounts of debris, but many areas remain untrawlable. The Alabama Director reports that shrimp trawlers are generally not able to work closer than one-half mile from shore due to the large amounts of nearshore debris. He requested that the authorization to use limited tow times be extended to November 30, 1998, to allow additional time to remove the debris.

Special Environmental Conditions

The Assistant Administrator finds that special environmental conditions following Hurricane Georges have persisted in Alabama inshore waters and may make trawling with TED-equipped nets impracticable. Therefore, the Assistant Administrator, by this notice, extends the authorization to use restricted tow times as an alternative to the use of TEDs in the inshore waters of Alabama. The State of Alabama is continuing to monitor the situation and is cooperating with NMFS in determining the ongoing extent of the debris problem in Alabama inshore waters. Moreover, Alabama's enforcement officers have assisted with the enforcement of the restricted tow times. In his November 3, 1998, letter, the Alabama Director reported that shrimpers have given the Alabama enforcement officers excellent cooperation in following the tow time limits. He stated that Alabama enforcement officers will continue to monitor the area for the duration of this exemption extension. Ensuring compliance with tow time restrictions is critical to effective sea turtle protection, and the Alabama Director's commitment to provide additional enforcement of the tow time restrictions is an important factor enabling NMFS to issue this authorization.

Continued Use of TEDs

NMFS encourages shrimp trawlers in Alabama inshore waters who are authorized under this notification to use restricted tow times to continue to use TEDs if possible. NMFS studies have shown that the problem of clogging by seagrass, algae or by other debris is not unique to TED-equipped nets. When fishermen trawl in problem areas, they may experience clogging with or without TEDs. A particular concern of fishermen, however, is that clogging in a TED-equipped net may hold open the turtle escape opening and increase the risk of shrimp loss. On the other hand, TEDs also help exclude certain types of debris and allow shrimpers to conduct longer tows.

NMFS' gear experts provide several operational recommendations to fishermen to maximize the debris exclusion ability of TEDs that may allow some fishermen to continue using TEDs without resorting to restricted tow times. NMFS has had good experience with hard TEDs made of either solid rod or hollow pipe that incorporate a bent angle at the escape opening and recommends use of this type of TED, in a bottom-opening configuration, to help exclude debris. In addition, the installation angle of a hard TED in the trawl extension is an important performance element in excluding debris from the trawl. High installation angles can result in debris clogging the bars of the TED; NMFS recommends an installation angle of 45°, relative to the normal horizontal flow of water through the trawl, to optimize the TED's ability to exclude turtles and debris. Furthermore, the use of accelerator funnels, which are allowable modifications to hard TEDs, is not recommended in areas with heavy amounts of debris or vegetation. Lastly, the webbing flap that is usually installed to cover the turtle escape opening may be modified to help exclude debris quickly: the webbing flap can either be cut horizontally to shorten it so that it does not overlap the frame

of the TED or be slit in a fore-and-aft direction to facilitate the exclusion of debris.

All of the preceding recommendations represent legal configurations of TEDs for shrimpers in the inshore areas of Alabama (not subject to special requirements effective in the Gulf Shrimp Fishery-Sea Turtle Conservation area). This notice extends, through November 30, 1998, the authorization to use restricted tow times in the inshore waters of Alabama as an alternative to the otherwise required use of TEDs. This notice does not authorize any other departure from the TED requirements, including any illegal modifications to TEDs. In particular, if TEDs are installed in trawl nets, they may not be sewn shut.

Alternative to Required Use of TEDs

The authorization provided by this notification applies to all shrimp trawlers that would otherwise be required to use TEDs in accordance with the requirements of 50 CFR 227.72(e)(2) who are operating in inshore waters of the State of Alabama, in areas which the State has opened to shrimping. ''Inshore waters'', as defined at 50 CFR 217.12, means the marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts, 1:80,000 scale) and as described in 33 CFR part 80. Instead of the required use of TEDs, shrimp trawlers, through November 30, 1998, may opt to comply with the sea turtle conservation regulations by using restricted tow times. If they do so, their tow times must not exceed 75 minutes measured from the time trawl doors enter the water until they are retrieved from the water.

Additional Conditions

NMFS expects that shrimp trawlers operating in Alabama inshore waters without TEDs in accordance with this authorization will retrieve debris that is caught in their nets and return it to shore for disposal or to other locations defined by the Alabama Director, rather than simply disposing the debris at sea. Proper disposal of debris should help the restoration of the shrimping grounds in the wake of the hurricane. Shrimp trawlers are reminded that regulations under 33 U.S.C. 1901 *et seq.* (Act to Prevent Pollution From Ships) may apply to disposal at sea.

Alternative to Required Use of TEDs; Termination

The Assistant Administrator, at any time, may modify this authorization through publication of a notice in the **Federal Register**, if the Assistant Administrator determines that the alternative authorized is not sufficiently protecting turtles, as evidenced by observed lethal takes of turtles aboard shrimp trawlers, elevated sea turtle strandings, or insufficient compliance with the authorized alternative. If necessary, the Assistant Administrator could modify the affected area or impose any necessary additional or more stringent measures, including more restrictive tow times or synchronized tow times. The Assistant Administrator may also terminate this authorization at any time for these same reasons, or if compliance cannot be monitored effectively, or if conditions do not make trawling with TEDs impracticable. This authorization will expire automatically at midnight on December 1, 1998, unless it is extended through another notice published in the **Federal Register**.

Classification

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

The Assistant Administrator has determined that this action is necessary to respond to an emergency situation to allow more efficient fishing for shrimp, while providing adequate protection for endangered and threatened sea turtles pursuant to the ESA and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator finds that there is good cause to waive prior notice and opportunity to comment on this extension. It would be contrary to the public interest to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from providing relief within the necessary timeframe. The Assistant Administrator finds that an unusually large amount of debris exists in the aftermath of Hurricane Georges, has created a special environmental conditions that may make trawling with TED-equipped nets impracticable and that the use of limited tow times for the described area and time instead of TEDs would adequately protect threatened and endangered sea turtles. Notice and comment are contrary to the public interest in this instance

Because this action relieves a restriction, under 5 U.S.C. 553(d)(1) it is not subject to a delay in effective date.

As prior notice and an opportunity for public comment are not required to be provided for this notification by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 *et. seq.*, are inapplicable.

The Assistant Administrator prepared an Environmental Assessment (EA) for the final rule requiring TED use in shrimp trawls and creating the regulatory framework for the issuance of notices such as this (57 FR 57348, December 4, 1992). Copies of the EA are available (see **ADDRESSES**).

Dated: November 5, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–30127 Filed 11–5–98; 2:36 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 217
Tuesday, November 10, 1998

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

Office of the Secretary

7 CFR Parts 15 and 15d

RIN 0503–AA15

Nondiscrimination in USDA Conducted Programs and Activities

AGENCY: Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The United States Department of Agriculture (USDA or the Department) is proposing to revise its regulations governing nondiscrimination in programs and activities conducted by the Department. On April 23 1996, the Department published an earlier proposal to do so in the **Federal Register** (61 FR 17851). Specifically, the Department proposed to remove the current regulation on this subject found at 7 CFR part 15, subpart B, and place it in a new part 15d; clarify that the regulation applies to all Department-conducted programs and activities, not just to direct assistance programs; add familial status and marital status to the protected classes contained in the regulation; add a provision on Department agencies' compliance efforts; reflect that the Assistant Secretary for Administration has been delegated the authority to make final determinations as to whether prohibited discrimination occurred and the corrective action required to resolve complaints; remove the Appendix to the regulation that lists the Department programs subject to these provisions; and make other clarifications to the regulation.

A final rule never was issued because USDA was in the midst of a comprehensive evaluation of its civil rights program. Now that that review is complete, it is appropriate to continue with promulgation of the rule. However, because USDA is proposing several significant changes since the proposed rule, the Department has determined that it would be appropriate to again publish a proposed rule so that the public will have an opportunity to comment on these changes. These changes include the addition of sexual orientation and public assistance status as protected classes and a prohibition against reprisal for exercising rights under the rule.

DATES: Comments must be received by December 10, 1998.

FOR FURTHER INFORMATION CONTACT: Alyce Boyd-Stewart, Chief, Policy and Planning Division, Office of Civil Rights, (202) 720–5212; or Ron Walkow, Attorney-Advisor, Office of the General Counsel, (202) 720–6056. If a copy of this final rule in an alternate format, e.g., braille, is necessary, contact 202–720–0353 (voice or TDD).

SUPPLEMENTARY INFORMATION: Subpart B currently contains the Department's civil rights regulations for programs and activities conducted by the Department. As noted in the Department's earlier proposed rule, the rule is in need of revision. The Department's earlier proposal to revise the rule was published April 23, 1996, and a 30-day comment period followed. The Department now is proposing additional changes, as well as modifications to the previous proposal. The instant proposal should be read alongside the earlier proposal for a complete explanation of what USDA is proposing.

The only comment the Department received on the earlier proposal was from a non-profit law center that represents farmers and rural communities. The commenter supports the addition of compliance reviews to the regulation and states that having the Department supplement an agency investigation of a complaint is a positive step that will ensure that complaints are fully investigated

However, the commenter urged the Department to abandon the 180-day period for filing complaints or, in the alternative, to adopt a longer limitations period. The commenter argued that victims of discrimination often do not recognize the full effect of discrimination for several months and that many such victims will appropriately deal with their difficulties through other means before filing a complaint. The commenter further argued that there is no legal basis for the 180-day limit while under the Equal Credit Opportunity Act (ECOA), for example, an individual has two years to file a lawsuit. Thus, the commenter argued, the limitations period may have the effect of encouraging litigation against the Department even when an individual would prefer to go through the administrative complaint process.

The Department has determined that it will retain the 180-day filing period for complaints in this proposed rule. The reasons for this retention are set out below. Nothing in those reasons is intended to indicate that full and fair consideration will not be given to comments on this matter received in response to this proposed rule. The 180-day period is intended to have individuals bring allegations of discrimination to the attention of the Department in a timely manner so that the Department can adequately address such allegations. A 180-day period also is used in the Department's Title VI regulations, which deal with allegations of discrimination against recipients of assistance through the Department. See 7 CFR 15.6. Indeed, this period is common to every Department and Federal agency that has a Title VI regulation. We believe the same period should apply to the Department conducted activities as that which applies to its Title VI activities.

In addition, the proposed regulation addresses the commenter's concern that some individuals may not recognize the full effects of discrimination within 180 days. Specifically, the regulation states that the 180-day period begins to run ''from the date the person knew or should have known of the alleged discrimination * * *.'' Thus, the 180-day period will not begin to run until that individual knows, or at least should have known, that he or she was discriminated against. To emphasize, the filing period does not necessarily begin to run from the date of a particular action that may be discriminatory, for example the denial of a loan, but rather ''from the date the person knew or should have known of the alleged discrimination * * *.''

In addition, the proposed regulation states that the 180-day limit can be extended ''for good cause.'' Thus, a complainant who files a complaint past the 180-day period will be given an opportunity to explain the delay and, in appropriate circumstances, retain the opportunity to present his or her complaint.

The commenter argued that the 180-day period may be shorter than the

period some complainants have to file a lawsuit. However, the Department does not believe that this alone is sufficient cause for lengthening the filing period. In regard to the commenter's point about ECOA, it should be noted that Part 15d is not an ECOA administrative procedure, nor an administrative procedure pursuant to any other Federal statute. The proposed regulation merely informs the public of the Department's nondiscrimination policy and of an individual's right to file a complaint if he or she believes that he or she has been discriminated against by the Department so that the Department can take appropriate action. Of course, the availability of 15d and ECOA often will be co-extensive, and it often will be the case that a 15d complaint will afford the Department an opportunity to provide relief to a complainant that may avoid an ECOA lawsuit. The fact that the 180-day period has run does not prohibit an individual from filing an ECOA lawsuit, nor does it prohibit the Department from settling a potential ECOA lawsuit before such a suit is initiated. There is no exhaustion of administrative requirement to filing an ECOA lawsuit. In addition, the fact that a complainant may have a legitimate ECOA claim might be the basis for applying the ''good cause'' exception to the filing period.

The commenter next contended that the ''good cause'' exception to the 180-day filing period should be explained in 15d rather than in internal guidance. After reviewing the commenter's arguments, the Department does not agree with this contention. The ''good cause'' exception is intended to give discretion to the Director of the Office of Civil Rights (CR) or his or her designee to extend the filing period when appropriate. The exception is not intended to create a rigid rule as to when ''good cause'' has been met. Thus, it would not be appropriate to address the specifics of good cause in the published regulation. Any complainant who files after the 180-day period may explain the reason for the delay and in appropriate circumstances an extension will be granted. The fact that a claim may be time barred does not prohibit the Department from looking into the allegations and taking appropriate action as to internal matters. The Department believes that an enumeration of the elements of the good cause exception may deter some individuals from filing complaints because they mistakenly believe that their situation is not covered by the listed elements. A simple good cause exception will allow for individuals to file complaints who believe that they have a good reason for filing after the 180-day period.

Finally, the commenter objected to proposed section 15d.5. After further review, the Department has determined that this provision should not be included in the rule. As is explained in more detail in the preamble to the original proposed rule, the purpose of this section was to make clear the intent and legal effect of the regulation. However, the Department believes that the statement of intent contained in the preamble to the earlier proposed rule is sufficient notice as to the intent of the prohibition of discrimination contained in the rule. In short, proposed section 15d.5 is more confusing than illuminating.

The Department also is proposing two additional protected classes in addition to those discussed in the earlier proposal. As stated in that proposal, the Department's policy has been that the protected classes contained in the rule should, at a minimum, reflect those classes protected by the various civil rights laws. Thus, the earlier proposal stated that the rule should include marital status and familial status since these classes are included in the Fair Housing Act (marital status) and ECOA (marital and familial status). However, the Department neglected the fact that ECOA also prohibits discrimination against individuals because all or part of their income is derived from any public assistance program. 15 U.S.C. 1691(a)(3). Accordingly, the Department is proposing to add ''public assistance status'' to the list of protected classes contained in the regulation.

The Department also is proposing to add sexual orientation as a protected class in the rule. Beginning with the Secretary's Civil Rights Policy Statement issued in February 1997, the Secretary of Agriculture has included sexual orientation as a prohibited basis for discrimination against both USDA employees and customers in his civil rights policy statements. In doing so, the Secretary has determined that treatment of USDA employees and customers based on sexual orientation is treatment that is unfair and inequitable. Based on this policy and Executive Order 13087 in which the President directed a uniform policy prohibiting discrimination on this basis in Federal employment, USDA is about to add sexual orientation as a protected class to its complaint process for USDA employees. In order to be consistent, the Department is now proposing to add sexual orientation to the instant rule so that USDA customers who believe that they have been discriminated against by USDA employees will be able to file a complaint with USDA, have this complaint investigated and resolved and, if appropriate, have corrective action provided.

The Department also is proposing that a provision on reprisal be added to the rule. It is USDA's policy that no individual who files a complaint or otherwise participates in the complaint process under the proposed rule be subject to reprisal or retaliation. In addition, no person who opposes any practice prohibited by the rule in any manner should be subjected to such reprisal. By including a prohibition against reprisal in the rule, individuals who believe that they have been subject to reprisal will be able to file a complaint with CR, have this complaint investigated and resolved and, if appropriate, have corrective action provided. Finally, this is consistent with all Federal civil rights complaint processes, which uniformly contain a prohibition against reprisal.

The earlier proposed rule stated that the authority to make final determinations, including corrective action, would be delegated to the Assistant Secretary for Administration. However, after a reevaluation of this proposal, the Department is proposing that this authority should be delegated to the Director, CR. Thus, the proposed rule reflects this change. In addition, the proposed provision on compliance similarly reflects that the Director has been delegated the authority for enforcement of this rule.

Finally, the Department is proposing to modify section 15d.4(c) from the form it originally was proposed so that it is less confusing. The purpose of this provision is to make clear that complaints submitted under this part alleging discrimination based on disability will be processed pursuant to 7 CFR Part 15e, which contains the Department's regulations implementing the Rehabilitation Act as it applies to federally conducted programs.

This proposed rule has been determined to be ''not-significant'' for purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget. USDA certifies that this final rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.). USDA also certifies that this final rule would not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. 44 U.S.C. Chapter 35.

USDA is providing a 30-day comment period for this rule. Comment is invited

on all aspects of the proposal, including the appropriateness and effect of the proposed changes, and any additional or alternative measures that would serve the goals of USDA as outlined in the proposal.

List of Subjects in 7 CFR Parts 15 and 15d

Nondiscrimination.

Accordingly, The Department of Agriculture proposes to amend Title 7 of the Code of Federal Regulations. Subtitle A, as follows:

PART 15—[AMENDED]

1. The authority citation for part 15 continues to read as follows:

Authority: 5 U.S.C. 301; 29 U.S.C. 794.

2. Part 15, subpart B (§§ 15.50–15.52) and the appendix thereto is proposed to be removed.

3. Part 15, subpart C (§§ 15.60–15.143) is proposed to be redesignated as part 15, subpart B.

4. A new part 15d is proposed to be added to read as follows:

PART 15d—NONDISCRIMINATION IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE

Sec.

Authority: 5 U.S.C. 301.

§ 15d.1 Purpose.

The purpose of this part is to set forth the nondiscrimination policy of the United States Department of Agriculture in programs or activities conducted by the Department, including such programs and activities in which the Department or any agency thereof makes available any benefit directly to persons under such programs and activities.

§ 15d.2 Discrimination prohibited.

(a) No agency, officer, or employee of the United States Department of Agriculture shall exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, religion, sex, age, national origin, marital status, familial status, public assistance status, sexual orientation, or disability under any program or activity conducted by such agency, officer or employee.

(b) No person shall be subjected to reprisal for opposing any practice prohibited by this part or for filing a complaint or participating in any other manner in a proceeding under this part.

§ 15d.3 Compliance.

The Director of the Office of Civil Rights shall evaluate each agency's efforts to comply with this part and shall make recommendations for improving such efforts.

§ 15d.4 Complaints.

(a) Any person who believes that he or she (or any specific class of individuals) has been, or is being, subjected to practices prohibited by this part may file on his or her own, or through an authorized representative, a written complaint alleging such discrimination. No particular form of complaint is required. The complaint must be filed within 180 calendar days from the date the person knew or reasonably should have known of the alleged discrimination, unless the time is extended for good cause by the Director of the Office of Civil Rights or his designee. Any person who complains of discrimination under this part in any fashion shall be advised of his or her right to file a complaint as herein provided.

(b) All complaints under this part should be filed with the Director of the Office of Civil Rights, United States Department of Agriculture, Washington, DC 20250, who will investigate the complaints. The Director of the Office of Civil Rights will make final determinations as to the merits of complaints under this part and as to the corrective actions required to resolve the complaints. The complainant will be notified of the final determination on his or her complaint.

(c) Any complaint filed under this part alleging discrimination on the basis of disability will be processed under Part 15e of this chapter.

Dated: October 20, 1998.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 98–28699 Filed 11–9–98; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1214

[FV–96–705–APR]

Proposed Kiwifruit Research, Promotion, and Consumer Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Supplementary Notice of Proposed Rulemaking.

SUMMARY: This proposed rule would amend an October 17, 1997, proposed rule which described the proposed Kiwifruit Research, Promotion, and Consumer Information Order (Order). Under the proposed Order, producers and importers would pay an assessment not to exceed 10 cents per 7-pound tray of kiwifruit to the proposed National Kiwifruit Board (Board). The Board would conduct a generic program of research, promotion, and consumer information to maintain, expand, and develop markets for kiwifruit under the supervision of the Department of Agriculture (USDA). The amended proposed rule would revise the Order by eliminating the requirement that 51 percent of the members of the Board be domestic kiwifruit producers to reflect the June 23, 1998, amendments to the National Kiwifruit Research, Promotion, and Consumer Information Act.

DATES: Comments must be received by January 11, 1999. A referendum order establishing the voting period for the referendum and the representative period for voter eligibility will be published at a later date in the **Federal Register**.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to the Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service (AMS), USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0244. Comments should be submitted in triplicate and will be made available for public inspection at the above address during regular business hours. Comments may also be submitted electronically to: malinda__e__farmer@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this rule may be found at: www.ams.usda.gov/fv/rpdocketlist.htm. Pursuant to the Paperwork Reduction Act of 1995 (PRA), send comments regarding the merits of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to the above. Comments concerning the information collection associated with this action should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Stacey L. Bryson, Research and

Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0244, fax (202) 205–2800, telephone (888) 720–9917, or e-mail at stacey__l__bryson@usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under the National Kiwifruit Research, Promotion, and Consumer Information Act, Subtitle V of the Federal Agricultural Improvement and Reform Act of 1996 [Pub. L. 104–127], enacted April 4, 1996, hereinafter referred to as the Act. The Act was amended on June 23, 1998 [Pub. L. 105–185]. Previous documents in connection with this proceeding: a proposed rule with a request for comments dated September 23, 1996 [61 FR 51378, October 2, 1996] (first proposed rule) and a proposed rule dated October 8, 1997 [62 FR 54314, October 17, 1997] (second proposed rule). In addition, a proposed rule was issued on September 23, 1996 [61 FR 51391, October 2, 1996], to establish procedures for conducting referenda on the proposed Order. The referendum procedures were made final on November 17, 1997 [61 FR 54310, October 17, 1997].

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would 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 § 558 of the Act as amended [7 U.S.C. 7467], after an Order is implemented, a person subject to the Order may file a petition with the Secretary of Agriculture (Secretary) stating that the Order or any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After such hearing, the Secretary will make a ruling on the petition. The Act as amended provides that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Executive Order 12866

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

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Agency has examined the impact of the previously published proposed rules on small entities.

The kiwifruit industry initiated this program by asking the U.S. Congress (Congress) to pass legislation to provide authority for a generic program of promotion and research for kiwifruit. Congress found that this program is vital to the welfare of kiwifruit producers and other persons concerned with producing, marketing, and processing kiwifruit.

This program is intended to: develop and finance an effective and coordinated program of research, promotion, and consumer information regarding kiwifruit; strengthen the position of the kiwifruit industry in domestic and foreign markets and maintain, develop, and expand markets for kiwifruit; and to treat domestically produced kiwifruit and imported kiwifruit equitably.

Industry support for the program will be determined during the referendum to be conducted by USDA. Dates for the referendum will be announced by the Secretary no later than 60 days before the referendum.

This program was initiated by industry, industry must approve the program in a referendum in advance of its implementation, and industry members would serve on the Board that would administer the program under USDA's supervision. In addition, any person subject to the program may file with the Secretary a petition stating that the Order or any provision is not in accordance with law and requesting a modification of the Order or an exemption from the Order. Administrative proceedings were discussed earlier in this proposed rule.

In this program, handlers would be required to collect assessments from producers, file reports, and submit assessments to the Board. Importers would be required to remit to the Board assessments not collected by the U.S. Customs Service (Customs) and to file reports with the Board. Exempt producers and importers would be required to file an exemption application. Producers, importers, and exporters (persons outside of the United Sates who export kiwifruit into the United States) would participate in the nomination process and be eligible to serve as members on the Board. While the proposed Order would impose certain recordkeeping requirements on handlers and importers, information required under the proposed Order could be compiled from records currently maintained. The forms require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act as amended. The estimated cost in providing information to the Board by the 760 respondents would be $7,842.50 or $10.32 per respondent per year.

USDA would oversee program operations and, if the program is implemented, every 6 years would conduct a referendum to determine whether the kiwifruit industry supports continuation of the program.

There are approximately 600 producers, 45 importers, and 65 handlers of kiwifruit that would be covered by the program. In addition, exporters would be eligible to serve on the Board.

Small agricultural service firms, which would include the handlers and importers who would be covered under the Order, have been defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than $5 million and small agricultural producers, those who would be required to pay assessments, as those having annual receipts of $500,000. Only one handler has been identified to have $5 million or more in annual sales. In addition, there are 10 producers at or over the $500,000 annual sales receipts threshold. Accordingly, the majority of handlers and producers may be classified as small entities. While USDA does not have specific information regarding the size of importers, it may be concluded that the majority of importers may be classified as small entities.

Exporters were not included in the initial Regulatory Flexibility Analysis regarding the impact of previously published proposed rule. In order to have all the data necessary for a more comprehensive analysis of the effects of the proposed Order, we are inviting comments concerning the potential effects on exporters. In particular, we are interested in determining the number and size of exporters that may incur benefits or costs from implementation of this proposed rule and information on the expected benefits or costs.

USDA is aware of producers in California, Oregon, Pennsylvania, and South Carolina, and importers that

import kiwifruit from Chile, New Zealand, and Italy. USDA believes that these individuals would include a majority of the producers and importers that would be covered under the program. USDA is also aware that some individuals may be producers of ''hardy kiwifruit,'' a different species of kiwifruit, known as *Actinidia arguta,* which would not be covered under the proposed program. However, USDA does not have specific information regarding how many individuals produce only the ''hardy kiwi'' versus the ''fuzzy'' most common kiwifruit species, known as *Actinidia deliciosa.*

Other names for the species *Actinidia arguta* (hardy kiwifruit) are baby kiwifruit, kiwifruit grape, and kiwiberry. There are no official statistics on this commodity because it is such a small and new crop. According to comments received on the first proposed rule, this species is grown in California, Oregon, Pennsylvania, Washington, and Virginia. The production in Virginia and Pennsylvania is not commercially marketed. Oregon production on 5 acres was a total of 216,000 pounds over the last 3 years. It takes 3 to 5 years to harvest the first crop. The hardy kiwifruit is hand-harvested and packed in 6-ounce berry baskets like raspberries. The harvesting, storage, handling, consumer recognition, and marketing of this species are completely different from the most common fuzzy kiwifruit or *Actinidia deliciosa.* All references to ''kiwifruit'' in this document, therefore, mean the *Actinidia deliciosa* species.

California is the source of practically all of the kiwifruit produced in the United States. The California kiwifruit industry consists of approximately 600 producers and 65 handlers. Production rose by 94 percent between 1984 and 1997, increasing from 36 million pounds to 70 million pounds annually. In contrast, from 1984 through 1997, the value of production fell 7 percent.

Most U.S. kiwifruit is utilized fresh. Fresh utilization almost tripled between 1984 and 1997, growing from 24 million pounds to 62.6 million pounds. The season average price from 1984 through 1997 fell 52 percent, declining from $0.54 per pound to $0.26 per pound. Exports accounted for about 19 percent of U.S. fresh utilization during that period.

In 1997, California production was 70.0 million pounds. The value of the 1997 crop was $16.5 million of which $16.2 million represented fresh utilization. In 1996, production was 63.0 million pounds with a crop value of $13.2 million. In 1997, 98 percent of production was utilized in fresh outlets.

U.S. exports of fresh kiwifruit totaled 13.1 million pounds in 1997. The value was $7.1 million. The major destinations included Canada (66 percent of the U.S. poundage exported), Republic of Korea (18 percent), and Mexico (7 percent).

In 1997, kiwifruit imports totaled 75.9 million pounds, with a value of $20.7 million. About 80 percent of imports came from Chile, 14 percent from Italy, and 4 percent from New Zealand. Fresh kiwifruit per capita consumption in 1996 was 0.55 pounds, down slightly from 0.56 pounds per capita during the 1995 season.

The proposed kiwifruit Order would authorize assessments on producers (to be collected by first handlers) and on importers (collected by Customs) of up to 10 cents per 7-pound tray. The Board, which would be composed of kiwifruit producers, importers, and exporters, must recommend the assessment rate, which is subject to oversight by the Secretary, as are the other rules and regulations. At the maximum rate of assessment, the Board would collect $1.97 million to administer the program. Assessments on domestic fresh-market production (62.6 million pounds) are expected to represent 45 percent of the income under the program.

The effect of the assessments will depend on the actual rate recommended by the Board. At the maximum rate, it is expected that the effect on producers would be approximately 5 percent of their average return. However, the Order would exempt producers of less than 500 pounds of kiwifruit a year, importers of less than 10,000 pounds a year, and kiwifruit sold for processing and sold directly to consumers. Furthermore, under the proposed program, the Board could authorize different reporting schedules based on different marketing practices. This could be of benefit specially to small businesses for whom a less frequent reporting period would diminish the reporting burden.

USDA will keep all of these individuals informed throughout the program implementation and referendum process to ensure that they are aware of and are able to participate in the implementation process. In addition, trade associations and related industry media will receive news releases and other information regarding the implementation and referendum process. Furthermore, all the information will be available electronically.

If the program is implemented, the Board would develop guidelines for compliance with the program.

In addition, the kiwifruit industry would nominate individuals to serve as members of the Board. These individuals would recommend the assessment rate, programs and projects, a budget, and any other rules and regulations that might be necessary for the administration of the program. USDA would ensure that the nominees represent the kiwifruit industry as specified in the Act as amended.

There is a federal marketing order program for kiwifruit in California which is administered by the Kiwifruit Administrative Committee (KAC), also under USDA supervision. KAC is composed of California producers. The marketing order regulations for grade, size, maturity, and containers are designed to assure consumers of consistently good quality California kiwifruit. The marketing order and its regulations allow small farmers to compete effectively in an increasingly competitive marketplace. Under the marketing order, handlers are required to submit information pertaining to and pay assessments on kiwifruit shipments. The assessment rate recommended by the KAC is derived by dividing anticipated expenses by expected shipments of kiwifruit. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the KAC's expected expenses. On August 21, 1998, the assessment rate and assessable unit were decreased from $0.0225 per tray or tray equivalent to $0.05 per 22-pound volume fill container or equivalent. The assessment rate of $0.0225 per tray or tray equivalent approximates $0.0675 per 22-pound volume fill container. Each handler pays an average of $2,000 per year in assessments. Under the marketing order, the estimated reporting burden per year for individual handlers is estimated at 4.2 hours or $42.00 per handler.

The California Kiwifruit Commission (CKC) administers a California state program for kiwifruit. The CKC is composed of kiwifruit producers, packers, and handlers. In 1996–97 producers paid $1.4 million in assessments at a rate of $0.17 per tray or tray equivalent. The CKC has set an assessment rate of $0.17 per 22-pound volume fill container for the 1998–99 season.

The collection of information required under the proposed order for the research and promotion program would be similar to the marketing order program. However, the KAC and the

Board would keep their information separate to comply with confidentiality requirements under the programs. Furthermore, using the same source of information would reduce the burden on producers and handlers of all sizes.

In the past, the CKC participated in a voluntary promotional program with Chilean kiwifruit growers to jointly advertise kiwifruit in the United States. This program, however, does not provide enough resources to be as effective as a national generic program could be. In addition, other importing countries and private companies spend considerable amounts of resources in kiwifruit advertising. The purpose of the program is not to restrict individual promotions but to add a generic promotion program for kiwifruit where industry segments pull together resources for the benefit of the whole industry.

The absence of a generic program for kiwifruit may have a negative impact on the industry because other commodity groups, specifically for competing fruits, conduct promotion activities to maintain and expand their markets. The kiwifruit industry would be at a disadvantage because individual producers, handlers, and importers would not be able to implement and finance such a program without cooperative action. In addition, Agricultural Issues Forum, a group of 15 California commodity organizations, conducted a study in mid-1995 and reported in early 1996 that consumers strongly support the concept of farmers working together to promote their products, conduct product research, engage in consumer education programs, and set quality standards and inspect products. Consumers said that they benefitted from these activities and were more inclined to buy those products. Eighty-one percent of the farmers surveyed said that mandated programs were either very important or important in promoting products. The survey was conducted among farmers, public policy leaders, consumers, retailers, and allied industries.

In order to conduct the Regulatory Flexibility Analysis regarding the impact of the proposed Order on small entities, the first proposed rule invited comments concerning the potential effects of the proposed Order. No comments were received concerning the impact of the proposed Order on small entities. However, as explained earlier in this rule and in the second proposed rule, ''hardy kiwifruit'' producers would not be covered under the program because the species *Actinidia arguta* is considerably different from the most common ''fuzzy kiwifruit'' species *Actinidia deliciosa*. This would have a positive impact on small businesses since most of the producers of ''hardy kiwifruit'' are considered small businesses.

In addition, it is expected that the previously published proposed Order would be very beneficial to the kiwifruit industry, especially small businesses who would not be able to afford a nationwide comprehensive program individually.

It is estimated that there are approximately 645 kiwifruit producers and importers who would be eligible to vote in the referendum. It would take an average 15 minutes for each voter to read the voting instructions and complete the referendum ballot. The total burden on the total number of voters will be 29 hours.

Paperwork Reduction Act

In accordance with OMB regulations [5 CFR Part 1320] which implement the PRA [44 U.S.C. Chapter 35], and as stated in the previous proposed rules, the information collection and recordkeeping requirements that would be imposed by the proposed Order were approved by OMB on December 16, 1996.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0581–0093, except for the background questionnaire (no. 2 below) which is assigned OMB number 0505–0001.

Expiration Date of Approval: November 30, 2000, for 0581–0093 and November 30, 1998, for 0505–0001.

Type of Request: Revision of a currently approved information collection for research and promotion programs.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act as amended.

While the proposed Order would impose certain recordkeeping requirements on handlers and importers, information required under the proposed Order could be compiled from records currently maintained. The provisions of the proposed Order have been carefully reviewed and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize information already maintained by handlers under the federal marketing order program in California and the CKC. The information needed would be taken from financial reports or sales receipts already maintained.

The forms require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act as amended. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out reports and remitting assessments to the Board. The forms would be simple, easy to understand, and place as small a burden as possible on the person required to file the information.

The most recent information indicates that there would be 647 respondents affected by the nomination of Board members provisions of the proposed Order, which is related to this amended proposed rule: 600 producers, 45 importers or exporters, and 2 public member nominees. The estimated cost in providing information related to the nomination of Board members by the 647 respondents would be $1,200 or $1.86 per respondent. This total has been estimated by multiplying 120 (total burden hours requested) by $10.00 per hour, a sum deemed to be reasonable should the respondents be compensated for their time.

The information collection requirements that are related to the nomination sections of the proposed Order which are affected by this amended proposed rule are:

(1) *Nominations.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hour per response.

Respondents: Producers, importers, and exporters.

Estimated Number of Respondents: 647.

Estimated Number of Responses per Respondent: 1 every 3 years (0.33).

Estimated Total Annual Burden on Respondents: 108 hours.

(2) *A background questionnaire for nominees.*

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response for each producer, importer, exporter, and public member nominated to the Board.

Respondents: Producers, importers or exporters, and public member

Estimated Number of Respondents: 22 for the initial nominations to the Board and approximately 12 respondents annually thereafter.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 22 hours for the initial nominations to the Board and 12 hours annually thereafter.

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of functions of the Order and the Department's oversight of the program, including whether the information will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

OMB is required to make a decision concerning the collection of information contained in this rule between 30 and 60 days after publication. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Comments concerning the burden for the nomination process should reference OMB No. 0581–0093. Comments addressing the nomination background information form should reference OMB No. 0505–0001. In addition, the docket number, date, and page number of this issue of the **Federal Register** also should be referenced. Comments should be sent to the USDA Docket Clerk and the OMB Desk Officer for Agriculture at the addresses and by the deadline listed above.

Background

The Act became effective on April 4, 1996. It authorizes the Secretary to implement a promotion program for kiwifruit, which would be administered by an 11-member industry board appointed by the Secretary.

Under the program, producers of 500 or more pounds of kiwifruit per year and importers of 10,000 pounds or more of kiwifruit per year would be assessed at a rate not to exceed 10 cents per 7-pound tray of kiwifruit. There are approximately 600 producers, 45 importers, and 65 handlers of kiwifruit that would be covered by the program. In addition to the *de minimis* exemptions for producers and importers, U.S. kiwifruit for processing would be exempt from assessment. The maximum assessment rate would generate about $2 million annually. Assessments would be used to pay for: research, promotion, and consumer information; administration, maintenance, and functioning of the Board; and expenses incurred by the Secretary in implementing and administering the Order, including referendum costs.

The first handler would be responsible for the collection of assessments from the producer and payment to the Board. Handlers would be required to maintain records for each producer for whom kiwifruit is handled, including kiwifruit produced by the handler. In addition, handlers would be required to file reports regarding the collection, payment, or remittance of the assessments. All information obtained through handler reports would be kept confidential.

Customs would collect assessments on imported kiwifruit and would remit those assessments to the Board for a fee.

The Act requires the Secretary to conduct a referendum during the 60-day period preceding the proposed Order's effective date. Kiwifruit producers of 500 pounds or more and importers of 10,000 pounds or more annually would vote in the referendum to determine whether they favor the Order's implementation. The proposed Order must be approved by a majority of eligible producers and importers voting in the referendum, and producers and importers favoring approval must produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum. Subsequent referenda would be conducted every 6 years after the program is in effect or when requested by 30 percent of kiwifruit producers and importers covered by the Order. The Secretary would give serious consideration to requests for referendum when requested by a group representing a considerable amount of the volume covered by the program.

The Act provides for the submission of proposals for a kiwifruit research, promotion, and consumer information Order by industry organizations or any other interested person affected by the Act. The Act requires that such a proposed Order provide for the establishment of a promotion Board. The promotion Board would be composed of 11 voting members, who would be producers, importers or exporters, and a public member. Each member would have an alternate. Members would serve a three-year term of office. No member may serve more than two consecutive three-year terms.

The Act provides that any person subject to the Order may file with the Secretary a petition stating that the Order or any of its provisions is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The individual would be given the opportunity to a hearing on the petition.

The Secretary issued a news release on May 6, 1996, requesting proposals for an initial Order or portions of an initial Order by May 17, 1996. A second news release, extending the deadline for submission of proposals to June 3, 1996, was issued on May 24, 1996.

An entire proposed Order was submitted by the CKC. In addition, a partial proposal was submitted by the New Zealand Kiwifruit Marketing Board (NZKMB). The NZKMB represents all New Zealand exporters of kiwifruit into the United States.

In addition to minor editorial changes, USDA modified the CKC's proposed text to conform with provisions of the Act and to clarify certain other provisions of the proposed order. USDA published the CKC's and the NSKMB's proposals for public comment in the **Federal Register** on October 2, 1996 [61 FR 51378]. The deadline for comments was December 2, 1996. Seventy-five comments were received. Comments were received from eight Chilean kiwifruit growers or grower associations, 31 Chilean kiwifruit exporters or exporter associations, one international exporter association, 26 importers of Chilean kiwifruit, two U.S. growers, the CKC, four universities, and the embassies of Australia and New Zealand. Seventy-three of the comments opposed implementation of the Order as proposed on October 2, 1996.

USDA analyzed the comments and made several changes to the proposed Order to address commenters' concerns. One of the commenters' issues, however, was not addressed because the provisions at issue were consistent with the then relevant provisions of the Act. This issue related to the composition of the initial Board and the requirement that 51 percent of the members of the Board be domestic producers, regardless of the percentage of assessments paid by importers. These provisions are contained in § 1214.30 of the proposed Order.

A revised proposed Order was published in the **Federal Register** on October 17, 1997 [62 FR 54314]. At the same time, USDA announced that a referendum on the proposed Order, as revised by that proposed rule, would be conducted.

After the publication of that proposed rule, the CKC requested the Secretary to delay the referendum until the Act could be amended to remove the requirement that 51 percent of the Board members be domestic producers. Subsequently, on June 23, 1998, the Act was amended [Pub. L. 105–185] to remove the 51 percent requirement as well as to provide that future

amendments of the Order could become effective without an industry referendum. The first amendment requires changes in § 1214.30 of the proposed Order. In addition, a conforming change is needed in § 1214.76 to indicate that the Act has been amended.

Therefore, this action would revise §§ 1214.30 and 1214.76 to reflect the amendments to the Act.

In the earlier proposed rules, § 1214.30(a) provided that the initial Board would be composed of six producers, four importers and/or exporters, and one public member. This section would be revised by this proposed rule to state that, for the initial Board, the number of producer and importers or exporters on the Board would be apportioned, by the Secretary, on the basis of the average annual kiwifruit production and imports over the preceding four years.

To determine the four-year average, we have calculated domestic production and imports for the last four seasons (1994–95 through 1997–98) as shown in the accompanying chart.

U.S. PRODUCTION AND IMPORTS OF KIWIFRUIT

Year [1]	Domestic production [2] (million pounds)	Imports (million pounds)	Total (million pounds)	Percent domestic	Percent imports
1997–98	62.6	[3] 79.3	[3] 141.9	[3] 44.1	[3] 55.9
1996–97	52.2	83.2	135.4	38.6	61.4
1995–96	65.0	81.1	146.1	44.5	55.5
1994–95	75.0	79.4	154.4	48.6	51.4
4-year average	.....	.....	.....	43.9	56.1

[1] September 1 through August 31.
[2] Fresh utilization because the proposed program would not cover kiwifruit for processing.
[3] Projected; includes imports through July 1998.

Based on this analysis, the four-year average for domestic production in the U.S. fresh market is 43.9 percent, and the four-year average of imports in the U.S. fresh market is 56.1. Therefore, if the initial Board seats were allocated as of the date of this rule, the Secretary would appoint four producers, six importers or exporters, and one public member to the Board. However, if the proposed promotion program is implemented, the Secretary will use the most current information available at the time of implementation in determining the allocation of seats on the initial Board.

Section 1214.30(a) (1) and (2) stated that the Kiwifruit Board would be composed of six producers and four importers. This section has been revised to state that the Kiwifruit Board would be composed of ten producers and importers or exporters (or their representatives) based on the proportional representation of the level of domestic production and imports of kiwifruit, as determined by the Secretary.

Sections 1214.30(b) (1) and (2) stated that membership of the Board could be adjusted to accommodate changes in production and import levels of kiwifruit as long as producers comprise not less than 51 percent of the membership of the Board. These sections are revised to remove the 51 percent requirement.

In addition, this rule would revise § 1214.76 to add ''as amended,'' after the word ''Act''.

This action makes no other changes to the text of the Order provisions as they appeared in the October 1997 proposed rule.

For the Order to become effective, the Order must be approved by a majority of kiwifruit producers and importers voting in a referendum, with such majority producing or importing more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

The previously published proposed Order is summarized as follows:

Sections 1214.1 through 1214.19 of the proposed Order define certain terms, such as kiwifruit, handler, producer, and importer, which are used in the proposed Order.

Sections 1214.30 through 1214.39 include provisions relating to the establishment, adjustment, and membership; nominations; appointment; terms of office; vacancies; reimbursement; powers; and duties of the Board.

The Board would be the body organized to administer the Order through the implementation of programs, plans, projects, budgets, and contracts to promote and disseminate information about kiwifruit, under the supervision of the Secretary. Further, the Board would be authorized to incur expenses necessary for the performance of its duties and to set a reserve fund. Sections 1214.40 and 1214.50 provide information on these activities.

Sections 1214.51 through 1214.53 would authorize the collection of assessments, specify who pays them and how, and specifies persons who would be exempt from paying the assessment. In addition, it would prohibit use of funds to influence government policy or action.

The assessment rate may not exceed 10 cents per 7-pound tray of kiwifruit. The actual rate would be recommended by the Board and approved by the Secretary through regulation. Direct sales to consumers by a producer and kiwifruit for processing are exempt from assessments.

The assessment sections also outline the procedures to be followed by handlers and importers for remitting assessments; establish a 1.5 percent per month interest charge for unpaid or late assessments; and provide for refunds of assessments paid by importers who import less than 10,000 pounds of kiwifruit a year.

Sections 1214.60 through 1214.62 concern reporting and recordkeeping requirements for persons subject to the Order and protect the confidentiality of information obtained from such books, records, or reports.

Sections 1214.70 through 1214.73 describe the rights of the Secretary, authorize the Secretary to suspend or terminate the Order when deemed appropriate, and prescribe proceedings after suspension or termination.

Sections 1214.74 through 1214.77 are miscellaneous provisions including the provisions involving personal liability of Board members and employees; handling of patents, copyrights, inventions, and others; amendments to

the Order; and separability of Order provisions.

USDA will analyze all comments received in response to this proposed rule and make any necessary changes to the proposed Order. Then, as appropriate, the Secretary will issue a referendum order, which will establish the voting period, representative period, and method of voting and designate the referendum agents.

List of Subjects in 7 CFR Part 1214

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Kiwifruit, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that the proposed rule establishing Title 7 of Chapter XI of the Code of Federal Regulations and published at 62 FR 54314 on October 17, 1997, be further amended as follows:

1. In § 1214.30, paragraphs (a), (b) (1) and (2) are revised to read as follows:

PART 1214—KIWIFRUIT RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Subpart A—Kiwifruit Research, Promotion, and Consumer Information Order

* * * * *

National Kiwifruit Board

§ 1214.30 Establishment, adjustment, and membership.

(a) Establishment of National Kiwifruit Board. There is hereby established a National Kiwifruit Board of 11 members. Ten members shall be producers (or their representatives) who are not exempt from assessment, exporters (or their representatives), or importers (or their representatives) who are not exempt from assessment. One member shall be appointed from the general public. The number of members allocated to domestic producers, exporters, and importers shall be based on a proportional representation of the level of domestic production and imports of kiwifruit, as determined by the Secretary. The Secretary shall consider average annual domestic production and imports during the four years which immediately precede the effective date of the Order.

(b) Adjustment of Membership. (1) Subject to the 11-member limit, the Secretary may adjust membership on the Promotion Board to accommodate changes in domestic production and import levels of kiwifruit.

(2) At least every five years, and not more than every three years, the Promotion Board shall review changes in the volume of domestic and imported kiwifruit covered by this part. If annual kiwifruit production and imports over the preceding four years indicate that such changes in production and import levels have occurred warranting reapportionment, the Promotion Board shall recommend reapportionment of Board membership, for approval of the Secretary.

* * * * *

§ 1214.76 [Amended]

2. Section 1214.76 is amended by adding the phrase ''as amended,'' after the word ''Act''.

Dated: November 4, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98–30119 Filed 11–9–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–202–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 0070 and Mark 0100 series airplanes, that currently requires a one-time inspection for heat damage of the fuselage skin and stubwing structure; either repetitive tests of certain seals or repair of heat damage, as necessary; and eventual replacement of corrujoint seals with new, improved seals. This action would add a requirement for repetitive inspections for heat damage of the subject area, and would provide for a new optional terminating action for the repetitive inspections. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent leakage of hot air from the corrujoint seals of certain valves in the stubwings, and subsequent heat damage of the fuselage skin and stubwing structure, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by December 10, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–202–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to

Docket Number 98–NM–202–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–202–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On March 31, 1998, the FAA issued AD 98–08–01, amendment 39–10450 (63 FR 17318, April 9, 1998), applicable to certain Fokker Model F.28 Mark 0070 and Mark 0100 series airplanes. That AD requires a one-time visual inspection to detect heat damage of the fuselage skin and stubwing structure; either repetitive leak tests of the seals of the bleed air system or repair of any heat-damaged structure, as necessary; and eventual replacement of corrujoint seals with new, improved seals. That action was prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The requirements of that AD are intended to prevent the leakage of hot air from the corrujoint seals of the low- and high-pressure check valves located in the stubwings, which could result in heat damage to the fuselage skin and stubwing structure, and consequent reduced structural integrity of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, has advised the FAA that the unsafe condition addressed in AD 98–08–01 may exist or develop on certain Fokker Model F.28 Mark 0070 and Mark 0100 series airplanes despite compliance with the requirements of that AD. Based on the results of the one-time visual inspection (required by AD 98–08–01), the manufacturer has recommended, and the RLD has mandated, that a visual inspection be repeated at specified intervals to detect heat damage of the fuselage skin and stubwing connection angles in the stubwing area.

Explanation of Relevant Service Information

Fokker has issued Service Bulletin SBF100–53–087, dated November 17, 1997, which describes procedures for repetitive visual inspections to detect heat damage of the fuselage skin and stubwing connection angles in the stubwing area. This service bulletin also describes procedures for an additional detailed inspection of the fuselage skin and stubwing structure, and repair when overheat damage is detected. Accomplishment of the actions specified in Fokker Service Bulletin SBF100–53–087 is intended to adequately address the identified unsafe condition. The RLD classified Fokker Service Bulletin SBF100–53–087 as mandatory and issued Dutch airworthiness directive 1995–076/3 (A), dated November 28, 1997, in order to assure the continued airworthiness of these airplanes in the Netherlands.

Fokker also has issued Proforma Service Bulletin SBF100–36–027, including Appendix I, both dated March 21, 1997, which describes procedures for modification of the fuselage skin and stubwing structure to improve heat protection. The modification involves installing new heat shields on the fuselage skin, relocating the aft bay overheat switch, and replacing insulation blankets of the bleed air ducts with new, improved insulation blankets. This service bulletin specifies that accomplishment of the modification would eliminate the need for the repetitive inspections described in Fokker Service Bulletin SBF100–53–087. The RLD has approved Fokker Service Bulletin SBF100–36–027 and classified it as optional.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 98–08–01, amendment 39–10450 (63 FR 17318, April 9, 1998), to continue to require a one-time visual inspection to detect heat damage of the fuselage skin and stubwing structure; either repetitive leak tests of the seals of the bleed air system or repair of any heat-damaged structure, as necessary; and replacement of corrujoint seals with new, improved seals. Additionally, this proposal would require repetitive inspections of the fuselage skin and stubwing connection angles to detect heat damage, and an additional detailed inspection of the fuselage and stubwing structure and repair when heat damage is detected. This proposal also would provide for a new optional terminating action for the repetitive inspections.

FAA's Determination

Operators should note that, in consonance with the findings of the RLD, the FAA has determined that the repetitive inspections proposed by this AD can be allowed to continue in lieu of accomplishment of a terminating action. In making this determination, the FAA considers that, in this case, long-term continued operational safety will be adequately assured by accomplishing the repetitive inspections to detect heat damage to the fuselage skin and stubwing structure before the damage represents a hazard to the airplane.

Difference Between Proposed Rule and Relevant Service Information

Operators should note that Fokker Service Bulletin SBF100–53–087 specifies that heat damage of the fuselage skin should be repaired in accordance with Fokker Service Bulletin SBF100–53–084, dated July 6, 1996, which describes procedures for certain repairs of heat damage, and recommends that the manufacturer may be contacted for disposition of other repairs. This proposal would require such other repairs to be accomplished in accordance with a method approved by either the FAA or the RLD (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the RLD would be acceptable for compliance with this proposed AD.

Explanation of Changes Made to Applicability

Operators should note that the applicability of the proposed AD differs from the applicability of AD 98–08–01 in that it excludes those airplanes on which Fokker Proforma Service Bulletin SBF100–36–027 has been accomplished. The FAA has determined that accomplishment of the actions described in that service bulletin would terminate the requirements of the new repetitive visual inspections of the

fuselage skin in the left- and right-hand stubwings.

Cost Impact

The FAA estimates that 141 airplanes of U.S. registry would be affected by this proposed AD.

The one-time visual inspection that was previously required by AD 98–08–01, and retained in this AD, takes approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the one-time inspection requirement of this AD on U.S. operators is estimated to be $180 per airplane.

The seal replacement that was previously required by AD 98–08–01, and retained in this AD, takes approximately 7 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts cost approximately $80 per airplane. Based on these figures, the cost impact of the seal replacement requirement of this AD on U.S. operators is estimated to be $500 per airplane.

The repetitive inspections proposed by this AD would take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the repetitive inspections proposed by this AD on U.S. operators is estimated to be $25,380, or $180 per airplane, per inspection cycle.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10450 (63 FR 17318, April 9, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Fokker Services B.V.: Docket 98–NM–202–AD. Supersedes AD 98–08–01, Amendment 39–10450.

Applicability: Model F.28 Mark 0070 and Mark 0100 series airplanes equipped with any corrujoint seal having part number (P/N) BE20061 (Rolls-Royce P/N 3405891) or on which Fokker Proforma Service Bulletin SBF100–36–027, including Appendix 1, both dated March 21, 1997, has not been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent leakage of hot air from the corrujoint seals of the low- and high-pressure check valves located in the stubwings, and subsequent heat damage of fuselage skin and stubwing structure adjacent to bleed air system components in the stubwings, which could result in reduced structural integrity of the airplane, accomplish the following:

Restatement of Requirements of AD 98–08–01, Amendment 39–10450

(a) For Model F28 Mark 0070 and Mark 0100 series airplanes as listed in Fokker Service Bulletin SFB100–53–084, dated July 6, 1996; if equipped with any corrujoint seal having P/N BE20061 (Rolls-Royce P/N 3405891): Within 3,000 flight hours or 12 months after May 14, 1998 (the effective date of AD 98–08–01, amendment 39–10450), whichever occurs first, perform a one-time visual inspection of the fuselage skin in the left- and right-hand stubwings to detect heat damage; in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin SFB100–53–084, dated July 6, 1996.

(b) If no heat damage is found during the inspection required by paragraph (a) of this AD, prior to further flight, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(1) Replace all corrujoint seals having P/N BE20061 (Rolls-Royce P/N 3405891) at the 7th stage low-pressure and 12th stage high-pressure check valves of the left- and right-hand bleed air systems with new, improved corrujoint seals having P/N EU15969, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–36–026, Revision 1, dated July 6, 1996.

(2) Perform a leak test of each corrujoint seal at the 7th stage low-pressure and 12th stage high-pressure check valves of the left- and right-hand bleed air systems, in accordance with Part 3 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–084, dated July 6, 1996.

(i) If any leakage is found at a seal, prior to further flight, replace that seal with a new, improved seal having part number EU15969, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–36–026, Revision 1, dated July 6, 1996.

(ii) If no leakage is found at a seal, perform an additional leak test of that seal within 250 flight hours after the initial test.

(A) If no leakage is found during the additional test of the seal, within 3,000 flight hours after the additional test, replace the seal with an improved seal having P/N EU15969, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–36–026, Revision 1, dated July 6, 1996.

(B) If any leakage is found during the additional test of the seal, prior to further flight, replace the seal with a new, improved seal having P/N EU15969, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–36–026, Revision 1, dated July 6, 1996; and inspect the fuselage skin in the applicable left- or right-hand stubwing to detect heat damage, in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–084, dated July 6, 1996.

(c) If any heat damage is found during the inspection required by paragraph (a) or paragraph (b)(2)(ii)(B) of this AD, prior to further flight, perform a detailed inspection of the fuselage skin and stubwing structure to detect the extent of heat damage, in

accordance with Parts 4 and 5 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–084, dated July 6, 1996; and accomplish paragraphs (c)(1) and (c)(2) of this AD.

(1) Except as provided by paragraph (g) of this AD: Repair the affected structure in accordance with Part 6 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–084, dated July 6, 1996. And

(2) Replace all corrujoint seals having P/N BE20061 (Rolls-Royce P/N 3405891) at the 7th stage low-pressure and 12th stage high-pressure check valves of the left- and right-hand bleed air systems with new, improved corrujoint seals having P/N EU15969, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–36–026, Revision 1, dated July 6, 1996.

(d) As of May 14, 1998, no person shall install a corrujoint seal having P/N BE20061 (Rolls-Royce P/N 3405891) on any airplane.

New Requirements for This AD

(e) For Model F.28 Mark 0070 and Mark 0100 series airplanes on which Fokker Proforma Service Bulletin SBF100–36–027, including Appendix 1, both dated March 21, 1997, has not been accomplished: Perform a visual inspection of the fuselage skin in the left- and right-hand stubwings to detect heat damage, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–087, dated November 17, 1997, at the latest of the times specified in paragraphs (e)(1), (e)(2), and (e)(3) of this AD, as applicable. Repeat the inspection required by paragraph (e) of this AD thereafter at intervals not to exceed 6,000 landings.

(1) Within 6,000 landings after the effective date of this AD.

(2) Within 6 months after the effective date of this AD.

(3) Within 6,000 landings after accomplishment of the inspection required by paragraph (a) of this AD.

(f) If any heat damage is detected during any inspection required by paragraph (e) of this AD, prior to further flight, perform a detailed visual inspection to determine the extent of heat damage, in accordance with paragraph 2.B.(2) of the Accomplishment Instructions of Fokker Service Bulletin SBF100–53–087, dated November 17, 1997. Except as provided by paragraph (g) of this AD, prior to further flight, repair in accordance with the service bulletin.

Note 2: Fokker Service Bulletin SBF100–53–087, dated November 17, 1997, refers to Fokker Service Bulletin SBF100–53–084, dated July 6, 1996, as an additional source of service information for the detailed inspection procedures, repair limits, and repair procedures.

(g) If any damage is found during accomplishment of any action specified by paragraph (c)(1) or (f) of this AD, and Fokker Service Bulletin SBF100–53–084, dated July 6, 1996, or Fokker Service Bulletin SBF100–53–087, dated November 17, 1997, specifies to contact the manufacturer for an appropriate action. Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the RLD (or its delegated agent).

(h) Installation of new heat shields, relocation of the aft bay overheat switch, and replacement of the insulation blankets of the bleed air ducts with new, improved insulation blankets, in accordance with Fokker Proforma Service Bulletin SBF100–36–027, including Appendix I, both dated March 21, 1997, constitutes terminating action for the repetitive inspection requirements of paragraph (e) of this AD.

(i)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

(i)(2) Alternative methods of compliance, approved previously in accordance with AD 98–08–01, amendment 39–10450, are approved as alternative methods of compliance with paragraphs (a), (b), and (c) of this AD.

(i)(3) Airplanes repaired in accordance with alternative methods of compliance, approved previously in accordance with AD 98–08–01, are not considered exempt from the repetitive inspection requirements of paragraph (e) of this AD.

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

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

Note 4: The subject of this AD is addressed in Dutch airworthiness directive 1995–076/3 (A), dated November 28, 1997.

Issued in Renton, Washington, on November 3, 1998.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–30052 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–39–AD]

Airworthiness Directives; Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269C–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Schweizer Aircraft Corporation and Hughes Helicopters, Inc. (Schweizer) Model 269C–1 helicopters. This proposal would require a visual inspection of the bond line between the main rotor blade (blade) abrasion strip (abrasion strip) and the blade for voids, separation, or lifting of the abrasion strip; a visual inspection of the adhesive bead around the perimeter of the abrasion strip for erosion, cracks, or blisters; a tap (ring) test of the abrasion strip for debonding or hidden corrosion voids; and removal of any blade with an unairworthy abrasion strip and replacement with an airworthy blade. This proposal is prompted by four reports that indicate that debonding and corrosion have occurred on certain blades where the abrasion strip attaches to the blade skin. The actions specified by the proposed AD are intended to prevent loss of the abrasion strip from the blade and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before January 11, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–39–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Raymond Reinhardt, Aerospace Engineer, FAA, New York Aircraft Certification Office, Airframe and Propulsion Branch, Engine and Propeller Directorate, 10 Fifth Street, 3rd Floor, Valley Stream, New York 11581–1200, telephone (516) 256–7532, fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The

proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–39–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–39–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Schweizer Model 269C–1 helicopters. This proposal would require a visual inspection of the bond line between the blade abrasion strip and the blade for voids, separation, or lifting of the abrasion strip; a visual inspection of the adhesive bead around the perimeter of the abrasion strip for erosion, cracks, or blisters; a tap (ring) test of the abrasion strip for debonding or hidden corrosion voids; and removal of any blade with an unairworthy abrasion strip and replacement with an airworthy blade. This proposal is prompted by four reports that indicate that debonding and corrosion have occurred on certain blades where the abrasion strip attaches to the blade skin. This condition, if not corrected, could result in loss of the abrasion strip from the blade and subsequent loss of control of the helicopter.

Since an unsafe condition has been identified that is likely to exist or develop on other Schweizer Model 269C–1 helicopters of the same type design, the proposed AD would require a visual inspection of the bond line between the main rotor blade abrasion strip and the blade for voids, separation, or lifting of the abrasion strip; a visual inspection of the adhesive bead around the perimeter of the abrasion strip for erosion, cracks, or blisters; a tap (ring) test of the abrasion strip for debonding or hidden corrosion voids; and removal of any blade with an unairworthy abrasion strip and replacement with an airworthy blade. Repair of an affected blade's abrasion strip is considered a terminating action for the requirements of this AD.

The FAA estimates that 47 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately one-third of a work hour per helicopter to conduct the initial inspections; approximately one-third of a work hour to conduct the repetitive inspections; approximately 11 work hours to remove and reinstall a blade; and approximately 32 work hours to repair the blade; and that the average labor rate is $60 per work hour. Required parts (replacement abrasion strips) would cost approximately $57 per main rotor abrasion strip (each helicopter has three main rotor blades). Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $65,168 per year for the first year and approximately $64,228 for each of the next 5 years thereafter, assuming 24 of the affected blades (approximately 1/6 of the fleet or the blades on 8 helicopters) in the fleet are removed, repaired, and reinstalled with replacement abrasion strips each year, and that all affected helicopters are subjected to one repetitive inspection each year, including the first year.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Schweizer Aircraft Corporation and Hughes Helicopters, Inc.: Docket No. 98–SW–39–AD.

Applicability: Model 269C–1 helicopters with main rotor blades, P/N 269A1185–1, S/N S222, S312, S313, S325, S326, S327, S339, S341, S343, S346, S347, S349 through S367, S369 through S377, S379 through S391, S393, S394, S395, S397, S399, S401 through S417, S419 through S424, S426 through S449, S451 through S507, S509 through S513, S516 through S527, S529 through S540, S542, S544 through S560, S562 through S584, S586 through S595, S597 through S611, S620 through S623, S625, S628, S633, S641 through S644, S646, S653, S658, S664, S665, and S667, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the abrasion strip from a main rotor blade (blade) and subsequent loss of control of the helicopter, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS), or within 90 calendar days after the effective date of this AD, whichever is earlier, or prior to installing an affected replacement blade, and thereafter at intervals

not to exceed 50 hours TIS from the date of the last inspection or replacement installation:

(1) Visually inspect the adhesive bead around the perimeter of each abrasion strip for erosion, cracks, or blisters.

(2) Visually inspect the bond line between each abrasion strip and each blade skin for voids, separation, or lifting of the abrasion strip.

(3) Inspect each abrasion strip for debonding or hidden corrosion voids using a tap (ring) test as described in the applicable maintenance manual.

(b) If any deterioration of an abrasion strip adhesive bead is discovered, prior to further flight, restore the bead in accordance with the applicable maintenance manual.

(c) If abrasion strip debonding, separation, or a hidden corrosion void is found or suspected, prior to further flight, remove the blade with the defective abrasion strip and replace it with an airworthy blade.

(d) Repair of an affected blade's abrasion strip is considered a terminating action for the requirements of this AD. Identify the repaired blade with a white dot added adjacent to the blade S/N.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York Aircraft Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished, provided the abrasion strip has not started to separate or debond from the main rotor blade.

Issued in Fort Worth, Texas, on November 3, 1998.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–30047 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration (FAA), DOT

14 CFR Part 71

[Airspace Docket No. 97–ASW–24]

Proposed Modification to the Gulf of Mexico High Offshore Airspace Area

AGENCY: Federal Aviation Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend the Gulf of Mexico High Offshore Airspace Area. The proposed action would extend the present airspace area east and south to the boundary of the Houston Air Route Traffic Control Center (ARTCC) Flight Information Region/Control Area (FIR/CTA). Additionally, this action proposes to increase the vertical limits of the proposed airspace area from Flight Level (FL) 280 up to and including FL 600. This proposed action would provide additional airspace in which domestic air traffic procedures may be used to separate and manage aircraft operations. This proposed change would enhance the efficient utilization of that airspace.

DATES: Comments must be received on or before December 29, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW–500, Docket No. 97–ASW–24, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193–0001.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Sheri Edgett Baron, 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:

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. 97–ASW–24.'' 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 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 NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On March 2, 1993, the FAA published a final rule (58 FR 12128) which, in part, redesignated certain control areas over international waters as offshore airspace areas. The redesignations were necessary to comply with the Airspace Reclassification final rule issued on December 17, 1991 (56 FR 65638).

One of the areas affected by the March 2, 1993, final rule was the Gulf of Mexico Control Area. This area was divided vertically into two areas, one of which was redesignated as the Gulf of Mexico High Offshore Airspace Area.

In June of 1996 the FAA completed an evaluation of the airspace over the Gulf of Mexico. The evaluation was a combined effort with representatives from the FAA, Servicios a la Navegacion en El Espacio Aereo Mexicano, and other airspace users. The objective of the evaluation was, in part, to identify areas where air traffic services, air traffic operations, and utilization of airspace could be improved. One conclusion of this evaluation was the determination that system capacity would be enhanced by modifying air traffic control (ATC) procedures used to control aircraft

operations in the airspace over the Gulf of Mexico.

Currently, International Civil Aviation Organization (ICAO) oceanic ATC procedures are used to separate and manage aircraft operations that extend beyond the lateral boundary of the existing Gulf of Mexico High Offshore Airspace Area. Modifying the Gulf of Mexico High Offshore Airspace Area by extending the boundaries further east and south of the current location to the Houston ARTCC FIR/CTA, will allow the application of domestic ATC separation procedures over a larger area. This proposal to modify the offshore airspace area would enhance system capacity and allow for more efficient utilization of that airspace.

The Proposal

The FAA is proposing an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Gulf of Mexico High Offshore Airspace Area, by extending the present airspace area east and south to the Houston ARTCC FIR/CTA. The proposed modification would allow the application of domestic ATC separation procedures, in lieu of ICAO separation procedures, enhancing system capacity, and allowing for more efficient use of the airspace.

Offshore airspace area designations are published in paragraph 2003 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The offshore airspace area 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.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in accordance with the ICAO International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of Air Traffic Airspace Management, in areas outside U.S. domestic airspace is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of the document is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the FAA proposes to amend part 71 of the Federal Aviation Regulations (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 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 2003 Offshore Airspace Areas

* * * * *

Gulf of Mexico High [Revised]

That airspace extending upward from FL 280 to and including FL 600 bounded on the west, north, and east by a line 12 miles offshore and parallel to the Texas, Louisiana, Mississippi, Alabama, and Florida shorelines; bounded on the south from east to west by the southern boundary of the Jacksonville ARTCC, Miami Oceanic CTA/FIR; Merida UTA/FIR; Monterey UTA/UIR, Houston CTA/FIR; to the point of beginning, and that airspace extending upward from 18,000 feet MSL to and including FL 280 bounded on the west, north, and east by a line 12 miles offshore and parallel to the Texas, Louisiana, Mississippi, Alabama, and Florida shorelines bounded on the south from east to west by the southern boundary of the Jacksonville ARTCC, Miami Oceanic CTA/FIR, Houston CTA/FIR and lat. 26°00′00″N.

* * * * *

Issued in Washington, DC, on November 2, 1998.

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 98–29951 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 119, 121, 125, and 135

[Docket No. FAA–1998–4458; Notice No. 98–13]

RIN 2120–AG35

Prohibition on the Transportation of Devices Designed as Chemical Oxygen Generators as Cargo in Aircraft; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); correction.

SUMMARY: This document contains a correction to the NPRM published in the **Federal Register** (63 FR 45912) on August 27, 1998. The NPRM proposes to ban, in certain domestic operations, the transportation of devices designed to chemically generate oxygen, including devices that have been discharged and newly manufactured devices that have not yet been charged for the generation of oxygen, with limited exceptions.

FOR FURTHER INFORMATION CONTACT: David L. Catey, (202) 267–8166.

Correction of Publication

In proposed rule FR Doc. 98–23010, beginning on page 45912 in the **Federal Register** issue of August 27, 1998, make the following corrections:

On page 45912, in the first column, in the heading, ''[Docket No. 29318; Notice No. 98–12]'', should read ''[Docket No. FAA–1998–4458; Notice No. 98–13]''.

In the **ADDRESSES** section on page 45912, in the first column, in the fifth line, the docket number ''FAA–98–29318'', should read ''FAA–1998–4458''.

In the Comments Invited section on page 45912, in the second column, last paragraph, first line, ''Docket No. 29318'', should read ''Docket No. FAA–1998–4458''.

Issued in Washington, DC on November 4, 1998.

Donald P. Byrne,

Assistant Chief Counsel.

[FR Doc. 98–30088 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 98P–0683]

Food Labeling: Health Claims; Soy Protein and Coronary Heart Disease

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to authorize the use, on food labels and in food labeling, of health claims on the association between soy protein and reduced risk of coronary heart disease (CHD). FDA is proposing this action in response to a petition filed by Protein Technologies International, Inc. (the petitioner). The agency has tentatively concluded that, based on the totality of publicly available scientific evidence, soy protein included in a diet low in saturated fat and cholesterol may reduce the risk of CHD.

DATES: Written comments by January 25, 1999.

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

FOR FURTHER INFORMATION CONTACT: Susan M. Pilch, Center for Food Safety and Applied Nutrition (HFS–465), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4500.

SUPPLEMENTARY INFORMATION:

I. Background

On November 8, 1990, the President signed into law the Nutrition Labeling and Education Act of 1990 (the 1990 amendments) (Pub. L. 101–535). This new law amended the Federal Food, Drug, and Cosmetic Act (the act) in a number of important ways. One of the most notable aspects of the 1990 amendments was that they provided procedures whereby FDA is to regulate health claims on food labels and in food labeling.

In the **Federal Register** of January 6, 1993 (58 FR 2478), FDA issued a final rule that implemented the health claim provisions of the act (hereinafter referred to as the 1993 health claims final rule). In that final rule, FDA adopted § 101.14 (21 CFR 101.14), which sets out the rules for the authorization and use of health claims. Additionally, § 101.70 (21 CFR 101.70) establishes a process for petitioning the agency to authorize health claims about a substance-disease relationship (§ 101.70(a)) and sets out the types of information that any such petition must include (§ 101.70(d)). These regulations became effective on May 8, 1993.

In response to the 1990 amendments, FDA also conducted an extensive review of the evidence on the 10 substance-disease relationships listed in the 1990 amendments. As a result of its review, FDA has authorized claims for 8 of these 10 relationships, one of which focused on the relationship between dietary saturated fat and cholesterol and reduced risk of CHD. CHD is the most common, most frequently reported, and most serious form of cardiovascular disease (CVD) (58 FR 2739, January 6, 1993). Further, while the agency denied the use on food labeling of health claims relating dietary fiber to reduced risk of CVD (58 FR 2552), it authorized a health claim relating diets low in saturated fat and cholesterol and high in fruits, vegetables, and grain products that contain dietary fiber (particularly soluble fiber) to a reduced risk of CHD.

In the proposed rule entitled ''Health Claims and Label Statements; Lipids and Cardiovascular Disease'' (56 FR 60727, November 27, 1991), FDA set out the criteria for evaluating evidence on diet and CVD relationships. The agency focused on those aspects of the dietary lipid and CVD relationship for which the strongest scientific evidence and agreement existed. FDA noted that, because of the public health importance of CHD, identification of ''modifiable'' risk factors for CHD had been the subject of considerable research and public policy attention. The agency also noted that there is general agreement that elevated blood cholesterol levels are one of the major ''modifiable'' risk factors in the development of CHD. FDA cited Federal Government and other reviews that concluded that there is substantial epidemiologic and clinical evidence that high blood levels of total and low density lipoprotein (LDL) cholesterol are a cause of atherosclerosis and represent major contributors to CHD. Further, factors that decrease total blood cholesterol and LDL-cholesterol will also decrease the risk of CHD. FDA concluded that it is generally accepted that blood total and LDL-cholesterol levels are major risk factors for CHD, and that dietary factors affecting blood cholesterol levels affect the risk of CHD. High intakes of dietary saturated fat and, to a lesser degree, of dietary cholesterol are consistently associated with elevated blood cholesterol levels. FDA concluded that the publicly available data supported an association between diets low in saturated fat and cholesterol and reduced risk of CHD (58 FR 2739 at 2751).

Based on its review using the stated criteria, and on its consideration of comments received in response to the proposed rule entitled ''Health Claims; Dietary Fiber and Cardiovascular Disease'' (56 FR 60582), FDA concluded that the publicly available scientific information supported an association between diets low in saturated fat and cholesterol and high in fruits, vegetables, and grain products (i.e., foods that are low in saturated fat and cholesterol and that are good sources of dietary fiber) and reduced risk of heart disease (58 FR 2552 at 2572). In the 1993 dietary fiber and CVD final rule, in response to a comment regarding the apparent hypocholesterolemic properties of specific food fibers, FDA again articulated its criteria for evaluating diet and CHD relationships (58 FR 2552 at 2567). FDA agreed that

the effectiveness of naturally occurring fibers in foods in reducing the risk of CHD may be documented for specific food products. Further, the agency indicated that if manufacturers could document, through appropriate studies, that dietary consumption of the soluble fiber in a particular food has a beneficial effect on blood lipids predictive of CHD risk, they should petition for a health claim for that particular product. In response to two petitions that documented such evidence, FDA has authorized health claims for soluble fiber from certain foods and reduced risk of CHD in § 101.81 (21 CFR 101.81) (62 FR 3584 at 3600, January 23, 1997, and amended at 62 FR 15343 at 15344, March 31, 1997, and 62 FR 8119, February 18, 1998).

The present rulemaking is in response to a manufacturer's health claim petition on the relationship between soy protein and the risk of CHD.

II. Petition for Soy Protein and Reduced Risk of CHD

A. Background

On May 4, 1998, Protein Technologies International, Inc., submitted a health claim petition to FDA requesting that the agency authorize a health claim on the relationship between consumption of soy protein and the risk of CHD (Refs. 1 and 2). On August 12, 1998, the agency sent the petitioner a letter stating that it had completed its initial review of the petition, and that the petition would be filed in accordance with section 403(r)(4) of the act (21 U.S.C. 343(r)(4)) (Ref. 3). In this proposed rule, the agency presents the rationale for a health claim on this food-disease relationship as provided for under the standard in section 403(r)(3)(B)(i) of the act and § 101.14(c) of FDA's regulations.

B. Review of Preliminary Requirements for a Health Claim

1. The Substance Is Associated With a Disease for Which the U.S. Population Is at Risk

Several previous rules establish that CHD is a disease for which the U.S. population is at risk, specifically claims for dietary saturated fat and cholesterol and risk of CHD (§ 101.75 (21 CFR 101.75)); fruits, vegetables, and grain products and risk of CHD (§ 101.77 (21 CFR 101.77)); and soluble fiber from certain foods and risk of CHD (§ 101.81). FDA stated in these rules that CHD remains a major public health problem and the number one cause of death in the United States. Despite the decline in deaths from CHD over the past 30 years, this disease is still exacting a tremendous toll in morbidity and mortality (Refs. 4 through 6). There are more than 500,000 deaths each year for which CHD is an underlying cause, and another 250,000 deaths for which CHD is a contributing cause. About 20 percent of adults (male and female; black and white) ages 20 to 74 years have blood total cholesterol (or serum cholesterol) levels in the ''high risk'' category (total cholesterol greater than (>) 240 milligrams (mg) per (/) deciliter (dL) and LDL-cholesterol greater than 160 mg/dL) (Ref. 7). Another 31 percent have ''borderline high'' cholesterol levels (total cholesterol between 200 and 239 mg/dL and LDL-cholesterol between 130 and 159 mg/dL) in combination with two or more risk factors.

CHD has a significant effect on health-care costs. In 1985, total direct costs related to CHD were estimated at $13 billion, and indirect costs from loss of productivity due to illness, disability, and premature deaths from this disease were an estimated $36 billion (Ref. 4). Based on these facts, FDA tentatively concludes that, as required in § 101.14(b)(1), CHD is a disease for which the U.S. population is at risk.

2. The Substance Is a Food

The substance that is the subject of this rulemaking is soy protein (Ref. 1). Soy protein is an edible component of the soybean, *Glycine max*. Soybeans are a significant source of low-cost, high-quality protein in the human diet.

Soy protein is used as an ingredient in other foods. It is produced from raw whole soybeans by a multistep process that removes the lipid and indigestible components to concentrate the protein and increase its availability. Depending upon the particular steps used during processing, soy protein ingredients may take the form of isolated soy protein (ISP), soy protein concentrate (SPC), or soy flour (SF). Each of these ingredients may be further processed into texturized soy protein or texturized vegetable protein (TVP), used in the manufacture of meat and poultry analogs, by thermoplastic extrusion or steam texturization to impart structure and shape. In addition to protein, these soy protein ingredients contain other naturally occurring soy constituents, such as isoflavones, fiber, and saponins. The specific processing steps employed determine the extent of retention of such naturally occurring constituents in the final product.

Soy protein is also consumed in the diet as a component of traditional fermented and nonfermented soy foods such as tofu, tempeh, and miso, in addition to whole soybeans, soynuts, soy milk, soy yogurt, and soy cheese. These products contain variable amounts of soy protein and other naturally occurring soy constituents depending on the specific technologies used in their production.

Soy protein ingredients (ISP, SPC, and SF) and soy protein-containing foods may partially replace or be used in addition to animal or other vegetable protein sources in the human diet. Therefore, FDA has tentatively concluded that the substance satisfies the preliminary requirement of § 101.14(b)(3)(i).

3. The Substance Is Safe and Lawful

The petitioner stated that soy protein ingredients were in common use in food before January 1, 1958, and that they are generally recognized as safe (GRAS) by self-determination (Ref. 1). Because the fractionation procedures used to convert vegetable flours to vegetable protein isolates and concentrates were commonplace prior to 1958, the petitioner asserted that ISP and SPC can be defined as soy flour ''subject only to conventional processing as practiced prior to January 1, 1958.'' The petitioner alluded to statements that it attributed to FDA about the GRAS status of soy protein products. (In point of fact, however, in one document (35 FR 18530, December 5, 1970), FDA was restating a petitioner's grounds for its petition, and in the other document (43 FR 30472, July 14, 1978), FDA was stating a condition on the vegetable protein products to which the proposed regulation applied, and was not itself determining the safety or suitability of any product (43 FR 30472 at 30474 to 30475 (comment 10).) The petitioner also referred to unidentified statements by the U.S. Department of Agriculture, the Association of American Feed Control Officials, and the Codex Alimentarius that it asserted support for the GRAS status of soy protein products (Ref. 1).

The petition also addressed some concerns that have been raised about the potential risk of consuming soy products: Allergenicity, exposure to trypsin inhibitors, reduced bioavailability of minerals, and hormonal disturbances.

As is true for any protein entering the gastrointestinal tract, soy protein has the potential to elicit an allergic reaction. Food allergies most commonly develop in infants and young children. Although the use of heat or hot aqueous ethanol in the processing of soybeans destroys the immunochemical reactivity of most of the protein, a small number of infants fed soy formula experience allergic reactions to soy (Ref. 9). Such sensitization appears to be a manifestation of an immature digestive tract and is rarely seen in children more

than 4 years old or adults. Many children outgrow food allergies (Ref. 10) and soy and seafood allergies are among those likely to be outgrown, in contrast to allergies to milk, egg white, or peanuts.

Concerns have been raised in the past about exposure to trypsin inhibitors contained in soybeans because these compounds had been found to stimulate pancreatic hyperplasia and hypertrophy in animals (Ref. 11). These concerns have been allayed because heat treatment removes most of the activity of these proteases (Ref. 12). In addition, recent studies have questioned the applicability of the animal models, which differ from humans in the type of diet, sensitivity of the pancreas to trypsin inhibitors, and the anatomic sites of pancreatic cell proliferation (Refs. 12 through 15) and have found low rates of cancer in populations with dietary patterns that include soy foods (Ref. 16).

Soybeans contain phytic acid and dietary fiber, which have well documented effects on reducing the bioavailability of divalent minerals, and these components are retained in the protein fraction in variable amounts depending upon processing. In general, the bioavailability of minerals is lower from plant sources than animal sources, but soy has not been found to reduce the availability of minerals from other dietary sources consumed concurrently (Ref. 17). Data on the possible deleterious effects of soy, and particularly its phytate content, on mineral balance have been obtained mainly from studies of animal models; findings in humans are less consistent and suggest that although absorption may be impaired, overall mineral balance is not adversely affected (Refs. 13, 18, 19, 20).

Finally, the possibility of hormonal disturbances from the weakly estrogenic-antiestrogenic effects of soy isoflavones has been raised. For example, infertility was found in sheep that had consumed clover containing isoflavones (Ref. 21); however, studies of soy isoflavones in primates showed no effects on male or female reproductive tissue or ability (Refs. 22 through 24). Soy isoflavones have been hypothesized as a protective factor against breast cancer in populations that consume large amounts of soy protein (Ref. 25), and in one controlled human trial, a 45-mg/day dose of isoflavones lead to favorable changes in menstrual cycle length and hormone levels similar to those seen in women treated with tamoxifen (Ref. 26).

Based on the totality of the evidence and, in particular, its common use in food, the agency is not prepared, at this time, to take issue with the petitioner's view that the use of soy protein is safe and lawful as required in § 101.14(b)(3)(ii). Thus, FDA tentatively concludes that the petitioner has provided evidence that satisfies the requirement in § 101.14(b)(3)(ii) that use of soy protein at the levels necessary to justify a claim is safe and lawful.

III. Review of Scientific Evidence

A. Basis for Evaluating the Relationship Between Soy Protein and CHD

The review examined the relationship between soy protein and CHD by focusing on the effects of dietary intake of this substance on blood lipid levels and on the risk of developing CHD. In the 1991 lipids-CVD and dietary fiber-CVD health claim proposals, the agency set forth the basis for the relationship between dietary substances and CVD (56 FR 60727 at 60728 and 56 FR 60582 at 60583). In those documents, the agency stated that there are many risk factors that contribute to the development of CVD, and specifically CHD, one of the most serious forms of CVD and among the leading causes of death and disability. The agency also stated that there is general agreement that elevated blood cholesterol levels are one of the major ''modifiable'' risk factors in the development of CVD and, more specifically, CHD.

The Federal Government and others who have reviewed the matter have concluded that there is substantial epidemiologic evidence that high blood levels of total cholesterol and LDL-cholesterol are a cause of atherosclerosis (inadequate circulation of blood to the heart due to narrowing of the arteries) and represent major contributors to CHD (56 FR 60727 at 60728, 56 FR 60582 at 60583, Refs. 4 through 6). Factors that decrease total cholesterol and LDL-cholesterol will also tend to decrease the risk of CHD. High intakes of saturated fat and, to a lesser degree, of dietary cholesterol are associated with elevated blood total and LDL-cholesterol levels (56 FR 60727 at 60728). Thus, it is generally accepted that blood total cholesterol and LDL-cholesterol levels can influence the risk of developing CHD, and, therefore, that dietary factors affecting these blood cholesterol levels affect the risk of CHD (Refs. 4 through 6).

When considering the effect that the diet or components of the diet have on blood (or serum) lipids, it is also useful to consider the effect that these factors may have on blood levels of high density lipoprotein (HDL)-cholesterol. HDL-cholesterol appears to have a protective effect because it is involved in the regulation of cholesterol transport out of cells and to the liver, from which it is ultimately excreted (Refs. 4 and 8).

For these reasons, the agency based its evaluation of the relationship between consumption of soy protein and CHD primarily on changes in blood total and LDL-cholesterol resulting from dietary intervention with soy protein-containing products. A secondary consideration was that beneficial changes in total and LDL-cholesterol should not be accompanied by potentially adverse changes in HDL-cholesterol. This focus is consistent with that used by the agency in response to the 1990 amendments in deciding on the dietary saturated fat and cholesterol and CHD health claim, § 101.75 (56 FR 60727 and 58 FR 2739); the fruits, vegetables, and grain products and CHD claim, § 101.77 (56 FR 60582 and 58 FR 2552); and the soluble fiber from certain foods and CHD claim, § 101.81 (61 FR 296, 62 FR 3584, 62 FR 28234, and 63 FR 8119).

B. Review of Scientific Evidence

1. Evidence Considered in Reaching the Decision

The petitioner submitted scientific studies (Refs. 27 through 66) evaluating the relationship between soy protein in the diet and serum lipid levels in humans (Refs. 1 and 2). The studies submitted were conducted between 1976 and 1998. The petition included tables that summarized the outcome of the studies and a summary of the evidence. In the approach taken previously in the diet and CVD proposed rules, the agency began its review of scientific evidence in support of a health claim by considering those studies that were published since 1988, the date of publication of the ''Surgeon General's Report on Nutrition and Health,'' which is the most recent and comprehensive Federal review of the scientific evidence on dietary factors and CVD. In a brief discussion of the role of protein in coronary heart disease, the Surgeon General's report noted that studies of the substitution of soy protein and other vegetable proteins for animal protein in the diets of hyperlipidemic patients have shown a marked reduction in serum cholesterol levels but only a small change in persons with normal cholesterol levels (Ref. 4). Because of the brevity of this consideration of soy protein, the agency reviewed all of the studies on soy protein submitted by the petitioner, including those published prior to 1988.

The petition also presented some findings from studies that employed animal models and from in vitro

experiments. Human studies are weighted most heavily in the evaluation of evidence on a diet and disease relationship; animal model and in vitro studies can be considered as supporting evidence but cannot, in the absence of human studies, serve as the basis for establishing that a diet and disease relationship exists. Such studies may be useful in providing information on the mechanism of action of soy protein's effects on blood cholesterol levels.

2. Criteria for Selection of Human Studies

The criteria that the agency used to select the most pertinent studies were consistent with those that the agency used to evaluate the relationship between other substances and CHD. These criteria were that the studies: (1) Present data and adequate descriptions of the study design and methods; (2) be available in English; (3) include estimates of, or enough information to estimate, soy protein intakes; (4) include direct measurement of blood total cholesterol and other blood lipids related to CHD; and (5) be conducted in persons who represent the general U.S. population. In the case of (5), these persons can be considered to be adults with blood total cholesterol levels less than 300 mg/dL. Studies of special population groups, such as adults with very high serum cholesterol (mean greater than 300 mg/dL) and children with hypercholesterolemia, were considered relative to the nature of the support they provided for evidence of effect seen in studies of subjects more representative of the general U.S. population.

In a previous rulemaking (62 FR 28234 at 28238 and 63 FR 8103 at 8107), the agency concluded that hypercholesterolemic study populations are relevant to the general population because, based on data from the National Health and Nutrition Examination Surveys (NHANES) III, the prevalence of individuals with elevated blood cholesterol (i.e., 200 mg/dL or greater) is high, i.e., approximately 51 percent of adults (Ref. 7). The proportion of adults having moderately elevated blood cholesterol levels (i.e., between 200 and 239 mg/dL) was estimated to be approximately 31 percent, and the proportion of adults with high blood cholesterol levels (240 mg/dL or greater) was estimated to be approximately 20 percent (Ref. 7). It is also estimated that 52 million Americans 20 years of age and older would be candidates for dietary intervention to lower blood cholesterol (Ref. 7). As the leading cause of death in this country, CHD is a disease for which the general U.S. population is at risk. The risk of dying from CHD is related to serum cholesterol levels in a continuous and positive manner, increasing slowly for levels between 150 mg/dL and 200 mg/dL and more rapidly when the cholesterol level exceeds 200 mg/dL (Ref. 67). The public health policy elucidated by the National Cholesterol Education Program (NCEP), National Heart, Lung, and Blood Institute, is to extend the benefits of cholesterol lowering to the population as a whole by promoting adoption of eating patterns that can help lower the blood cholesterol levels of most Americans (Ref. 67). A dietary intervention that lowers blood cholesterol levels mainly or only in persons with high levels would, like an intervention that lowers cholesterol levels across the entire population range, cause a shift in the population distribution of blood cholesterol levels resulting in a decrease in the mean value for the blood cholesterol level in the general population (Ref. 67). The anticipated effect of such a shift would be to reduce the morbidity from CHD and to produce a continued or accelerated decline in the CHD mortality rate in the United States. Accordingly, in this proposal, the agency has reviewed and considered the evidence of effects of soy protein on serum lipids in hypercholesterolemic subjects.

In selecting human studies for review, the agency excluded studies that were published in abstract form because they lacked sufficient detail on study design and methodologies, and because they could not provide the primary data.

3. Criteria for Evaluating the Relationship Between Soy Protein and CHD

Well reasoned approaches for evaluating studies supporting diet/disease relationships are summarized in the comprehensive report ''Diet and Health'' issued by the National Academy of Sciences (Ref. 68) and ''The Guide to Clinical Preventive Services'' issued by the U.S. Preventive Services Task Force (Ref. 69). The criteria articulated in these documents provided a starting point for FDA's review of individual studies on the relationship between dietary factors and CHD in previous rulemakings: In the 1991 proposed rule on lipids and CVD (56 FR 60727), in the 1991 proposed rule on dietary fiber and CVD (56 FR 60582), in the January 1996 proposed rule on whole oats and CHD (61 FR 296), and in the May 22, 1997, proposed rule on soluble fiber from psyllium and CHD (62 FR 28234).

The criteria that the agency used in evaluating the studies for this rulemaking include: (1) Reliability and accuracy of the methods used in nutrient intake analysis, including measurements of soy protein intake; (2) estimates of intake of saturated fat and cholesterol; (3) available information on the soy protein test products and control foods; (4) measurement of study endpoints (i.e., measurement of blood lipid levels); and (5) general study design characteristics.

The general study design characteristics for which the agency looked included randomization of subjects, appropriateness of controls, selection criteria for subjects, attrition rates (including reasons for attrition), potential for misclassification of individuals with regard to dietary intakes, presence of recall bias and interviewer bias, recognition and control of confounding factors (for example, monitoring body weight and control of weight loss), appropriateness of statistical tests and comparisons, and statistical power of the studies. The agency considered whether the intervention studies that it evaluated had been of long enough duration, greater than or equal to 3 weeks duration, to ensure reasonable stabilization of blood lipids.

C. Review of Human Studies

FDA conducted a comprehensive review of 41 of 43 human intervention studies submitted in the petition and reported in 38 references by the petitioner (Refs. 27 through 64). The two studies FDA excluded from consideration at the outset (Refs. 32 and 52) were of infants. Of the studies reviewed, 27 met the aforementioned criteria for selection (Refs. 27, 28, 29, 30 (1 trial), 31, 33, 34, 35, 36, 37, 40 (2 trials), 42 and 45 (1 trial), 43, 44, 46, 49, 51, 53, 54, 55, 56, 58, 59, 60, 63, and 64). Of these, the agency gave particular weight to 14 trials (Refs. 27, 28, 30 (1 trial), 31, 36, 37 (1 trial), 40 (2 trials), 44, 49, 51, 54, 58, and 59) that included subjects representative of the general U.S. population and that were well controlled, reported intakes of saturated fat and cholesterol, and avoided problems associated with small sample size, lack of a placebo, and other design problems. These studies are summarized in Table 1 at the end of this document and discussed in section III.C.1 of this document. Three additional similar trials that were included in the review but accorded less weight because of issues concerning the populations studied and diets fed (Refs. 29, 43, and 53) are also summarized in Table 1 of this document and discussed in section III.C.1 of this document. Seven trials in adults (Refs. 33, 35, 46,

55, 56, 60, and 64) and three trials in children (Refs. 34, 42 and 45 (1 trial), and 63) with type II or familial hypercholesterolemia are summarized in Table 2 at the end of this document and discussed in section III.C.2 of this document. The fourteen remaining intervention trials (Refs. 30 (1 trial), 37 (1 trail), 38, 39 (2 trials), 41, 47, 48, 50 (2 trials), 57, 61, and 62 (2 trials)) failed to meet the inclusion criteria because of small sample size, inadequate period of intervention, inadequate characterization of the soy protein tested, inadequate information on dietary intake, or lack of data on outcome variables. The results of one epidemiological study (Ref. 65) and a meta-analysis (Ref. 66) that included a number of the soy protein studies submitted in the petition are discussed in sections III.C.3 and III.C.4, respectively, of this document.

1. Studies of Adult Subjects Representative of the General U.S. Population (Serum Cholesterol <300 mg/dL)

The agency began its consideration of the data with the 14 well controlled and representative studies identified previously (Refs. 27, 28, 30 (1 trial), 31, 36, 37 (1 trial), 40 (2 trials), 44, 49, 51, 54, 58, and 59). Several of these studies examined the interaction of protein and other components of soy protein sources hypothesized to have an impact on lipid-lowering effects (i.e., isoflavones, dietary fiber, and soy lipids) (Refs. 31, 28, 27, 51, and 44). Findings with respect to soy protein are described in this section, while findings regarding the specific influence of soy isoflavones (Refs. 31 and 28) are discussed in more detail in section III.C.5 of this document.

In hypercholesterolemic subjects, Crouse et al. (Ref. 31, documented in Ref. 1 with corrections noted in Ref. 2) found that 25 grams (g) of soy protein from ISP containing 2.5 mg total aglycone isoflavones/g protein lowered total ($p<0.05$) and LDL-cholesterol levels ($p<0.05$) by 4 and 6 percent, respectively, while HDL-cholesterol was not altered. Furthermore, in subjects with LDL-cholesterol levels in the top half of the study population, serum total and LDL-cholesterol were reduced by 9 percent ($p<0.03$) and 12 percent ($p<0.03$), respectively, by the ISP with 2.5 mg total aglycone isoflavones/g protein, and by 8 percent ($p<0.03$) and 9 percent ($p<0.03$), respectively, by the ISP with 1.6 mg total aglycone isoflavones/g protein. HDL-cholesterol concentrations were unchanged. These results indicate that soy protein, in a diet low in saturated fat and cholesterol, can exert hypocholesterolemic effects but suggest these effects may be modulated by the presence of isoflavones.

In hypercholesterolemic, postmenopausal women, Baum et al. (Ref. 28) also investigated the impact of soy protein as ISP containing different levels of isoflavones. Adjusted mean differences in the change from baseline for total serum cholesterol level did not differ in the two soy groups and the control group. However, there was a statistically significant reduction of 8 to 9 percent in non-HDL (LDL plus very low density lipoprotein (VLDL)) cholesterol in both of the ISP treatment groups ($p<0.05$) compared to the control group. HDL-cholesterol was also significantly increased ($p<0.05$) in both soy groups compared to the control. The level of isoflavones did not affect any of the blood lipid levels measured. This study also indicates the ability of soy protein provided in a diet low in saturated fat and cholesterol to reduce LDL-cholesterol.

Two studies that examined the effect of soy protein in hypercholesterolemic adults consuming low fat diets also evaluated whether soy cotyledon fiber had additional lipid-lowering effects. Bakhit et al. (Ref. 27) used 25 g protein and 20 g dietary fiber as treatment levels while Potter et al. (Ref. 51) used 50 g protein and 20 g dietary fiber. Soy protein was provided as ISP (Refs. 27 and 51) and SF (Ref. 51) incorporated into baked products.

Bakhit et al. (Ref. 27) studied subjects who had initially been screened for eligibility based on plasma total cholesterol concentrations greater than 220 mg/dL before starting the study. During the baseline dietary period, plasma total cholesterol decreased to levels below 220 mg/dL in 10 of the subjects; these subjects did not have any further decrease in total or LDL-cholesterol with any of the experimental diets. The subjects whose cholesterol remained greater than the 220 mg/dL intent-to-treat level did show a statistically significant decrease from post-baseline dietary levels for total cholesterol, but not for LDL-cholesterol, after consuming ISP. In the subset analysis, Bakhit et al. (Ref. 27) found a statistically significant decrease in total cholesterol of 7 percent ($p<0.05$) from post-stabilization levels with ingestion of ISP. Addition of soy cotyledon fiber to the ISP diet resulted in a statistically significant decrease ($p<0.05$) of 8 percent in total cholesterol. Ingestion of the casein plus cellulose control diet produced a nonsignificant decrease ($p>0.05$) in total cholesterol of 3 percent. Differences in LDL- and HDL-cholesterol from baseline or control after the two soy diets were not statistically significant. In the subset analysis, the additional effect of soy fiber on blood cholesterol levels was not significant when evaluated by analysis of covariance ($p=0.04$ for protein effects; $p=0.07$ for fiber effects). This study supports a conclusion that the protein and not the fiber component of the soybean is largely responsible for effects on blood lipids.

Potter et al. (Ref. 51) reported a statistically significant ($p<0.05$) decrease in plasma total cholesterol from baseline of 8 percent with ingestion of diets containing ISP whether soy cotyledon fiber or cellulose was also consumed. The 8-percent decrease observed in LDL-cholesterol from baseline was statistically significant only when the ISP diet also contained soy cotyledon fiber ($p<0.05$). Total and LDL-cholesterol were also significantly ($p<0.01$) lower with the ISP diets compared to the nonfat dry milk-cellulose control diet. No statistically significant changes in HDL-cholesterol were observed with any of the soy protein diets. Changes from baseline were not statistically significant for any of the blood lipids when the diet providing soy protein as SF was consumed. However, the difference in total cholesterol observed after ingestion of SF was 19 mg/dL lower than that on the control diet of nonfat dry milk and cellulose ($p<0.01$). These findings suggest that the principal dietary component responsible for the lipid-lowering observed in this study is the soy protein fraction, and that soy fiber may have an incremental effect.

Kurowska et al. (Ref. 44) tested the effects of soy protein and soy oil in hypercholesterolemic subjects by adding combinations of ''milk'' and desserts to provide a total of 31 g protein from either cow's milk or soy milk and 16 g fat from either cow's milk, soybean oil, or whole soybean soy milk. The three dietary treatments were cow's milk (2-percent fat), skim cow's milk (0-percent fat) plus soy oil (16 g), or soybean milk. No statistically significant changes from baseline in total cholesterol were observed in response to any of the dietary treatments. The 4-percent decline in LDL-cholesterol observed with the soybean milk diet was not statistically significant. HDL-cholesterol was increased 7 percent from baseline ($p=0.04$) with the whole soybean milk treatment. In the subjects with the highest initial LDL-cholesterol level and LDL/HDL-cholesterol ratio, LDL-cholesterol was reduced by 11 percent by the soybean milk diet.

Five earlier studies included in Table 1 reported on effects of soy protein in hypercholesterolemic subjects.

In hypercholesterolemic subjects, Goldberg et al. (Ref. 37) examined the effects of ISP (99 g of soy protein) incorporated as a meat analog or formulated in beverage compared to a control animal protein diet consisting of analogous meat products and nonfat dry milk. Both diets resulted in statistically significant reductions in serum total and LDL-cholesterol levels. With the soy protein diet, total cholesterol was decreased by 15 percent ($p<0.001$) and LDL-cholesterol was decreased by 17 percent ($p<0.001$) from baseline values. Total cholesterol was 8 mg/dL lower ($p<0.005$), and LDL-cholesterol was 10 mg/dL lower ($p<0.05$), at the end of the dietary period when soy protein was ingested as compared to the animal protein diet. Both the change in HDL-cholesterol from the baseline and the difference in HDL-cholesterol between the soy and control diets were small and not statistically significant.

Mercer et al. (Ref. 49) tested the effects of approximately 17 g of soy protein from ISP as a replacement for 2-percent fat cow's milk in subjects with mild to moderate hypercholesterolemia. Total cholesterol levels were not significantly different ($p>0.05$) on the two diets. However, among the subjects whose baseline total cholesterol was above the 90th percentile, the soy protein diet resulted in a decrease from baseline in mean total cholesterol of 4 percent and a level 9 percent lower (16 mg/dL; $p<0.05$) than the level at the end of the cow's milk period. There were no statistically significant differences in LDL-cholesterol and HDL-cholesterol between ISP and cow's milk diets either for all subjects or for the subset of subjects with the highest initial total cholesterol levels.

Holmes et al. (Ref. 40) conducted two trials with hypercholesterolemic subjects testing SF as a texturized vegetable protein product formulated with egg yolk, beef tallow, and cottonseed oil to create an analog for lean ground beef. An average of 27 g of soy protein was consumed in the partially substituted diet in the first trial and 62 g was consumed in the completely substituted diet in the second trial. In trial 1, statistically significant changes in total cholesterol ($p<0.02$) and LDL-cholesterol ($p<0.05$) occurred during the initial stabilization period when the control diet was consumed; no further changes occurred after the second period during which the partially substituted soy diet was consumed. In trial 2, both diets significantly lowered mean total cholesterol during the first dietary sequence ($p<0.05$), the animal protein diet by 18 percent and the soy diet by 19 percent. Crossing over the diets had no further effect. LDL-cholesterol levels were not reduced by either diet. HDL-cholesterol levels were not significantly affected by diet in either trial. The two trials were unique in the source of soy protein and in including subjects with type IV hyperlipidemia.

Shorey et al. (Ref. 54) examined the effects of 57 g of soy protein (mean intake) consumed as ISP incorporated both into meat analogs and a soy-based beverage in hypercholesterolemic young men. A statistically significant ($p=0.027$) decrease from baseline total cholesterol of 7 percent was noted in the group consuming the soy protein diet; however, these values were 6 mg/dL higher than change from baseline values obtained from the control group. HDL-cholesterol also significantly ($p=0.001$) decreased from baseline values by 15 percent. LDL-cholesterol was not measured in this study. Although the two diets were well matched for saturated fat and cholesterol, interpretation of these findings is complicated by the fact that body weight was significantly ($p<0.004$) decreased in both groups of subjects. Subjects who showed a significant hypocholesterolemic response on either diet were those who substantially reduced their customary protein and fat intakes on the experimental diets. In contrast to other studies, subjects in this study with lower baseline values experienced more pronounced reductions in total cholesterol level.

Four additional well-controlled studies included in Table 1 of this document examined the effects of soy protein in normocholesterolemic subjects.

The study of Carroll et al. (Ref. 30) compared ISP (44 g soy protein estimated) incorporated into foods and a soy-based beverage to a mixed protein/animal-based diet in healthy young women. Plasma total cholesterol was significantly ($p<0.05$) lower, by 10 mg/dL, when the soy protein diet was consumed as compared with the mixed protein diet. Neither LDL-cholesterol nor HDL-cholesterol was measured.

Giovannetti et al. (Ref. 36) examined the effects of ISP (66 to 80 g of soy protein depending on energy intake) incorporated as meat and dairy analogs in healthy young adult women in both high- and low-fat diets. On the high-fat diet, serum total cholesterol was 4 mg/dL lower, LDL-cholesterol was 6 mg/dL lower, and HDL-cholesterol was 3 mg/dL lower after ingestion of the soy protein than after ingestion of the mixed protein control. None of the changes in blood lipids reached statistical significance. On the low-fat diet, serum total cholesterol was 1 mg/dL higher, LDL-cholesterol was 5 mg/dL lower, and HDL-cholesterol was 2 mg/dL higher after soy protein than after the mixed protein control; these differences were not statistically significant. The magnitude of reduction in serum total cholesterol with soy protein was similar on the high-fat and low-fat diets, 10 percent and 9 percent, respectively. Substitution of soy protein caused reductions in LDL-cholesterol levels during the high-fat diet in 11 of 12 subjects and during the low-fat diet in 9 of 12 subjects.

Van Raaij et al. (Ref. 58) tested the effects of ISP in young normocholesterolemic men and women consuming three diets that differed in protein composition with 65 percent of the total protein replaced by either soy protein (54 g), or casein, or an approximately 2:1 mixture of casein (36 g):soy (17 g). In the group consuming the soy protein diet, total serum cholesterol and LDL-cholesterol were decreased (-2 percent and -8 percent, respectively) and HDL-cholesterol increased (+10 percent) compared to values at the end of the lead-in period. The changes in both LDL-cholesterol and HDL-cholesterol were statistically significant ($p<0.05$). In addition, decreases in LDL-cholesterol were significantly ($p<0.05$) greater with the soy protein diet compared to changes with the casein diet. Although weight loss did occur among subjects consuming both the soy protein diet ($n=9$) and the casein diet ($n=6$), when data from the subset without a weight loss of more than 2 kilograms (kg) were analyzed separately, the same effects of soy protein ingestion on blood lipid-lowering were observed. The lipid changes in the group that remained on the 2:1 casein:soy diet were not statistically significantly different from the casein group, nor were changes from the end of the stabilization period significant in this group.

In a trial with both normocholesterolemic and hypercholesterolemic subjects, Van Raaij et al. (Ref. 59) tested both ISP and SPC (each providing an average of 55 g of soy protein) compared to a casein control. Serum total cholesterol was decreased from baseline by 4 percent and LDL-cholesterol was decreased by 3 percent on the ISP diet. These changes were significantly different from those on the SPC diet ($p<0.05$) but not significantly different from those on the casein diet. HDL-cholesterol showed a slight but statistically significant

increase of 2 percent from baseline on the ISP diet, a change that was also significantly different from that on the casein diet. When SPC was used as the protein source, total cholesterol was not altered, LDL-cholesterol was increased by 6 percent, and HDL-cholesterol decreased by 3 percent compared to baseline. None of these changes in blood lipids from baseline or differences between the casein and SPC diets was statistically significant. Interpretation of this study is complicated by differential weight loss on the experimental diets (weight loss was greatest in the casein group) and differential fiber intake.

Three additional studies (Refs. 29, 43, and 53), in which interpretation is complicated by design issues such as choice of subjects, concerns about weight loss, or uncertainties about other components in diets, are also summarized in Table 1 of this document and discussed as follows.

Bosello et al. (Ref. 29) and Jenkins et al. (Ref. 43) both studied the hypocholesterolemic effects of soy protein versus casein in the context of hypocaloric diets fed to obese persons to achieve significant weight reduction. In Bosello et al. (Ref. 29), obese subjects (>150 percent of ideal body weight) received 375 kilocalorie (kcal)/day initially, followed by an 800 kcal/day diet. During both phases, the 375 kcal portion was provided by commercial textured protein products that delivered either 27 g protein from casein or 27 g protein from soy protein (type of soy protein not given). During the second phase, the 375 kcal/day was ''integrated'' with an extra 425 kcal/day from conventional foods. Mean weight losses for the soy and casein groups were 17 and 16 kg, respectively. Total cholesterol and LDL-cholesterol in the soy group were both 16 percent lower compared to baseline ($p<0.01$). Compared to the casein group, total cholesterol was 20 mg/dL lower ($p<0.01$) and LDL-cholesterol was 16 mg/dL lower ($p<0.01$). HDL-cholesterol was decreased in both groups at the end of the study; however, only in the casein group was the difference statistically significant ($p<0.01$). Additionally, the decrease in HDL-cholesterol in the casein group was significantly ($p<0.01$) greater than that observed in the soy protein group.

Jenkins et al. (Ref. 43) examined the effects of soy protein ingestion on serum cholesterol in obese women who were also consuming a hypocaloric diet for weight reduction. The three treatments were: A control, hypocaloric diet of 1,000 total kcal consumed as conventional foods; the same diet with two meals per day replaced by a soy protein (18.4 g provided as ISP) liquid formula preparation; or the same diet with two meals per day replaced by a milk protein (17.6 g as milk protein isolate and nonfat dry milk) liquid formula. An average 2.5 kg weight loss per month occurred during the study ($p<0.05$) across diet treatments. Statistically significant decreases from baseline in total cholesterol of 10 percent ($p<0.05$) and in LDL-cholesterol of 17 percent ($p<0.05$) occurred only during the period when the soy protein formula was ingested. Changes in HDL-cholesterol were not statistically significant. These effects of soy protein were independent of the order the soy diet was consumed relative to the conventional hypocaloric diet. The levels of total and LDL-cholesterol achieved with ingestion of soy protein were, respectively, 10 mg/dL and 8 mg/dL lower with the soy protein diet as compared with the casein diet. Neither the conventional hypocaloric diet nor the casein formula hypocaloric diet resulted in statistically significant decreases in total or LDL-cholesterol despite weight loss. Calculations of the expected decline in serum total cholesterol based on changes in weight, dietary cholesterol, and saturated and polyunsaturated fat accurately predicted the observed changes in both the hypocaloric diet and milk formula groups, but significantly underestimated the decrease observed in the soy formula group.

Sacks et al. (Ref. 53) studied the effects of 27 g of protein consumed daily as ISP or casein incorporated into muffins and oatmeal in adults who were strict vegetarians. Not unexpectedly, given the very low baseline lipid concentrations and very low dietary fat and cholesterol intake, no statistically significant changes or differences in total cholesterol, LDL-cholesterol or HDL-cholesterol were observed from consumption of either soy protein or casein.

a. *Summary—Hypercholesterolemic subjects consuming diets low in saturated fat and cholesterol.* In five (Refs. 31, 28, 27, 51, and 44) of seven (Refs. 31, 28, 27, 51, 44, and 40 (2 trials)) well-controlled studies of hypercholesterolemic subjects consuming low saturated fat and low cholesterol diets, soy protein intake was associated with significant decreases in total and/or LDL-cholesterol levels. Crouse et al. (Ref. 31, documented in Ref. 1 with corrections noted in Ref. 2) found that soy protein from ISP containing 2.5 mg total aglycone isoflavones/g protein statistically significantly lowered total ($p<0.05$) and LDL-cholesterol levels ($p<0.05$), by 4 and 6 percent, respectively, while HDL-cholesterol was not altered. In a subset of subjects with LDL-cholesterol levels in the top half of the study population, serum total and LDL-cholesterol were reduced by 9 percent ($p<0.03$) and 12 percent ($p<0.03$), respectively, by the ISP with 2.5 mg total aglycone isoflavones/g protein, and by 8 percent ($p<0.03$) and 9 percent ($p<0.03$), respectively, by the ISP with 1.6 mg total aglycone isoflavones/g protein. Baum et al. (Ref. 28) found that the adjusted mean difference in total serum cholesterol level was not significantly ($p>0.05$) different in the two groups consuming soy as ISP and the control group. However, there was a statistically significant reduction of 8 to 9 percent in non-HDL (LDL plus VLDL) cholesterol in both of the ISP treatment groups ($p=0.04$) compared to the control group.

Bakhit et al. (Ref. 27) found, in a subset of subjects whose cholesterol remained greater than the 220 mg/dL intent-to-treat level after run-in with the baseline diet, a statistically significant decrease in total cholesterol of 7 percent ($p<0.05$) from post-stabilization levels with ingestion of ISP; addition of soy cotyledon fiber to the ISP diet resulted in a significant decrease ($p<0.05$) of 8 percent in total cholesterol. Levels of LDL-cholesterol were not statistically significantly affected by either soy diet. Potter et al. (Ref. 51) reported a statistically significant decrease ($p<0.05$) from baseline in total plasma cholesterol of 8 percent with ingestion of diets containing ISP whether soy cotyledon fiber or cellulose was also consumed. The 8-percent decrease in LDL-cholesterol from baseline was statistically significant only when the ISP diet also contained soy cotyledon fiber ($p<0.05$). Total and LDL-cholesterol were also significantly lower ($p<0.01$) with the ISP diets compared to the nonfat dry milk-cellulose diet. Changes from baseline were not statistically significant for any of the blood lipids when the diet providing soy protein as SF was consumed. However, the difference in total cholesterol observed after ingestion of SF was 19 mg/dL lower than that on the control diet of nonfat dry milk and cellulose ($p<0.01$).

With diets providing either cow's milk (2-percent fat), or skim cow's milk (0-percent fat) plus soy oil (16 g), or soybean milk, Kurowska et al. (Ref. 44) found no statistically significant changes from baseline in total cholesterol and LDL-cholesterol in response to any of the dietary treatments. In the subjects with the highest initial LDL-cholesterol levels and LDL/HDL-cholesterol ratios, LDL-

cholesterol was reduced by 11 percent by the soybean milk diet. Holmes et al. (Ref. 40) conducted two trials testing SF as a texturized vegetable protein product, with averages of 27 and 62 g of soy protein consumed, respectively, in the first and the second trial. In trial 1, statistically significant changes in total and LDL-cholesterol occurred during the stabilization period when the control diet was consumed; no further changes occurred after the second dietary period during which the partially substituted soy diet was consumed. In trial 2, both diets resulted in a statistically significant lowering of total cholesterol during the first dietary sequence, the animal protein diet by 18 percent and the soy diet by 19 percent. Crossing over the diets had no further effect. LDL-cholesterol levels were not reduced by either diet. These studies were unique in the source of soy protein used and in including subjects with type IV hyperlipidemia.

Levels of HDL-cholesterol were also measured in each of these seven studies and were found either to be unchanged (Refs. 31, 27, 51, and 40 (2 trials)) or to show a slight but statistically significant increase (Refs. 28 and 44) in response to consumption of diets containing soy protein.

Levels of soy protein as ISP found to be effective in lowering total and LDL-cholesterol levels ranged in these studies from 25 to 50 g (Refs. 31, 28, 27, and 51). As whole soybean milk, 31 g of soy protein lowered LDL-cholesterol only in the subset of subjects with the highest initial LDL-cholesterol levels and LDL/HDL-cholesterol levels (Ref. 44). Diets providing 50 g of soy protein as SF did not cause significant changes from baseline for any of the blood lipids, but the decrease in total cholesterol observed after ingestion of SF was significantly greater than that on the control diet of nonfat dry milk and cellulose (Ref. 51). Diets providing 27 g of soy protein as SF in a textured product had no significant effects on blood lipid levels compared to a control diet, and a higher level (62 g) significantly lowered total cholesterol only in the experimental group fed the soy protein diet first (Ref. 40).

b. *Summary—Hypercholesterolemic subjects consuming ''usual'' diets.* Three studies reported on effects of soy protein in hypercholesterolemic subjects consuming ''usual'' diets that were generally high in total fat, saturated fat, and cholesterol (Refs. 37, 49, and 54). Goldberg et al. (Ref. 37) found, on the soy protein diet (with 99 g of soy protein as ISP), statistically significant decreases from baseline of 15 percent in total cholesterol and 17 percent in LDL-cholesterol. Total cholesterol was 8 mg/dL lower ($p<0.005$), and LDL-cholesterol was 10 mg/dL lower ($p<0.05$), at the end of the dietary period when soy protein was ingested as compared to the animal protein diet. Mercer et al. (Ref. 49) found that a diet with approximately 17 g of soy protein from ISP did not produce changes in serum cholesterol that were significantly different from those of a cow's milk control diet. Among subjects whose baseline total cholesterol was above the 90th percentile, Mercer et al. (Ref. 49) found that the soy protein diet resulted in a decrease from baseline in mean total cholesterol of 4 percent and a level 9 percent lower (16 mg/dL; $p<0.05$) than the level at the end of the cow's milk control period. LDL-cholesterol did not differ significantly between ISP and cow's milk diets for all subjects or for the subset of subjects with the highest initial total cholesterol levels.

Shorey et al. (Ref. 54) found diets with 57 g of soy protein as ISP was associated with a statistically significant decrease from baseline in total cholesterol of 7 percent ($p=0.027$); however, these values were 6 mg/dL higher than change from baseline values obtained from the control group. LDL-cholesterol was not measured in this study. Although the two diets were well matched for saturated fat and cholesterol, interpretation of these findings is complicated by the fact that body weight was significantly decreased in both groups of subjects ($p<0.004$). Subjects who showed a significant hypocholesterolemic response on either diet were those who substantially reduced their customary protein and fat intakes on the experimental diets. In contrast to other studies, subjects in this study with lower baseline values experienced more pronounced reductions in total cholesterol level.

HDL-cholesterol was also measured in these three studies. Changes were small and not statistically significant in two studies (Refs. 37 and 49), but HDL-cholesterol was significantly decreased from baseline values by 15 percent in one study (Ref. 54). (This latter study had a number of anomalous results.)

Each of these three studies fed soy protein in experimental diets as ISP (Refs. 37, 49, and 54). With a diet containing a very high level (99 g) of soy protein from this source (Ref. 37), statistically significant differences in both total and LDL-cholesterol were reported. Results were less consistent with a relatively low level of soy protein (17 g) (Ref. 49). An intermediate level of soy protein (57 g) was found to be ineffective in lowering total cholesterol in the study of Shorey et al. (Ref. 54).

c. *Summary—Normocholesterolemic subjects.* Five studies examined the effects of soy protein in normocholesterolemic subjects (Refs. 30, 36, 58, 59, and 53). The study of Carroll et al. (Ref. 30) found plasma total cholesterol was significantly lower (-10 mg/dL) when a soy protein diet (low in saturated fat and cholesterol and providing an estimated 44 g soy protein as ISP) was consumed as compared with a mixed protein control diet ($p<0.05$). LDL-cholesterol was not measured. Giovannetti et al. (Ref. 36) examined the effects of soy protein as ISP (66 to 80 g of soy protein depending on energy intake) in both high- and low-fat diets. Changes in total and LDL-cholesterol with the soy protein diets were not statistically significantly different from changes with the corresponding control diets, regardless of fat content. The magnitude of reduction in serum total cholesterol with soy protein was similar on the high-fat and low-fat diets, 10 percent and 9 percent, respectively. Substitution of soy protein caused reductions in LDL-cholesterol levels during the high-fat diet in 11 of 12 subjects and during the low-fat diet in 9 of 12 subjects.

Van Raaij et al. (Ref. 58) tested the effects of ISP using three diets high in total fat, saturated fat, and cholesterol that differed in protein composition with 65 percent of the total protein comprising either soy protein (54 g), or casein, or an approximately 2:1 mixture of casein (36 g):soy (17 g). In the group consuming the soy protein diet, the decrease in total serum cholesterol (-2 percent) was not statistically significant, but the decrease in LDL-cholesterol (-8 percent) was statistically significant ($p<0.05$). In addition, decreases in LDL-cholesterol were significantly greater with the soy protein diet compared to changes with the casein diet ($p<0.05$).

In a trial with both normocholesterolemic and moderately hypercholesterolemic subjects, Van Raaij et al. (Ref. 59) tested both ISP and SPC (each providing an average of 55 g of soy protein) compared to a casein control in diets high in total fat, saturated fat, and cholesterol. Serum total cholesterol was decreased from baseline by 4 percent and LDL-cholesterol was decreased by 3 percent on the ISP diet. These changes were statistically significantly different from those on the SPC diet ($p<0.05$) but not significantly different from those on the casein diet. When SPC was used as the protein source, total cholesterol was not altered and LDL-cholesterol was increased by 6 percent compared to

baseline. None of these changes in blood lipids from baseline or differences between the casein and SPC diets was statistically significant. Interpretation of this study is complicated by differential weight loss on the experimental diets (weight loss was greatest in the casein group) and differential fiber intake.

Sacks et al. (Ref. 53) studied the effects of 27 g of protein consumed daily as ISP or casein incorporated into muffins and oatmeal, in diets very low in saturated fat and cholesterol in adults who were strict vegetarians. Not unexpectedly, given the very low baseline lipid concentrations and very low dietary fat and cholesterol intake, no statistically significant changes or differences in total cholesterol or LDL-cholesterol or HDL-cholesterol were observed from consumption of either soy protein or casein.

HDL-cholesterol was measured in four of these studies, with statistically significant increases associated with soy protein intake found in two (Refs. 58 and 59) and no statistically significant changes in two (Refs. 36 and 53).

Effects of soy protein on total and LDL-cholesterol were less consistent in normocholesterolemic subjects than in moderately hypercholesterolemic subjects. As ISP, 44 g of soy protein was effective in statistically significantly lowering total cholesterol in one study (Ref. 30), and 54 g statistically significantly lowered LDL-cholesterol in one study (Ref. 58). With very low initial blood lipid levels, the impact of dietary changes appears to be lessened.

d. *Summary—Subjects consuming hypocaloric diets.* Bosello et al. (Ref. 29) and Jenkins et al. (Ref. 43) both studied the hypocholesterolemic effects of soy protein versus casein in the context of hypocaloric diets fed to obese persons to achieve significant weight reduction. In Bosello et al. (Ref. 29), total cholesterol and LDL-cholesterol in the soy group (which consumed 27 g of soy protein) were both 16 percent lower compared to baseline ($p<0.01$). Compared to the casein control group, total cholesterol was 20 mg/dL lower ($p<0.01$) and LDL-cholesterol was 16 mg/dL lower ($p<0.01$) in the soy protein group. Jenkins et al. (Ref. 43) found that statistically significant decreases from baseline in total cholesterol of 10 percent ($p<0.05$) and in LDL-cholesterol of 17 percent ($p<0.05$) occurred only during the period when the soy protein formula (which provided 17 g of soy protein) was ingested. The levels of total and LDL-cholesterol achieved with ingestion of soy protein were, respectively, 10 mg/dL and 8 mg/dL lower with the soy protein diet compared with casein diet. Neither the conventional hypocaloric diet nor the casein formula hypocaloric diet resulted in statistically significant decreases in total or LDL-cholesterol despite weight loss.

HDL-cholesterol was decreased in both groups at the end of the first study (Ref. 29); however, only the casein group's values were significantly ($p<0.01$) different from baseline. Additionally, the decrease in HDL-cholesterol in the casein group was significantly($p<0.01$) greater than that observed in the soy protein group. In the second study (Ref. 43), HDL-cholesterol levels were not significantly affected by dietary treatment.

These two studies (Refs. 29 and 43) demonstrated decreases in both total and LDL-cholesterol levels during hypocaloric diets that provided relatively low amounts (27 and 17 g, respectively) of soy protein.

2. Studies of Subjects with Type II and Familial Hypercholesterolemia (Mean Total Cholesterol Level>300 mg/dL)

Ten studies (Refs. 33, 35, 46, 55, 56, 60, 64, 34, 42 and 45 (1 trial), and 63) of subjects with severe (type II or familial) hypercholesterolemia (mean total cholesterol level>300 mg/dL) are summarized in Table 2 of this document and discussed in section III. C.2 of this document. Seven report results in adults (Refs. 33, 35, 46, 55, 56, 60, and 64) and three in children (Refs. 34, 42 and 45 (1 trial), and 63).

a. *Studies in adults.* Sirtori et al. (Ref. 55) reported a decrease of 21 percent in both total ($p<0.001$) and LDL-cholesterol ($p<0.01$) with soy protein consumption in adults with type II hyperlipoproteinemia. Total intake of soy protein, as a textured protein isolate, was not given but was approximately 13 percent of kcal or 60 g. The order in which the soy protein diet was consumed did not affect the results and the changes in total plasma cholesterol level far exceeded those expected based on the small differences in ratio of polyunsaturated to saturated fat and cholesterol content of the diets. When the control diet was fed first, statistically significant changes in total and LDL-cholesterol were not observed; when it was fed second, total cholesterol increased statistically significantly. These investigators also reported that addition of 500 mg cholesterol in a small, similar study showed that level of dietary cholesterol did not modify the cholesterol-lowering effect of soy protein observed.

Descovich et al. (Ref. 33) examined the effects of soy protein replacing animal protein in adults with stable type IIa and IIb hypercholesterolemia. Subjects consumed an average of 47 g of soy protein in the form of texturized soy protein (from SF) mixed into main dishes. During the baseline control period with a lipid-lowering diet, plasma total cholesterol decreased 3 percent from baseline levels. When soy protein was substituted for animal protein in the second dietary period, total cholesterol decreased by 24 percent ($p<0.001$) at the end of the experimental period. All of the subjects demonstrated decreases in total cholesterol of at least 10 percent. Upon returning to the control diet, plasma total cholesterol increased 7 percent in men and 9 percent in women. LDL-cholesterol also showed a statistically significant decrease, by 31 percent from baseline levels ($p<0.001$), while HDL-cholesterol remained stable over the course of the soy protein diet (+0.4 mg/dL for men and +1.0 mg/dL for women).

Wolfe et al. (Ref. 64) tested the effects of ingesting 47 g of soy protein in the form of ISP incorporated into main dishes and a beverage, while animal proteins were incorporated into similar main dishes and cow's milk was consumed during the mixed protein control period. Baseline lipid concentrations were not given; however, mean total cholesterol concentrations were 280 mg/dL after the soy protein treatment and 321 mg/dL after the control treatment. Thus, compared with the control period, serum total cholesterol was 41 mg/dL lower with ingestion of soy protein ($p<0.05$) and LDL-cholesterol was 43 mg/dL lower ($p<0.05$). HDL-cholesterol was similar at the end of the soy protein and control dietary periods.

Sirtori et al. (Ref. 56) conducted a trial that examined the effects of complete and partial substitution of soy protein as SF (60 g or 30 g of soy protein), in a lecithinated textured vegetable protein, for animal protein in adults with type IIa hyperlipoproteinemia. Plasma cholesterol levels were not altered during the first control diet period. Total plasma cholesterol levels were significantly ($p<0.01$) reduced in both periods of soy protein administration, by 18.6 percent when 60 g were consumed and by 13.2 percent when 30 g were consumed. Serum cholesterol values returned almost completely to baseline during the second control period. Changes in LDL-cholesterol levels were superimposable to those of total cholesterol. HDL-cholesterol levels tended to increase during the two soy periods and decline to baseline levels during the second control period, but these differences were not statistically significant.

Verillo et al. (Ref. 60) compared the effects of substituting 31 g of soy protein

as SF for animal protein versus the addition of 31 g of soy protein as SF to animal protein in adults with stable type II hypercholesterolemia. Slight, nonsignificant decreases in total and LDL-cholesterol levels were reported during the initial control period. Among subjects who consumed the soy-substituted diet, serum total cholesterol declined significantly ($p<0.01$) from the end of the baseline diet by 35 percent and 23 percent in type IIa and type IIb patients, respectively. LDL-cholesterol declined significantly ($p<0.01$) from the end of the baseline diet by 44 percent and 23 percent in type IIa and type IIb patients, respectively. HDL-cholesterol increased 8 percent, but this change did not reach statistical significance. The same hypocholesterolemic effects were also seen among subjects who consumed the soy-added diet. A comparison of results at the ends of the soy periods versus the means of final values of both control periods showed differences in serum lipids that were of similar magnitudes, but not statistically significantly different. The hypocholesterolemic response to soy was significantly related to cholesterol level at entry to the study.

The study of Lovati et al. (Ref. 46) in adults with type II hypercholesterolemia provided soy protein as SF, from textured vegetable protein, in amounts varying between 70 and 105 g depending upon total energy consumed. Plasma total and LDL-cholesterol levels both decreased by 16 percent ($p<0.01$) during the period when soy protein diet was ingested compared with levels at the start of the experimental period. Changes in these parameters on the control diet were negligible. HDL-cholesterol concentrations were not documented but were reported to be unchanged on the two diet regimens.

Gaddi et al. (Ref. 35) examined the effects of replacing animal protein and non-soy plant protein with approximately 75 g soy protein from SF in a lecithinated textured soy protein, in adults with familial hypercholesterolemia. The control diet did not affect plasma lipid values during the initial experimental period. After ingestion of the soy protein diet, plasma total cholesterol decreased by 21 percent ($p<0.0l$) and LDL-cholesterol decreased by 25 percent ($p<0.01$) from levels measured after the first control diet period. HDL-cholesterol levels were unchanged. Plasma total and LDL-cholesterol returned to concentrations close to those at baseline following resumption of the control diet during the third experimental period.

b. *Studies in children.* Gaddi et al. (Ref. 34) studied children from 3 to 12 years of age with familial hypercholesterolemia. After a baseline dietary period during which subjects consumed a low lipid diet, soy protein in the form of SF replaced a portion of the animal protein intake. No significant changes in plasma lipids occurred over the duration of the baseline dietary period. Plasma total cholesterol at the end of the soy protein dietary period was 20 percent lower than at the end of the baseline dietary period ($p<0.001$). LDL-cholesterol was 24 percent lower ($p<0.01$) and HDL-cholesterol level was not affected.

Widhalm et al. (Ref. 63) examined the lipid-lowering effects of incorporating ISP (13.5–18 g protein) into food and beverage recipes in children with familial hypercholesterolemia. After the soy protein dietary periods, plasma total cholesterol was 16 percent lower ($p<0.005$) than baseline levels in the group that consumed the soy protein diet before the control diet and 18 percent lower ($p<0.001$) in the group that consumed soy last. LDL-cholesterol was also statistically significantly decreased ($p<0.001$) by 22 percent in the first group and 25 percent in the second group. During the control diet periods, total and LDL-cholesterol levels were reduced by 8 percent and 7 percent in the first group and by 12 percent and 13 percent in the second group, respectively. HDL-cholesterol was not statistically significantly affected by dietary treatment.

Laurin et al. (Ref. 45) and Jacques et al. (Ref. 42) both reported on a test of the lipid-lowering effects of ISP (28 g of soy protein) in children, 6 to 12 years of age, with familial hypercholesterolemia. Children consumed either a conventional low fat diet with 2-percent cow's milk or the same low fat diet with a soy-based beverage made with 2-percent butterfat substituted for the 2-percent cow's milk. Comparisons between the two treatment groups indicated that total and LDL-cholesterol levels were not altered. HDL-cholesterol level was increased 4 percent ($p<0.04$) with soy protein compared to cow's milk.

c. *Summary—Subjects with Type II or familial hypercholesterolemia.* Each of the ten studies of the effects of soy protein in subjects with severe (type II or familial) hypercholesterolemia employed diets low in saturated fat and cholesterol (Refs. 33, 35, 46, 55, 56, 60, 64, 34, 42 and 45 (1 trial), and 63), and most subjects had been consuming such a therapeutic diet prior to the study. Six of the ten trials were conducted by workers from the same group (Refs. 55, 33, 56, 46, 35, and 34). Most used SF in TVP as the source of soy protein, in amounts ranging from 14 to 105 g (Refs. 33, 56, 60, 46, 35, 34, and 63); the remainder used ISP as the source of soy protein, in amounts ranging from 28 to 60 g (Refs. 55, 64, and 42 and 45 (1 trial)). In all the studies conducted in adults (Refs. 33, 35, 46, 55, 56, 60, and 64), using both fixed sequence and crossover study designs, large and statistically significant decreases in both total and LDL-cholesterol levels were observed in response to consumption of diets containing soy protein. In the six trials in which they were measured, HDL-cholesterol levels were either not statistically significantly affected (Refs. 33, 64, 60, 46, and 35) or were statistically significantly increased (Ref. 56).

In the studies conducted in children with familial hypercholesterolemia, two of the three trials demonstrated statistically significant decreases from baseline levels in total and LDL-cholesterol during the periods when soy protein diets were consumed (Refs. 34 and 63). However, interpretation of these findings is complicated by uncertainty about the control of intake of other dietary constituents, especially saturated fat and cholesterol. In the study reported by Laurin et al. and Jacques et al. (Refs. 45 and 42), differences in these dietary components were controlled. With diets providing 12 percent of kcal from saturated fat and 163 to 180 mg of cholesterol, plasma total and LDL-cholesterol levels were not statistically significantly different, but the HDL-cholesterol level was statistically significantly higher, on the soy diet than on the cow's milk diet.

3. Epidemiologic Evidence on Soy Protein and Blood Lipids

The petitioner also submitted one epidemiologic study by Nagata et al. (Ref. 65) that described the relationship between soy product and soy protein intake and serum total cholesterol concentrations in Japanese men and women. Participants in this study were 1,242 men and 3,596 women from the Takayama Study, a prospective cohort study on the impact of diet and lifestyle on cancer, who attended the annual health checkup program between April and October 1992. Data regarding food intake were collected by a validated, semiquantitative food frequency questionnaire (FFQ). Blood samples were also taken for each subject and analyzed for total cholesterol concentrations. Soy products identified in the FFQ included tofu (plain, fried, deep-fried, or dried), miso, fermented soybeans, soy milk, and boiled soybeans. The estimated amount of soy protein consumed from these sources was 8.00 ± 4.95 g/day for men and 6.88

± 4.06 g/day for women. The authors noted that their FFQ may underestimate soy product intake; they also estimated that 4 to 9 g additional soy protein may be consumed daily from soy protein added to meats and fish pastes that was not accounted for in the FFQ. Thus, analyses were presented in terms of relative soy protein intake. Using energy-adjusted means for quartiles of soy protein intake, a statistically significant negative trend was observed for lower serum total cholesterol concentrations with higher levels of soy protein intake ($p<0.0001$ for both men and women). The analysis for men was controlled for age, smoking status, and total energy, protein, and fat intake. The analysis for women was controlled for age, menopausal status, body mass index, and intake of energy and vitamin C. Further adjustments for physical activity, coffee and tea consumption, and intakes of cholesterol, carbohydrates, fiber, and vitamin E were performed and results were not affected. Between the 1st and 4th quartiles in men, total cholesterol was lower by 12 mg/dL with a 9.6-g increase in soy protein intake. For women, total cholesterol was lower by 9 mg/dL with a 7.9-g increase in soy protein intake.

4. Meta-analysis of Studies of Soy Protein and Blood Lipids

The petitioner presented the results of a 1995 meta-analysis (Ref. 66) of the effect of soy protein on blood lipids. While the role of ''research synthesis'' studies, including meta-analyses, is of interest, it is as yet unresolved. The appropriateness of such analytical techniques to establish diet/health relationships in particular is not known. There are on-going efforts to identify criteria and critical factors to consider in both conducting and using such analyses, but this science is still emerging. Therefore, the meta-analysis did not weigh heavily within the body of evidence for this relationship.

In summary, Anderson et al. (Ref. 66) pooled data from studies that were deemed comparable in methodology in order to perform a meta-analysis of the effect of soy protein on blood lipids. Of the 37 publications identified by these investigators that presented data on soy protein and lipid changes, 29 met the criteria of using either ISP or texturized soy protein as the soy protein source, employing either a parallel or crossover design, and providing initial or baseline cholesterol values to allow calculation of decreases. These 29 publications reported the findings from 38 separate trials. Each of these publications was included in the petition and was considered for review individually by FDA as described previously. Thirty-four of the trials were conducted among adults and four among children. Study samples included individuals with normal blood cholesterol levels as well as those with mildly to severely elevated levels. Twelve of the trials were conducted in subjects with familial hypercholesterolemia.

The specific analytical approach is described in Anderson et al. (66). Based on examining the difference from baseline between the soy protein and control protein groups, the analysis indicated that soy protein consumption statistically significantly decreased total cholesterol for the pooled data by 9.3 percent and LDL-cholesterol by 12.9 percent. HDL-cholesterol was increased by a net of 2.4 percent with soy protein ingestion, but this change was not statistically significant. This analysis also suggested that the initial level of serum total cholesterol was the most important determinant of serum lipid response to soy protein. When changes in total and LDL-cholesterol were examined by quartile of baseline cholesterol concentration, a progressively greater magnitude of change was observed from the lowest to the highest quartiles. Additional analyses indicated that the type and amount of soy protein consumed and type of background diet did not substantially influence the results.

To examine further the effects of the type and amount of soy protein, an analysis was performed using changes observed with the soy diet alone instead of net changes as the outcome variable. Initial serum cholesterol concentration was also the major determinant of effects in this model, but statistically significant effects ($p=0.02$) were also obtained for amount of soy protein. This model predicted, after adjustment for initial values and other variables, serum total cholesterol decreases of 8.9 mg/dL with 25 g/day soy protein, 17.4 mg/dL with 50 g/day of soy protein, and 26.3 mg/dL with 75 g/day of soy protein.

5. Studies of the Role Soy Isoflavones

Isoflavones are a class of naturally-occurring compounds with weak estrogenic/antiestrogenic activities that are present in a wide variety of plants. The 12 major isomers of naturally-occurring isoflavones in soybeans are genistein, genestin, 6''-*O*-acetylgenistin, 6''-*O*-malonylgenestin, diadzein, diadzin, 6''-*O*-acetyldiadzin, 6''-*O*-malonyldiadzin, glycitein, glycitin, 6''-*O*-acetylglycitin, and 6''-*O*-malonyglycitin. The levels of isoflavones in soybeans are known to vary with cultivar and growing conditions. Soy isoflavones are retained to variable degrees in soy protein products and soy foods, depending on the particular processing techniques used. For example, essentially all of the isoflavones in soy protein products can be extracted by alcohol washing, and their levels can also be reduced by repeated aqueous washings and some texturization techniques. Because of the estrogenic activities of the soy isoflavones, they have been hypothesized to contribute to the hypocholesterolemic effect of soy protein.

The petitioner submitted an unpublished study by Crouse et al. (Ref. 31, documented in Ref. 1 with corrections noted in Ref. 2) that examined the effect of soy protein containing different levels of isoflavones in hypercholesterolemic men and women (summarized in Table 1 of this document). Potential subjects were provided instruction in an NCEP Step 1 diet and followed this diet for 1 month. Subjects with qualifying serum lipid levels (LDL-cholesterol >140 mg/dL) were given a casein drink containing 25 g protein to consume in place of other protein in the NCEP Step 1 diet. Subjects compliant with this regimen were then randomized into one of five treatment groups and baseline blood lipid values were obtained. The treatment groups received 25 g protein from ISP prepared from soy with different levels of isoflavones (either 1.0, 1.6, or 2.5 mg total aglycone isoflavones/g protein), or 25 g protein from alcohol-washed ISP that contained essentially no isoflavones (0.2 mg total aglycone isoflavones/g protein) or 25 g protein from casein (no isoflavones) in beverages for 9 weeks. Dietary intake was assessed at baseline and at the end of the study. Diet was reported to be stable and comparable between groups throughout the study, with 9 percent of energy derived from saturated fat. Body weight was also stable, with no differences between groups at baseline or at the end of the trial. Results indicated the ISP containing the highest level of isoflavones significantly lowered total ($p<0.05$) and LDL-cholesterol ($p<0.05$), by 4 percent and 6 percent, respectively, while HDL-cholesterol was not altered (Table 1). Furthermore, in subjects with LDL-cholesterol in the top half of the study population, serum total and LDL-cholesterol were reduced by 9 percent ($p<0.03$) and 12 percent ($p<0.03$), respectively, by the ISP with the highest isoflavone content, and by 8 percent ($p<0.03$) and 9 percent ($p<0.03$), respectively by the ISP with the second highest isoflavone content, while HDL-cholesterol concentrations were maintained.

Baum et al. (Ref. 28) also investigated the impact in soy protein containing different levels of isoflavones on cholesterol lowering and examined whether changes in blood lipids were lasting or transient. Subjects were moderately hypercholesterolemic women, who were at least 1 year since last menstrual period, and were not taking medications known to alter lipid or bone metabolism. Following a 2-week run-in period during which subjects consumed an NCEP Step I diet, subjects were randomly assigned to one of three treatment groups consisting of 40 g protein from either ISP with 1.4 mg total aglycone isoflavones/g protein, ISP with 2.3 mg total aglycone isoflavones/g protein, or casein/nonfat dry milk for the 24-week treatment period. Although the adjusted mean difference in total serum cholesterol level was not statistically significantly different in the soy groups and the control group, there was a significant reduction of 8 to 9 percent in non-HDL (LDL plus VLDL) cholesterol in both of the ISP treatment groups ($p=0.04$) compared to the control group. HDL-cholesterol was also significantly increased in both soy groups compared to the control. Body weight remained stable, and dietary intake was assessed and was reported to be similar among treatment groups although details were not reported.

The petitioner concluded that these two studies (Refs. 31 and 28) provided evidence that the hypocholesterolemic effect of soy protein is dependent on processing techniques that enable retention of the naturally occurring isoflavones in conjunction with the soy protein. As additional supportive evidence for this conclusion, the petitioner cited studies of the lipid-lowering effects of soy protein with naturally occurring isoflavones in nonhuman primates (Refs. 22 and 70). In these experiments, the effects of diets including ISP with naturally occurring isoflavones compared with those of diets containing either casein or alcohol-washed ISP stripped of essentially all naturally occurring isoflavones were examined in two species of monkeys. The studies demonstrate significant depressions in total and non-HDL (LDL plus VLDL) cholesterol levels in response to diets containing unextracted ISP as compared with the diets containing casein or alcohol-washed ISP. As evidence that soy isoflavones alone, in the absence of soy protein, are ineffective in lowering blood lipids, the petitioner cited the study of Nestel et al. (Ref. 71). In that study, consumption of a tablet containing 80 mg of total aglycone isoflavones (mainly genistein and diadzein) had no impact on blood lipid profiles in postmenopausal women.

Although the petitioner suggested, based on the studies of Crouse et al. (Ref. 31) and Baum et al. (Ref. 28), that isoflavone content exceeding a certain threshold was a useful marker for soy protein that would be effective in lowering blood lipid levels, FDA has tentatively concluded that the evidence is not sufficient to establish that the presence of isoflavones accounts for or is related to the effect on blood lipids. The agency notes that there are a variety of methods for processing soy that could give rise to variable amounts of naturally-occurring isoflavones in soy protein products, and this is a possible hypothesis for explaining some of the variability in the results of human intervention studies. However, with two exceptions (Refs. 31 and 28), the studies reviewed and described in this document did not include concurrent measures of the isoflavone content of the soy protein products studied. More importantly, a recent letter to the editor from Sirtori et al. (Ref. 72), which was not included in the petition, contradicts the conclusions of Crouse et al. (Ref. 31) and Baum et al. (Ref. 28). These researchers (Ref. 72) reported that the TVP fed in their studies contained essentially no isoflavones and still considerable impact on LDL-cholesterol was observed. These studies (Refs. 33, 56, 46, 35, and 34) were conducted in subjects with type II hypercholesterolemia and all showed large and significant decreases in blood total and LDL-cholesterol levels.

Given the limited number of studies and the contradictory outcomes, FDA is not persuaded that the isoflavone component of soy protein is a relevant factor to the diet-disease relationship. Rather, FDA tentatively concludes that the evidence from a wide range of studies using differently processed soy protein is supportive of a relationship between soy protein per se and reduced risk of CHD.

6. Summary

In five (Refs. 31, 28, 27, 51, and 44) of seven (Refs. 31, 28, 27, 51, 44, and 40 (2 trials)) well-controlled studies of hypercholesterolemic subjects consuming low saturated fat and low cholesterol diets, soy protein intake was associated with statistically significant decreases in total and/or LDL-cholesterol levels, either in the entire study populations or subsets of subjects with higher initial blood lipid levels. Levels of HDL-cholesterol were found either to be unchanged (Refs. 31, 27, 51, and 40 (2 trials)) or slightly but statistically significantly increased (Refs. 28 and 44) by consumption of diets containing soy protein.

Levels of soy protein as ISP found to be effective in lowering total and LDL-cholesterol levels, in the context of a diet low in saturated fat and cholesterol, ranged in these studies from 25 to 50 g (Refs. 31, 28, 27, and 51). As whole soybean milk, 31 g of soy protein lowered LDL-cholesterol only in the subset of subjects with the highest initial LDL-cholesterol levels and LDL/HDL-cholesterol levels (Ref. 44). Diets providing 50 g of soy protein as SF did not cause significant changes from baseline for any of the blood lipids, but the decrease in total cholesterol observed after ingestion of SF was significantly greater than that on the control diet of nonfat dry milk and cellulose (Ref. 51). Diets providing 27 g of soy protein as SF in a textured product had no significant effects on blood lipid levels compared to a control diet, and a higher level (62 g) significantly lowered total cholesterol only in the experimental group fed the soy protein diet first (Ref. 40).

Three intervention studies reported on effects of soy protein in hypercholesterolemic subjects consuming ''usual'' diets that were generally high in total fat, saturated fat, and cholesterol (Refs. 37, 49, and 54). In each of these three studies, soy protein was fed in experimental diets as ISP (Refs. 37, 49, and 54). With a diet containing a very high level (99 g) of soy protein from this source (Ref. 37), statistically significant differences in both total and LDL-cholesterol were reported. Results were less consistent, showing a significant decrease in total cholesterol only in subjects with the highest baseline levels, with a relatively low level of soy protein (17 g) (Ref. 49). An intermediate level of soy protein (57 g) was found to be ineffective in lowering total cholesterol in the study of Shorey et al. (Ref. 54). (This latter study had a number of anomalous results.) HDL-cholesterol was also measured in these three studies. Changes were small and not statistically significant in two studies (Refs. 37 and 49), but HDL-cholesterol was statistically significantly decreased from baseline values by 15 percent in one study (Ref. 54).

Five intervention studies examined the effects of soy protein in normocholesterolemic subjects (Refs. 30, 36, 58, 59, and 53). Effects of soy protein on total and LDL-cholesterol were less consistent in normocholesterolemic subjects than in hypercholesterolemic subjects. As ISP, 44 g of soy protein was effective in significantly lowering total cholesterol in one study (Ref. 30) and 54 g

significantly lowered LDL-cholesterol in one study (Ref. 58). With very low initial blood lipid levels seen in some of these studies, the impact of dietary changes is considerably lessened. HDL-cholesterol was measured in four of these studies, with statistically significant increases associated with soy protein intake found in two (Refs. 58 and 59) and no statistically significant changes in two (Refs. 36 and 53).

Two intervention studies (Refs. 29 and 43) examined the hypocholesterolemic effects of soy protein versus casein in the context of hypocaloric diets fed to obese persons to achieve significant weight reduction. These two studies (Refs. 29 and 43) demonstrated large decreases in both total and LDL-cholesterol levels during hypocaloric diets that provided relatively low amounts (27 and 17 g, respectively) of soy protein. HDL-cholesterol was decreased in both soy and casein groups at the end of the first study (Ref. 29); however, only the casein group's values were significantly different ($p<0.01$) from baseline. Additionally, the decrease in HDL-cholesterol in the casein group was significantly greater ($p<0.01$) than that observed in the soy protein group. In the second study (Ref. 43), HDL-cholesterol levels were not significantly affected by dietary treatment.

In all seven intervention studies conducted in adults with type II or familial hypercholesterolemia (Refs. 33, 35, 46, 55, 56, 60, and 64), large and statistically significant decreases in both total and LDL-cholesterol levels were observed in response to consumption of diets containing soy protein. In the six trials in which they were measured, HDL-cholesterol levels were either not statistically significantly affected (Refs. 33, 64, 60, 46, and 35) or statistically significantly increased (Ref. 56). Each of these studies in adults with severe (type II or familial) hypercholesterolemia employed diets low in saturated fat and cholesterol (Refs. 33, 35, 46, 55, 56, 60, and 64) and most subjects had been consuming such a therapeutic diet prior to the study. Most trials used SF in TVP as the source of soy protein, in amounts ranging from 31 to 105 g (Refs. 33, 56, 60, 46, and 35); the remainder used ISP as the source of soy protein, in amounts ranging from 28 to 60 g (Refs. 55 and 64). Two of the three trials conducted in children with familial hypercholesterolemia demonstrated significant decreases from baseline levels in total and LDL-cholesterol during the periods when soy protein diets were consumed (Refs. 34 and 63).

Evidence from one epidemiologic study (Ref. 65) supported a significant negative trend for lower serum total cholesterol concentrations with higher levels of soy protein intake ($p<0.0001$ for both men and women). Between the first and fourth quartiles in men total cholesterol was lower by12 mg/dL with a 9.6-g increase in soy protein intake. For women, total cholesterol was lower by 9 mg/dL with a 7.9-g increase in soy protein intake.

Based on these studies, FDA tentatively finds there is scientific evidence for a consistent, clinically significant effect of soy protein on blood total and LDL-cholesterol. The hypocholesterolemic effect of soy protein is seen in addition to the effects of a low saturated fat and low cholesterol diet. The degree of lowering of blood total and LDL-cholesterol is consistently and highly dependent on initial levels, within and across studies of subjects with normal, moderately elevated, and severely elevated blood lipid levels, with persons having higher blood lipid levels showing greater effects. Soy protein consistently causes only statistically nonsignificant effects or slight elevations in HDL-cholesterol levels. The intervention studies suggest that a minimum level of approximately 25 g of soy protein is needed to have a clinically significant effect on total and LDL-cholesterol levels. These conclusions, drawn from the review of the individual, well controlled studies, are also supported by the meta-analysis of Anderson et al. (66).

IV. Decision To Propose a Health Claim Relating Soy Protein to Reduction in Risk of CHD

The petition provided and FDA reviewed information on pertinent human studies that evaluated the effects on serum cholesterol and LDL-cholesterol levels from dietary intervention with soy protein in subjects with normal to elevated serum cholesterol levels.

FDA tentatively concludes that, based on the totality of publicly available scientific evidence, there is significant scientific agreement to support the relationship between consumption of soy protein included in a diet low in saturated fat and cholesterol and the risk of CHD. The strongest evidence for the effect of soy protein on the risk of CHD is provided by studies that measured the effect of dietary soy protein consumption on the two major risk factors for CHD, total and LDL-cholesterol.

In most intervention trials in subjects with total cholesterol<300 mg/dL, soy protein was found to reduce total and/or LDL-cholesterol levels to a clinically significant degree (Refs. 31, 28, 27, 51, 44, 37, 49, 30, 58, 29, and 43). Moreover, HDL-cholesterol levels were unchanged (Refs. 31, 27, 51, 40, 37, 49, 36, and 53) or slightly increased (Refs. 28, 44, 58, and 59). In some cases (Refs. 27, 44, and 49), decreases in total and LDL-cholesterol were statistically significant only in subsets of subjects with the higher initial blood lipid levels. Results in normocholesterolemic subjects (Refs. 30, 36, 58, 59, and 53) were more variable than in hypercholesterolemic subjects (31, 28, 27, 51, 44, 40, 37, 49, 54, 29, and 43). The outcome of an epidemiologic study (Ref. 65) also supported a relationship between higher levels of soy protein intake and lower blood lipid levels.

Most of the studies in subjects with total cholesterol<300 mg/dL used low saturated fat and low cholesterol diets (Refs. 31, 28, 27, 51, 44, 30, 36, 53, 29, and 43), but some used ''usual'' diets (Refs. 37, 49, 54, 36, 58, and 59). Although soy protein was found to lower blood lipid levels in some of the studies using ''usual'' diets, hypocholesterolemic effects of soy protein were more consistently observed with diets low in saturated fat and cholesterol. In some studies (especially those without run-in periods) (Refs. 40 and 54), the control low saturated fat and low cholesterol diets induced significant decreases in blood lipid levels making it difficult to detect any additional effect of soy protein. At the same time, in two studies in which soy protein containing hypocaloric diets were compared to similar diets without soy (Refs. 29 and 43), only the soy protein containing diets induced significant changes in blood lipid levels. Given the variability of amounts and forms in which soy protein was provided in the diets, the response of blood lipid levels appears robust.

Data from studies of adults with type II and familial forms of hypercholesterolemia (and total cholesterol levels in excess of 300 mg/dL) (Refs. 55, 33, 64, 56, 64, 46, and 35) were more consistent than studies in persons with lower blood lipid levels in showing large and statistically significant decreases in total and LDL-cholesterol, accompanied by no changes or slight increases in HDL-cholesterol levels. Nearly all of the subjects in these trials consumed low saturated fat and low cholesterol diets during the studies and had consumed such diets prior to studies with soy protein.

Soy protein was tested in a variety of food forms (as soy beverages, formulated into meat and dairy product analogs, added to soups, or baked into foods, such as muffins and breads) but produced fairly consistent results

regardless of the food form fed and apparent differences in processing techniques.

FDA tentatively concludes, based on the evidence submitted and reviewed, that soy protein, included in a diet low in saturated fat and cholesterol, can lower blood total and LDL-cholesterol levels, without adversely affecting HDL-cholesterol levels. The agency also tentatively concludes that the effect is due to soy protein per se and is not consistently related to the presence or absence of isoflavones. The intervention studies suggest that a minimum level of approximately 25 g of soy protein is needed to have a clinically significant effect on total and LDL-cholesterol levels.

Based on the totality of the scientific evidence presented in the petition, the agency tentatively concludes that there is significant scientific evidence to show that soy protein, included in a diet low in saturated fat and cholesterol, will help reduce serum lipids, and that such reductions may reduce the risk of CHD. In the majority of clinical studies evaluating soy products, total and LDL-cholesterol were the lipid fractions shown to be the most affected by soy protein intervention. As part of a diet low in saturated fat and cholesterol, regular consumption of soy protein, in an amount to provide 25 g/day, resulted in reduced total and LDL-cholesterol levels in subjects with normal and elevated serum cholesterol levels. As stated in section III.A of this document, Federal Government and other reviews have concluded that there is substantial epidemiologic and clinical evidence that high blood levels of total cholesterol and LDL-cholesterol represent major contributors to CHD (56 FR 60727 at 60728, and Refs. 4 through 7). Dietary factors that decrease total cholesterol and LDL-cholesterol will affect the risk of CHD (Refs. 4 through 7).

Given all of this evidence, the agency is proposing a health claim on the relationship between soy protein and reduced risk of CHD.

V. Description and Rationale for Components of Health Claim

A. Relationship Between Soy Protein and CHD and the Significance of the Relationship

Proposed § 101.82(a) describes the relationship between diets low in saturated fat and cholesterol containing soy protein and the risk of CHD. In proposed § 101.82(a)(1), the agency recounts that CHD is the most common and serious form of CVD, and that CHD refers to diseases of the heart muscle and supporting blood vessels. The proposed section also notes that high blood total and LDL-cholesterol levels are associated with increased risk of developing CHD and identifies the levels of total cholesterol and LDL-cholesterol that would put an individual at high risk of developing CHD, as well as those serum lipid levels that are associated with borderline high risk. This information will assist consumers in understanding the seriousness of CHD.

In proposed § 101.82(a)(2), the agency recounts that populations with a low incidence of CHD tend to have low blood total and LDL-cholesterol levels. It states that these populations also tend to have dietary patterns that are low in total fat, saturated fat, and cholesterol and high in plant foods that contain fiber and other components. This information is consistent with that provided in the authorized health claim for fruits, vegetables, and grain products and CHD (§ 101.77) and so the agency believes that this information provides a basis for a better understanding of the numerous factors that contribute to the risk of CHD and the relationship with soy protein and diets low in saturated fat and cholesterol.

Proposed § 101.82(a)(3) states that diets low in saturated fat and cholesteral may reduce the risk of CHD. The paragraph further states that soy protein, when added to such a diet, may also help reduce the risk of CHD.

Proposed § 101.82(b) describes the significance of the diet-disease relationship. In proposed § 101.82(b)(1), the agency recounts that CHD remains a major public health concern in the United States because the disease accounts for more deaths than any other disease or group of diseases. The claim states that early management of modifiable risk factors for CHD is a major public health goal that can assist in reducing the risk of CHD. This information is consistent with the evidence that lowering blood total and LDL-cholesterol levels reduces the risk of CHD (56 FR 60727, 58 FR 2739, and Refs. 4 through 8).

In proposed § 101.82(b)(2), the significance of the relationship between soy protein and CHD risk factors in context of the total diet is discussed. The agency recounts that many Americans' intakes of saturated fat and cholesterol exceed recommended levels, and it summarizes public health recommendations for the diet (56 FR 60727 at 60738 and § 101.75(b)(3)). This paragraph also states that scientific evidence demonstrates that diets low in saturated fat and cholesterol and that contain soy protein are associated with reduced blood lipids. FDA tentatively concludes that the latter statement is scientifically valid based on the evidence that it has reviewed on this nutrient-disease relationship.

B. Nature of the Claim

In proposed § 101.82(c)(1), FDA is proposing to require that all of the general requirements for health claims set out in § 101.14 be met. This provision is consistent with the provisions of the other specific health claim regulations in 21 CFR part 101, subpart E.

In proposed § 101.82(c)(2)(i), FDA is proposing to authorize a health claim on the relationship between diets that contain soy protein and are low in saturated fat and cholesterol and the risk of CHD. The agency is proposing to do so based on its review of the scientific evidence on this nutrient-disease relationship, which shows that diets that contain soy protein and are low in saturated fat and cholesterol help to reduce total and LDL-cholesterol levels, especially in individuals with elevated blood total cholesterol (Refs. 31, 28, 27, 51, 44, 37, 49, 30, 58, 29, 43, 55, 33, 64, 56, 64, 46, and 35). This result is significant for the risk of heart disease because elevated levels of total and LDL-cholesterol are associated with increased risk of CHD (Refs. 4 through 7).

Most of the scientific evidence for an effect of soy protein on blood lipid levels was provided by studies that used diets low in saturated fat and cholesterol. Although soy protein was found to lower blood lipid levels in some of the studies using ''usual'' diets (Refs. 37, 49, and 58), hypocholesterolemic effects of soy protein were more consistently observed with diets low in saturated fat and cholesterol.

Moreover, as stated in section V.A of this document, CHD is a major public health concern in the United States, and the totality of the scientific evidence provides strong and consistent support that diets high in saturated fat and cholesterol are associated with elevated levels of blood total and LDL-cholesterol and, thus, CHD (56 FR 60727 at 60737). Dietary estimates for American adults show that the average saturated fat intakes of American adults are about 13 percent of calories, total fat intakes are about 37 percent of calories, and average cholesterol intakes range from 300 to over 400 mg daily for adult men and women (56 FR 60727 at 60738). The current intakes of saturated fat and total fat are thus well in excess of recommended goals of less than 10 percent and 30 percent of calories.

Dietary guidelines from both Government and private scientific bodies conclude that the majority of the American population would benefit from decreased consumption of dietary saturated fat and cholesterol (Refs. 4 through 7). The results of several studies showed that daily consumption of soy protein lowered total cholesterol and LDL-cholesterol, and the effects of dietary intake of soy protein were evident when the diets were low in saturated fat and cholesterol (Refs. 31, 28, 27, 51, 44, 30, 29, and 43). Thus, the agency tentatively finds that it will be more helpful to Americans' efforts to maintain healthy dietary practices if the effect of soy protein on serum lipids is characterized in the context of a diet low in saturated fat and cholesterol.

In § 101.82(c)(2)(i)(A), the agency is proposing to require, consistent with other health claims, that the relationship be qualified with the terms ''may'' or ''might.'' These terms are used to make clear that not all persons can necessarily expect to benefit from these dietary changes (56 FR 60727 at 60740 and 58 FR 2552 at 2573). The requirement that the claim use the term ''may'' or ''might'' to relate the ability of soy protein to reduce the risk of heart disease is also intended to reflect the multifactorial nature of the disease.

In § 101.82(c)(2)(i)(B), the agency is proposing to require, consistent with other authorized health claims, that the terms ''coronary heart disease'' or ''heart disease'' be used in specifying the disease. These terms are commonly used in dietary guidance materials, and therefore they should be readily understandable to the consumer (56 FR 60727 at 60740 and 58 FR 2552 at 2573).

In § 101.82(c)(2)(i)(C), the agency is proposing that the claim specify the substance as ''soy protein.'' Based on its review of the scientific evidence submitted with the petition, the agency tentatively concludes that there is significant scientific agreement that diets low in saturated fat and cholesterol that contain soy protein may help to reduce blood total and LDL-cholesterol levels, the major modifiable risk factors for CHD (Refs. 31, 28, 27, 51, 44, 37, 49, 30, 58, 29, 43, 55, 33, 64, 56, 64, 46, and 35). As discussed in section III.C.5 of this document, FDA did not find persuasive the limited and contradictory evidence that soy isoflavones are a relevant factor in the diet-disease relationship persuasive. Therefore, FDA has tentatively concluded that evidence from a wide range of studies supports a relationship between soy protein per se and reduced risk of CHD.

As discussed previously, the agency tentatively finds that for the public to understand fully, in the context of the total daily diet, the significance of consumption of soy protein on the risk of CHD (see section 403(r)(3)(B)(iii) of the act), information about the total diet must be included as part of the claim. Therefore, in § 101.82(c)(2)(i)(D), the agency is proposing to require that the claim include the fact that the effect of dietary consumption of soy protein on the risk of CHD is evident when it is consumed as part of a healthy diet and that, consistent with other authorized health claims, the fat component of the diet be specified as ''saturated fat'' and ''cholesterol.'' Based on its review of the scientific evidence submitted with the petition, the agency tentatively concludes that there is significant scientific agreement that diets containing soy protein and low in saturated fat and cholesterol are associated with reduced blood total and LDL-cholesterol levels.

Proposed § 101.82(c)(2)(i)(E), consistent with other authorized health claims, requires that the claim not attribute any degree of risk reduction of CHD to consumption of diets low in saturated fat and cholesterol that contain soy protein. None of the studies that the agency reviewed provide a basis for determining the percent reduction in risk of CHD likely from consuming diets that contain soy protein and are low in saturated fat and cholesterol. Also consistent with other authorized claims, proposed § 101.82(c)(2)(i)(F) requires that the claim not imply that consumption of diets low in saturated fat and cholesterol and that contain soy protein is the only recognized means of reducing CHD risk.

Proposed § 101.82(c)(2)(i)(G) requires that the claim specify the daily dietary intake of soy protein needed to reduce the risk of CHD and the contribution one serving of the product makes to achieving the specified daily dietary intake. This requirement is consistent with requirements set forth in § 101.81.

In the studies showing a statistically significant effect of soy protein on total or LDL-cholesterol, the amounts fed ranged from 17 to 105 g/day (Refs. 31, 28, 27, 51, 44, 37, 49, 30, 58, 29, 43, 55, 33, 64, 56, 64, 46, and 35). In proposing 25 g/day as an effective daily intake of soy protein, the petitioner relied on the meta-analysis by Anderson et al. (Ref. 65) and noted that the estimate suggested by the meta-analysis was confirmed by the recent study of Crouse et al. (Ref. 31) that found reductions in total and LDL-cholesterol of 4 and 6 percent, respectively, with ingestion of 25 g/day of soy protein containing high levels of isoflavones.

FDA notes that, although none of the studies reviewed attempted to determine an effective or optimal amount of soy protein, the study by Sirtori et al. (Ref. 56) suggests the existence of a dose-response. In that study of subjects with type II hypercholesterolemia, total cholesterol levels were reduced by 13 and 19 percent, and LDL-cholesterol levels were reduced by 18 and 23 percent, compared to control by ingestion of 30 and 60 g/day of soy protein, respectively. With levels of soy protein intake lower than the proposed effective amount, findings have been variable. Mercer et al. (Ref. 49) found a statistically significant reduction in total cholesterol in response to 17 g/day of soy protein only in those subjects with high initial values. Feeding the same amount (17 g/day) of soy protein in a hypocaloric diet, however, Jenkins et al. (Ref. 43) found statistically significant reductions of 10 and 17 percent in total and LDL-cholesterol, respectively. With 25 g/day of soy protein, Bakhit et al. (Ref. 27) found a statistically significant reduction in total cholesterol (about 8 percent) in subjects with blood cholesterol levels greater than 220 mg/dL. Crouse et al. (Ref. 31) found that 25 g of soy protein that contained a high level of isoflavones significantly lowered total ($p<0.05$) and LDL-cholesterol ($p<0.05$), by 4 percent and 6 percent, respectively. Furthermore, in subjects with LDL-cholesterol in the top half of the study population, serum total and LDL-cholesterol were reduced by 9 percent ($p<0.03$) and 12 percent ($p<0.03$), respectively, by soy protein with the highest isoflavone content, and by 8 percent ($p<0.03$) and 9 percent ($p<0.03$), respectively, by soy protein with the second highest isoflavone content. Although Holmes et al. (Ref. 40) did not find statistically significant changes in blood lipids with 27 g of soy protein, using 28 g of soy protein in a hypocaloric diet, Bosello et al. (Ref. 29) observed decreases of 16 percent from baseline in both total and LDL-cholesterol ($p<0.01$). With 31 g of soy protein, Kurowska et al. (Ref. 44) found an 11-percent reduction in LDL-cholesterol in subjects with the highest initial LDL-cholesterol levels and LDL/HDL-cholesterol ratios. As a substitution or as an addition, Verillo et al. (Ref. 60) found 31 g of soy protein produced large (>20 percent) reductions in both total and LDL-cholesterol in subjects with type II hypercholesterolemia.

Based on these data that support a dose-response and that show clinically significant reductions in total and LDL-

cholesterol with soy protein ingestion in the range of 17 to 31 g/day, and recognizing that the hypocholesterolemic effects of soy protein are highly dependent on initial blood lipid levels, the agency has tentatively accepted that 25 g/day represents a reasonable effective amount of soy protein. In addition, an amount of 25 g/day of soy protein represents half of the Reference Daily Intake (RDI) of 50 g for protein and is a reasonable level of consumption in the context of the total daily diet. Thus, FDA tentatively concludes that the amount of soy protein associated with reduction in total and LDL-cholesterol levels and, thus, with reduced risk of CHD is 25 g or more of soy protein per day. The agency is asking for comments on this tentative determination.

C. Nature of the Substance

Proposed § 101.82(c)(2)(ii)(A) indicates that soy protein from the legume seed *Glycine max* is the substance that is the subject of this claim.

Proposed § 101.82(c)(2)(ii) (B) sets out FDA's tentative decision that soy protein when evaluated for compliance purposes by the agency will be measured using the Association of Official Analytical Chemists International (AOAC) official method of analysis No. 988.10.

The petitioner proposed that measurement of total soy isoflavones be used as a marker for the content of soy protein in foods and as an indicator of the effectiveness of soy protein products in reducing blood cholesterol. As discussed in section C.III.5 of this document, FDA disagrees with the petitioner's conclusions regarding the significance of soy isoflavones with respect to the observed hypocholesterolemic effects of soy protein. Accordingly, FDA finds the proposed methodology to assess isoflavones irrelevant. The AOAC method that FDA is proposing instead is an enzyme-linked immunosorbant assay that detects soy protein in raw and heat-processed meat products. With this assay, samples are compared to standard commercial soy protein and appropriate blanks. The method is described as semi-quantitative, but it can be quantitative when the nature of the soy protein in the samples is known and the assay is calibrated accordingly. The sample extraction procedure, which involves preparation of an acetone powder, has been shown to be appropriate for a complex food matrix (meat). FDA believes, therefore, that this assay should also be suitable for other food matrices. FDA is requesting comments on the suitability of this method for assuring that foods bearing the health claim contain qualifying levels of soy protein.

D. Nature of the Food

Proposed § 101.82(c)(2)(iii)(A) requires that the food bearing the health claim contain at least 6.25 g of soy protein per reference amount customarily consumed (RACC) of the food product.

Using 25 g of soy protein as the qualifying amount for a CHD claim, the petitioner suggested that a single serving of a soy protein-containing product (i.e., 1 RACC) should provide 1/4 of this amount (based on 4 servings a day). Thus, a soy protein-containing product would have to contain at least 6.25 g soy protein (1/4 x 25 g) per RACC. The petitioner stated that this approach is reasonable because it would permit a wide variety of low fat, soy protein containing products to bear the health claim. The petitioner provided a list of products on the market that currently meet the proposed requirements and a list of products that could be modified to meet them (Ref. 1, Appendix V).

The agency has generally made the assumption that a daily food consumption pattern includes three meals and a snack (see 58 FR 2302 at 2379, January 6, 1993). Because of the wide variety of types of foods that could contain qualifying levels of soy protein (baked goods, tofu, soy beverages and shakes, meat analogs), the agency has tentatively concluded that the assumption of 4 servings/d of soy protein containing foods is reasonable. Therefore, the agency tentatively finds that use of the qualifying criterion set forth in the petition for this proposed rule is appropriate and is proposing this level in this document. The qualifying level of protein, 6.25 g/RACC, exceeds the amount required for a food to qualify as a ''good source'' of protein, i.e., 10 percent of the RDI of 50 g or 5 g/RACC).

In § 101.82(c)(2)(iii)(B), the agency is proposing, consistent with other authorized heart disease health claims, that foods bearing the health claim meet requirements for ''low saturated fat,'' ''low cholesterol,'' and ''low fat.'' In the preamble to the final rule on fruits, vegetables, and grain products and heart disease (§ 101.77, 58 FR 2552 at 2572), the agency stated that populations with diets rich in these low saturated fat and low cholesterol foods experience many health advantages, including lower rates of heart disease. In the preamble to the proposed rule on dietary lipids and heart disease (56 FR 60727 at 60739), the agency stated that while total fat is not directly linked to increased risk of CHD, it may have significant indirect effects. Foods that are low in total fat facilitate reductions in intakes of saturated fat and cholesterol to recommended levels. Therefore, the agency tentatively concludes that proposed § 101.82(c)(2)(iii)(B) sets forth an appropriate requirement for food to be eligible to bear the soy protein and CHD claim.

E. Optional Information

FDA is proposing in § 101.82(d)(1) that the claim may state that the development of heart disease depends on many factors and, consistent with authorized CHD health claims, may list the risk factors for heart disease that are listed in §§ 101.75(d)(1), 101.77(d)(1), and 101.81(d)(1). The agency is also proposing, in response to the petition, that the claim may provide additional information about the benefits of exercise and body weight management. This additional information can provide a context that is useful for an understanding of the relationship between soy protein and heart disease, but manufacturers should be cautioned that it should not be presented in a way that is misleading to the consumer.

In proposed § 101.82(d)(2), consistent with §§ 101.75(d)(2), 101.77(d)(2), and 101.81(d)(2), FDA is providing that the claim may state that the relationship between a diet high in soy protein and reduced risk of heart disease is through the intermediate link of ''blood cholesterol'' or ''blood total cholesterol'' and ''LDL- cholesterol.'' The relationship between soy protein and reduced blood total cholesterol and LDL-cholesterol is supported by the scientific evidence presented in this proposal.

In § 101.82(d)(3), the agency is proposing that, consistent with §§ 101.75(d)(3), 101.77(d)(3), and 101.81(d)(3), the claim may include information from § 101.82(a) and (b). These paragraphs summarize information regarding the relationship between diets high in soy protein and the risk of CHD and about the significance of that relationship. This information helps to convey the seriousness of CHD and the role that a diet high in soy protein can play to help reduce the risk of CHD.

The agency is proposing that the claim may include any of the optional information authorized to be included in §§ 101.75(d)(5), (d)(6), and (d)(7), 101.77(d)(5), (d)(6), and (d)(7), and 101.81(d)(5), (d)(6), and (d)(7). The health claim may state that diets high in soy protein and low in saturated fat and cholesterol are part of a dietary pattern

that is consistent with dietary guidelines for Americans. The claim may state that individuals with elevated serum lipids should consult their physicians for medical advice and treatment and may include information on the prevalence of CHD in the United States. The intent of this information is to provide consumers with information that will help them understand the seriousness of CHD in the United States and to help them understand that diets high in soy protein are consistent with dietary guidelines.

F. Model Health Claims

In proposed § 101.82(e), FDA is providing model health claims to illustrate the requirements of new § 101.82. FDA emphasizes that these model health claims are illustrative only. These model claims illustrate the required, and some of the optional, elements of the proposed rule. If the agency authorizes a claim about the relationship between soy protein and CHD, manufacturers will be free to design their own claim so long as it is consistent with § 101.82(c).

In §§ 101.82(e)(1) and (e)(2), the model claim illustrates all of the required elements of the proposed health claim. The claim states ''25 grams of soy protein a day, as part of a diet low in saturated fat and cholesterol, may reduce the risk of heart disease. A serving of [name of food] supplies ———— grams of soy protein.'' or ''Diets low in saturated fat and cholesterol that include 25 grams of soy protein may reduce the risk of heart disease. One serving of [name of food] provides ———— grams of soy protein.''

VI. Environmental Impact

The agency has determined under 21 CFR 25.30(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Analysis of Impacts

A. Cost–Benefit Analysis

FDA has examined the impacts of the proposed rule under Executive Order 12866. Executive Order 12866 directs Federal agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). According to Executive Order 12866, a regulatory action is ''economically significant'' if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs. A regulation is considered ''significant'' under Executive Order 12866 if it raises novel legal or policy issues. FDA finds that this proposed rule is neither an economically significant nor a significant regulatory action as defined by Executive Order 12866.

In addition, in accordance with the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801(a)(1)(A)(ii)), the Administrator of the Office of Information and Regulatory Affairs of the Office and Management and Budget (the Administrator) has determined that this proposed rule is not a major rule for the purpose of congressional review. A major rule for this purpose is defined in 5 U.S.C. 804(2) as one that the Administrator has determined has resulted or is likely to result in: (1) An annual effect on the economy of $100,000,000 or more; or (2) a major increase in costs for prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule will give firms the option of making certain label claims involving soy protein. No costs will be generated by this proposed rule because it will not require any labels to be changed or any product to be reformulated. Firms will only relabel or reformulate products if the benefits to those firms outweigh the costs. Social benefits may be generated by this proposed rule because the value some consumers place on the information provided in these claims may be greater than the cost to industry of making these claims. In general, consumers may value this type of information because it will enable them to eat a healthier diet. Consumers may value this type of information presented on product labels, in particular, because it would obviate the need to consult other sources of information and because it may reassure consumers who are aware of the role of FDA in regulating health claims on product labels that the information is truthful, not misleading, and scientifically valid.

Consumer valuation of this information will reflect the value that consumers place on reducing the likelihood of CHD and the perceived usefulness of this information for reducing the likelihood of CHD. However, consumers may either underestimate or overestimate the usefulness of this information in reducing the likelihood of CHD. Therefore, another metric for valuing the social benefits of this proposed rule is the health care costs avoided by the reduction in CHD-related disease and disability made possible by this proposed rule. If consumers were aware of these health care costs and had an accurate notion of the likelihood that such costs could be avoided by using the information provided in the claims allowed by this proposed rule, then consumer valuation of this information would be at least as great as the value of any health care costs avoided. The value of the information might be greater because some consumers might value the information but might not choose to modify their behavior so as to reduce the likelihood of CHD.

In general terms, the relevant regulatory options available to FDA are as follows: (1) Allow this claim to be made under a broader set of conditions than those specified in this proposed rule (e.g., with fewer required elements in the claim, or with a lower level of soy protein in a serving of food), and (2) allow this claim to be made under a more restricted set of conditions than those specified in this rule (e.g., more required elements or higher levels of soy protein). Neither of these alternatives would generate net costs because, like the proposed action, firms would only relabel or reformulate products if the benefits to those firms outweigh the costs. These options would generate higher benefits than the proposed action if allowing this claim to be made under either a broader set of conditions or more restricted set of conditions than the proposed conditions would provide consumers with more valuable information (that would nonetheless be truthful, not misleading, and scientifically valid) or would make possible a greater reduction in health care costs than would the proposed action. FDA tentatively believes that no alternative conditions exist that would render the net benefits of this proposed rule greater than the proposed conditions. In particular, FDA believes that the information proposed to be required in a health claim about the relationship between soy protein and CHD is the minimum necessary for the claim to be truthful, not misleading, and

scientifically valid, thereby maximizing the likelihood that qualifying foods will be labeled with the claim and that consumers will be able to use the information. Similarly, FDA believes that the amount of soy protein proposed to be required for a food bearing this claim will allow both the claim to appear on a significant number of foods and consumers who use the claim, in the aggregate, to benefit from the use of soy protein in their diet. However, FDA requests comments and supporting information on any modifications of the conditions under which this claim is allowed that would increase the net benefits of this proposed rule.

B. Small Entity Analysis

FDA has examined the impacts of this proposed rule under the Regulatory Flexibility Act (5 U.S.C. 601–612). The Regulatory Flexibility Act requires Federal agencies to consider alternatives that would minimize the economic impact of their regulations on small businesses and other small entities. No costs will be generated by this proposed rule because it will not require any labels to be changed, or any product to be reformulated. Therefore, small businesses will only relabel or reformulate products if the benefits (e.g., increased sales of their products) to those small businesses outweigh the costs. Accordingly, under the Regulatory Flexibility Act) (5 U.S.C. 605(b)), the Commissioner of Food and Drugs certifies that this proposed rule, if issued, will not have a significant economic impact on a substantial number of small entities.

VIII. Paperwork Reduction Act

FDA tentatively concludes that the labeling requirements proposed in this document are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Rather, the proposed food labeling health claim on the association between soy protein and coronary heart disease would be a ''public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

IX. Effective Date

FDA is proposing to make these regulations effective upon publication in the **Federal Register** of a final rule based upon this proposal.

X. Comments

Interested persons may, on or before January 25, 1999, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

XI. 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. Protein Technologies International, Inc., ''Health Claim Petition,'' (CP1, vol. 1-3), May 4, 1998.

2. Protein Technologies International, Inc., ''Addendum to Health Claim Petition,'' (CPI, vol. 4) August 10, 1998.

3. Pilch, S. M., Center for Food Safety and Applied Nutrition, letter to M. M. Marcus, Protein Technologies International, Inc., August 12, 1998.

4. DHHS, Public Health Service (PHS), ''The Surgeon General's Report on Nutrition and Health,'' U.S. Government Printing Office, Washington, DC, pp. 83–137, 1988.

5. Food and Nutrition Board, National Academy of Sciences, ''Diet and Health: Implications for Reducing Chronic Disease Risk,'' National Academy Press, Washington, DC, pp. 291–309 and 529–547, 1989.

6. DHHS, Public Health Service (PHS) and National Institutes of Health, ''National Cholesterol Education Program: Population Panel Report,'' Bethesda, MD, pp. 1–40, 1990.

7. Sempos, C. T., J. I. Cleeman, M. D. Carroll, C. L. Johnson, P.S. Bachorik, D. J. Gordon, V. L. Burt, R. R. Briefel, C. D. Brown, K. Lippel, and B. M. Rifkind, ''Prevalence of High Blood Cholesterol Among U.S. Adults. An Update Based on Guidelines From the Second Report of the National Cholesterol Education Program Adult Treatment Panel,'' *Journal of the American Medical Association*, 269:3009–3014, 1993.

8. Ross, R., ''Atherosclerosis,'' in Cecil Textbook of Medicine, edited by J. B. Wyndaarden, L. H. Smith, and J. C. Bennett, Harcourt Brace Johanevich, Inc., Philadelphia, p. 293, 1992.

9. Van Sickle, G. J., G. K. Powell, P. J. McDonald, and R. M. Goldblum, ''Milk- and Soy Protein-induced Enterocolitis: Evidence for Lymphocyte Sensitization to Specific Food Proteins,'' *Gastroenterology*, 88:1915–1921, 1985.

10. Sampson, H. A. and S. M. Scanlon, ''Natural History of Food Hypersensitivity in Children with Atopic Dermatitis,'' *Journal of Pediatrics*, 115:23–27, 1989.

11. Roebuck, B. D., ''Trypsin Inhibitors: Potential Concern for Humans?'' *Journal of Nutrition*, 117:398–400, 1987.

12. Anderson, R. L. and W. J. Wolf, ''Compositional Changes in Trypsin Inhibitors, Phytic Acid, Saponins and Isoflavones Related to Soybean Processing,'' *Journal of Nutrition*, 125:581S–588S, 1995.

13. Erdman, J. W., Jr., ''Effects of Soya Protein on Mineral Availability,'' *Journal of the American Oil Chemists' Society*, 58:489–493, 1981.

14. Liener, I., ''Significance for Humans of Biologically Active Factors in Soybeans and Other Food Legumes,'' *Journal of the American Oil Chemists' Society*, 56:121–129, 1979.

15. Kennedy, A. R., ''The Evidence for Soy Products as Cancer Preventive Agents,'' *Journal of Nutrition*, 125:733S–743S, 1995.

16. Adlercreutz, H. and W. Mazur, ''Phyto-oestrogens and Western Diseases,'' *Annals of Medicine*, 29:95–120, 1997.

17. Liener, I. E., ''Factors Affecting the Nutritional Quality of Soya Products,'' *Journal of the American Oil Chemists' Society*, 58:406–415, 1981.

18. Erdman, J. W., Jr. and E. J. Fordyce, ''Soy Products and the Human Diet,'' *American Journal of Clinical Nutrition*, 49:725–737, 1989.

19. Breslau, N. A., L. Brinkley, K. D. Hill, and C. Y. C. Pak, ''Relationship of Animal Protein-rich Diet to Kidney Stone Formation and Calcium Metabolism,'' *Journal of Clinical Endocrinology and Metabolism*, 66:140–146, 1988.

20. Portale, A. A., B. P. Halloran, M. M. Murphy, and R. C. Morris, Jr., ''Oral Intake of Phosphorus Can Determine the Serum Concentration of 1,25-Dihydroxy-vitamin D by Determining its Production Rate in Humans,'' *Journal of Clinical Investigation*, 77:46–55, 1986.

21. Moule, G. R., ''Clinical Aspects of Nutritional Infertility of Ewes,'' *Australian Veterinary Journal*, 46(9):428–435, 1970.

22. Anthony, M. S., T. B. Clarkson, C. L. Hughes, Jr., T. M. Morgan, and G. L. Burke, ''Soybean Isoflavones Improve Cardiovascular Risk Factors Without Affecting the Reproductive System of Peripubertal Rheusus Monkeys,'' *Journal of Nutrition*, 126:43–50, 1996.

23. Honore, E. K., J. K. Williams, M. S. Anthony, and T. B. Clarkson, ''Soy

Isoflavones Enhance Coronary Vascular Reactivity in Atherosclerotic Female Macaques,'' *Fertility and Sterility*, 67:148–154, 1997.

24. Cline, J. M., J. C. Paschold, M. S. Anathony, I. O. Obasanjo, M. R. Adams, ''Effects of Hormonal Therapies and Dietary Soy Phytoestrogens on Vaginal Cytology in Surgically Postmenopausal Macaques,'' *Fertility and Sterility*, 65:1031–1035, 1996.

25. Lee, H. P., L. Gourley, S. W. Duffy, J. Esteve, J. Lee, and N. E. Day, ''Dietary Effects on Breast-cancer Risk in Singapore,'' *The Lancet*, 337:1197–1200, 1991.

26. Cassidy, A., S. Bingham, and K. R. Setchell, ''Biological Effects of a Diet of Soy Protein Rich in Isoflavones on the Menstrual Cycle of Premenopausal Women,'' *American Journal of Clinical Nutrition*, 60:333–340, 1994.

27. Bakhit, R. M., B. P. Klein, D. Essex-Sorlie, J. O. Ham, J. W. Erdman, Jr., and S. M. Potter, ''Intake of 25 g of Soybean Protein With or Without Soybean Fiber Alters Plasma Lipids in Men with Elevated Cholesterol Concentrations,'' *Journal of Nutrition*, 124:213–222, 1994.

28. Baum, J. A., H. Teng, J. W. Erdman, Jr., R. M. Weigel, B. P. Klein, V. W. Persky, S. Freels, P. Surya, R. M. Bakhit, E. Ramos, N. F. Shay, and S. M. Potter, ''Long-term Intake of Soy Protein Improves Blood Lipid Profiles and Increases Mononuclear Cell LDL Receptor mRNA in Hypercholesterolemic Postmenopausal Women,'' *American Journal of Clinical Nutrition*, in press.

29. Bosello, O., L. Cominacini, I. Zocca, U. Garbin, R. Compri, A. Davoli, and L. Brunetti, ''Short- and Long-term Effects of Hypocaloric Diets Containing Proteins of Different Sources on Plasma Lipids and Apoproteins of Obese Subjects,'' *Annals of Nutrition Metabolism*, 32:206–214, 1988.

30. Carroll, K. K., P. M. Giovannetti, M. W. Huff, O. Moase, D. C. K. Roberts, and B. M. Wolfe, ''Hypocholesterolemic Effect of Substituting Soybean Protein for Animal Protein in the Diet of Healthy Young Women,'' *American Journal of Clinical Nutrition*, 31:1312–1321, 1978.

31. Crouse, J. R. III, T. Morgan, J. G. Terry, J. Ellis, M. Vitolins, and G. L. Burke, ''Effects of Soy Protein and Isoflavones on Plasma Concentrations of Lipids and Lipoproteins,'' (submitted).

32. Cruz, M. L. A., W. W. Wong, F. Mimouni, D. L. Hachey, K. D. R. Setchell, P. D. Klein, and R. C. Tsang, ''Effects of Infant Nutrition on Cholesterol Synthesis Rates,'' *Pediatric Research*, 35:135–140, 1994.

33. Descovich, G. C., C. Ceredi, A. Gaddi, M. S. Benassi, G. Mannino, L. Colombo, L. Cattin, G. Fontana, U. Senin, E. Mannarino, C. Caruzzo, E. Bertelli, C. Fragiacomo, G. Noseda, M. Sirtori, and C. R. Sirtori, ''Multicentre Study of Soybean Protein Diet for Outpatient Hypercholesterolaemic Patients,'' *Lancet*, 2:709–712, 1980.

34. A. Gaddi, G. C. Descovich, G. Noseda, C. Fragiacomo, A. Nicolini, G. Montanari, G. Vanetti, M. Sirtori, E. Gatti, and C. R. Sirtori, ''Hypercholesterolaemia Treated by Soybean Protein Diet,'' *Archives of Disease in Childhood*, 62:274–278, 1987.

35. Gaddi, A., A. Ciarrocchi, A. Matteucci, S. Rimondi, G. Ravaglia, G. C. Descovich, and C. R. Sirtori, ''Dietary Treatment for Familial Hypercholesterolemia—Differential Effects of Dietary Soy Protein According to the Apolipoprotein E Phenotypes,'' *American Journal of Clinical Nutrition*, 53:1191–1196, 1991.

36. Giovannetti, P. M., K. K. Carroll, and B. M. Wolfe, ''Constancy of Fasting Serum Cholesterol of Healthy Young Women Upon Substitution of Soy Protein Isolate for Meat and Dairy Protein in Medium and Low Fat Diets,'' *Nutrition Research*, 6:609–618, 1986.

37. Goldberg, A. P., A. Lim, J. B. Kolar, J. J. Grundhauser, F. H. Steinke, and G. Schonfeld, ''Soybean Protein Independently Lowers Plasma Cholesterol Levels in Primary Hypercholesterolemia,'' *Atherosclerosis*, 43:355–368, 1982.

38. Gooderham, M. J., H. Adlercreutz, S. T. Ojala, K. Wahala, and B. J. Holub, ''A Soy Protein Isolate Rich in Genistein and Daidzein and its Effects on Plasma Isoflavone Concentrations, Platelet Aggregation, Blood Lipids and Fatty Acid Composition on Plasma Phospholipid in Normal Men,'' *Journal of Nutrition*, 126:2000–2006, 1996.

39. Grundy, S. M. and J. J. Abrams, ''Comparison of Actions of Soy Protein and Casein on Metabolism of Plasma Lipoproteins and Cholesterol in Humans,'' *American Journal of Clinical Nutrition*, 38:245–252, 1983.

40. Holmes, W. L., G. B. Rubel, and S. S. Hood, ''Comparison of the Effect of Dietary Meat Versus Dietary Soybean Protein on Plasma Lipids of Hyperlipidemic Individuals,'' *Atherosclerosis*, 36:379–387, 1980.

41. Huff, M. W., P. M. Giovannetti, and B. M. Wolfe, ''Turnover of Very Low-density Lipoprotein—Apoprotein B is Increased by Substitution of Soybean Protein for Meat and Dairy Protein in the Diets of Hypercholsterolemic Men,'' *American Journal of Clinical Nutrition*, 39:888–897, 1984.

42. Jacques, H., D. Laurin, S. Moorjani, F. H. Steinke, C. Gagne, D. Brun, and P. J. Lupien, ''Influence of Diets Containing Cow's Milk or Soy Protein Beverage on Plasma Lipids in Children with Familial Hypercholesterolemia,'' *Journal of the American College of Nutrition*, 11(S):69S–73S, 1992.

43. Jenkins, D. J. A., T. M. S. Wolever, G. Spiller, G. Buckley, Y. Lam, A. L. Jenkins, and R. G. Josse, ''Hypocholesterolemic Effect of Vegetable Protein in a Hypocaloric Diet,'' *Atherosclerosis*, 78:99–107, 1989.

44. Kurowska, E. M., J. Jordan, J. D. Spence, S. Wetmore, L. A. Piche, M. Radzikowski, P. Dandona, K. K. Carroll, ''Effects of Substituting Dietary Soybean Protein and Oil for Milk Protein and Fat in Subjects With Hypercholesterolemia,'' *Clinical Investigative Medicine*, 20(3):162–170, 1997.

45. Laurin, D., H. Jacques, S. Moorjani, F. H. Steinke, C. Gagne, D. Brun, and P. J. Lupien, ''Effects of a Soy-protein Beverage on Plasma Lipoproteins in Children With Familial Hypercholesterolemia,'' *American Journal of Clinical Nutrition*, 54:98–103, 1991.

46. Lovati, M. R., C. Manzoni, A. Canavesi, M. Sirtori, V. Vaccarino, M. Marchi, G. Gaddi, and C. R. Sirtori, ''Soybean Protein Diet Increases Low Density Lipoprotein Receptor Activity in Mononuclear Cells From Hypercholesterolemic Patients,'' *Journal of Clinical Investigation*, 80:1498–1502, 1987.

47. Meinertz, H., O. Faergeman, K. Nilausen, M. J. Chapman, S. Goldstein, and P. M. Laplaud, ''Effects of Soy Protein and Casein in Low Cholesterol Diets on Plasma Lipoproteins in Normlipidemic Subjects,'' *Atherosclerosis*, 72:63–70, 1988.

48. Meinertz, H., K. Nilausen, and O. Faergeman, ''Soy Protein and Casein in Cholesterol-Enriched Diets: Effects on Plasma Lipoproteins in Normolipidemic Subjects,'' *American Journal of Clinical Nutrition*, 50:786–793, 1989.

49. Mercer, N. J. H., K. K. Carroll, P. M. Giovannetti, F. H. Steinke, and B. M. Wolfe, ''Effects on Human Plasma Lipids of Substituting Soybean Protein Isolate for Milk Protein in the Diet,'' *Nutrition Reports International*, 35(2):279–287, 1987.

50. Meredith, L., M. Liebman, and K. Graves, ''Alterations in Plasma Lipid Levels Resulting From Tofu and Cheese Consumption in Adult Women,'' *Journal of the American College of Nutrition*, 8(6):573–579, 1989.

51. Potter, S. M., R. M. Bakhit, D. L. Essex-Sorlie, K. E. Weingartner, K. M.

Chapman, R. A. Nelson, M. Prabhudesai, W. D. Savage, A. I. Nelson, L. W. Winter, and J. W. Erdman, Jr., ''Depression of Plasma Cholesterol in Men by Consumption of Baked Products Containing Soy Protein,'' *American Journal of Clinical Nutrition*, 58:501–506, 1993.

52. Potter, J. M. and P. J. Nestel, ''Greater Bile Acid Excretion With Soy Bean Than With Cow Milk In Infants,'' *American Journal of Clinical Nutrition*, 29:546–551, 1976.

53. Sacks, F. M., J. L. Breslow, P. G. Wood, and E. H. Kass, ''Lack of an Effect of Dairy Protein (Casein) and Soy Protein on Plasma Cholesterol of Strict Vegetarians. An Experiment and a Critical Review,'' *Journal of Lipid Research*, 24:1012–1020, 1983.

54. Shorey, R. L., B. Bazan, G. S. Lo, and F. H. Steinke, ''Determinants of Hypercholesterolemic Response to Soy and Animal Protein–Based Diets,'' *American Journal of Clinical Nutrition*, 34:1769–1778, 1981.

55. Sirtori, C. R., E. Agradi, F. Conti, O. Mantero, and E. Gatti, ''Soybean-protein Diet in the Treatment of Type-II Hyperlipoproteinaemia,'' *Lancet*, 1:275–277, 1977.

56. Sirtori, C. R., C. Zucchi-Dentone, M. Sirtori, E. Gatti, G. C. Descovich, A. Gaddi, L. Cattin, P. G. Da Col, U. Senin, E. Mannarino, G. Avellone, L. Colombo, C. Fragiacomo, G. Noseda, and S. Lenzi, ''Cholesterol-lowering and HDL-raising Properties of Lecithinated Soy Proteins in Type II Hyperlipidemic Patients,'' *Annals of Nutrition Metabolism*, 29:348–357, 1985.

57. Steele, M. G., ''The Effect on Serum Cholesterol Levels of Substituting Milk with a Soya Beverage,'' *Australian Journal of Nutrition and Dietetics*, 49(1):24–28, 1992.

58. Van Raaij, J. M. A., M. B. Katan, J. G. A. J. Hautvast, and R. J. J. Hermus, ''Effects of Casein Versus Soy Protein Diets on Serum Cholesterol and Lipoproteins in Young Healthy Volunteers,'' *American Journal of Clinical Nutrition*, 34:1261–1271, 1981.

59. Van Raaij, J. M. A., M. B. Katan, C. E. West, and J. G. A. J. Hautvast, ''Influence of Diets Containing Casein, Soy Isolate, and Soy Concentrate on Serum Cholesterol and Lipoproteins in Middle-aged Volunteers,'' *American Journal of Clinical Nutrition*, 35:925–934, 1982.

60. Verrilo, A., A. de Teresa, P. C. Giarrusso, and S. La Rocca, ''Soybean Protein Diets in the Management of Type II Hyperlipoproteinaemia,'' *Atherosclerosis*, 54:321–331, 1985.

61. Vessby, B., B. Karlstrom, H. Lithell, I. B. Gustafsson, and I. Werner, ''The Effects on Lipid and Carbohydrate Metabolism of Replacing Some Animal Protein by Soy-protein in a Lipid-Lowering Diet for Hypercholesterolaemic Patients,'' *Human Nutrition: Applied Nutrition*, 36A:179–189, 1982.

62. Wang, M. F., S. Yamamoto, H. M. Chung, S. Y. Chung, S. Miyatani, M. Mori, T. Okita, and M. Sugano, ''Antihypercholesterolemic Effect of Undigested Fraction of Soybean Protein in Young Female Volunteers,'' *Journal of Nutrition Science Vitaminology*, 41:187–195, 1995.

63. Widhalm, K., G. Brazda, B. Schneider, and S. Kohl, ''Effect of Soy Protein Diet Versus Standard Low Fat, Low Cholesterol Diet on Lipid and Lipoprotein Levels in Children With Familial or Polygenic Hypercholesterolemia,'' *Journal of Pediatrics, 123:30–34, 1993.*

64. Wolfe, B. M., P. M. Giovannetti, D. C. H. Cheng, D. C. K. Roberts, and K. K. Carroll, ''Hypolipidemic Effect of Substituting Soybean Protein Isolate for all Meat and Dairy Protein in the Diets of Hypercholesterolemic Men,'' *Nutrition Reports International*, 24:(6)1187–1198, 1981.

65. Nagata, C., N. Takatsuka, Y. Kurisu, and H. Shimizu, ''Decreased Serum Total Cholesterol Concentration is Associated With High Intake of Soy Products in Japanese Men and Women,'' *Journal of Nutrition*, 128:209–213, 1998.

66. Anderson, J.W., B.M. Johnstone, and M.E. Cook-Newell, ''Meta-analysis of the Effects of Soy Protein Intake on Serum Lipids,'' *New England Journal of Medicine*,, 333:276-282, 1995.

67. DHHS, National Heart, Lung, and Blood Institute, National Cholesterol Education Porgram, ''Report of the Expert Panel on Population Strategies for Blood Cholesterol Reduction (Population Panel Report),'' Chapter II. Background and Introduction, NIH Publication No. 93–3046, Bethesda, MD, 1993.

68. Food and Nutrition Board, National Academy of Sciences, ''Diet and Health: Implications for Reducing Chronic Disease Risk,'' National Academy Press, Washington, DC, pp. 23–40, 1989.

69. U.S Preventive Services Task Force, ''Guide to Clinical Preventive Services: An Assessment of the Effectiveness of 169 Interventions,'' Williams and Wilkins, Baltimore, MD, pp. xix–xxx, 1989.

70. Anthony, M. S., T. B. Clarkson, B. C. Bullock, and J. D. Wagner, ''Soy Protein Versus Soy Phytoestrogens in the Prevention of Diet-induced Coronary Artery Atherosclerosis of Male Cynomolgus Monkeys,'' *Arteriosclerosis, Thrombosis, and Vascular Biology*, 17(11)2524–2531. 1997.

71. Nestle, P. J., T. Yamashita, T. Sashara, S. Pomeroy, A. Dart, P. Komesaroff, A. Owen, and M. Abbey, ''Soy Isoflavones Improve Systemic Arterial Compliance But Not Plasma Lipids in Menopausal and Perimenopausal Women,'' *Ateriosclerosis, Thrombosis, and Vascular Biology*, 17:3392–3398, 1997.

72. Sitori, C. R., E. Gianazza, C. Manzoni, M. R. Lovati, and P. A. Murphy, ''Role of Isoflavones in the Cholesterol Reduction of Soy Proteins in the Clinic,'' letter to the editor, *American Journal of Clinical Nutrition*, 65:166–167, 1997.

List of Subjects in 21 CFR Part 101

Food labeling, Incorporation by reference, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 101 be amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371.

2. New § 101.82 is added to subpart E to read as follows:

§ 101.82 Health claims: Soy protein and risk of coronary heart disease (CHD).

(a) Relationship between diets that are low in saturated fat and cholesterol and that include soy protein and the risk of CHD. (1) Cardiovascular disease means diseases of the heart and circulatory system. CHD is one of the most common and serious forms of cardiovascular disease and refers to diseases of the heart muscle and supporting blood vessels. High blood total cholesterol and low density lipoprotein (LDL)-cholesterol levels are associated with increased risk of developing CHD. High CHD rates occur among people with high total cholesterol levels of 240 milligrams per deciliter (mg/dL) (6.21 (millimole per liter (mmol/L))) or above and LDL-cholesterol levels of 160 mg/dL (4.13 mmol/L) or above. Borderline high risk total cholesterol levels range from 200 to 239 mg/dL (5.17 to 6.18 mmol/L) and 130 to 159 mg/dL (3.36 to 4.11 mmol/L) of LDL-cholesterol. The scientific evidence establishes that diets high in saturated fat and cholesterol are associated with increased levels of blood total and LDL-cholesterol and, thus, with increased risk of CHD.

(2) Populations with a low incidence of CHD tend to have relatively low blood total cholesterol and LDL-cholesterol levels. These populations also tend to have dietary patterns that are not only low in total fat, especially saturated fat and cholesterol, but are also relatively high in plant foods that contain dietary fiber and other components.

(3) Scientific evidence demonstrates that diets low in saturated fat and cholesterol may reduce the risk of CHD. Other evidence demonstrates that the addition of soy protein to a diet that is low in saturated fat and cholesterol may also help to reduce the risk of CHD.

(b) *Significance of the relationship between diets that are low in saturated fat and cholesterol and that include soy protein and the risk of CHD.* (1) CHD is a major public health concern in the United States. It accounts for more deaths than any other disease or group of diseases. Early management of risk factors for CHD is a major public health goal that can assist in reducing risk of CHD. High blood total and LDL-cholesterol are major modifiable risk factors in the development of CHD.

(2) Intakes of saturated fat exceed recommended levels in the diets of many people in the United States. One of the major public health recommendations relative to CHD risk is to consume less than 10 percent of calories from saturated fat and an average of 30 percent or less of total calories from all fat. Recommended daily cholesterol intakes are 300 mg or less per day. Scientific evidence demonstrates that diets low in saturated fat and cholesterol are associated with lower blood total and LDL-cholesterol levels. Soy protein, when included in a low saturated fat and cholesterol diet, also helps to lower blood total and LDL-cholesterol levels.

(c) *Requirements.* (1) All requirements set forth in § 101.14 shall be met.

(2) Specific requirements—(i) Nature of the claim. A health claim associating diets that are low in saturated fat and cholesterol and that include soy protein with reduced risk of heart disease may be made on the label or labeling of a food described in paragraph (c)(2)(iii) of this section, provided that:

(A) The claim states that diets that are low in saturated fat and cholesterol and that include soy protein ''may'' or ''might'' reduce the risk of heart disease;

(B) In specifying the disease, the claim uses the following terms: ''heart disease'' or ''coronary heart disease'';

(C) In specifying the substance, the claim uses the term ''soy protein'';

(D) In specifying the fat component, the claim uses the terms ''saturated fat'' and ''cholesterol'';

(E) The claim does not attribute any degree of risk reduction for CHD to diets that are low in saturated fat and cholesterol and that include soy protein;

(F) The claim does not imply that consumption of diets that are low in saturated fat and cholesterol and that include soy protein is the only recognized means of achieving a reduced risk of CHD; and

(G) The claim specifies the daily dietary intake of soy protein that is necessary to reduce the risk of coronary heart disease and the contribution one serving of the product makes to the specified daily dietary intake level. The daily dietary intake level of soy protein that has been associated with reduced risk of coronary heart disease is 25 grams (g) or more per day of soy protein.

(ii) *Nature of the substance.* (A) Soy protein from the legume seed *Glycine max*.

(B) FDA will measure soy protein by method No. 988.10 from the ''Official Methods of Analysis of the Association of Official Analytical Chemists International,'' 16th Ed. (1995), which is incorporated by reference in accordance with 5 U.S.C. 522(a) and 1 CFR part 51. Copies may be obtained from the Association of Official Analytical Chemists International, 481 North Frederick Ave., suite 500, Gaithersburg, MD 20877–2504, or may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC;

(iii) *Nature of the Food Eligible to Bear the Claim.* (A) The food product shall contain at least 6.25 g of soy protein reference amount customarily consumed of the food product;

(B) The food shall meet the nutrient content requirements in § 101.62 for a ''low saturated fat,'' ''low cholesterol,'' and ''low fat'' food.

(d) *Optional information.* (1) The claim may state that the development of heart disease depends on many factors and may identify one or more of the following risk factors for heart disease about which there is general scientific agreement: A family history of CHD; elevated blood total and LDL-cholesterol; excess body weight; high blood pressure; cigarette smoking; diabetes; and physical inactivity. The claim may also provide additional information about the benefits of exercise and management of body weight to help lower the risk of heart disease;

(2) The claim may state that the relationship between intake of diets that are low in saturated fat and cholesterol and that include soy protein and reduced risk of heart disease is through the intermediate link of ''blood cholesterol'' or ''blood total and LDL-cholesterol;''

(3) The claim may include information from paragraphs (a) and (b) of this section, which summarize the relationship between diets that are low in saturated fat and cholesterol and that include soy protein and CHD and the significance of the relationship;

(4) The claim may state that a diet low in saturated fat and cholesterol that includes soy protein is consistent with ''Nutrition and Your Health: Dietary Guidelines for Americans,'' U.S. Department of Agriculture (USDA) and Department of Health and Human Services (DHHS), Government Printing Office (GPO);

(5) The claim may state that individuals with elevated blood total and LDL-cholesterol should consult their physicians for medical advice and treatment. If the claim defines high or normal blood total and LDL-cholesterol levels, then the claim shall state that individuals with high blood cholesterol should consult their physicians for medical advice and treatment;

(6) The claim may include information on the number of people in the United States who have heart disease. The sources of this information shall be identified, and it shall be current information from the National Center for Health Statistics, the National Institutes of Health, or ''Nutrition and Your Health: Dietary Guidelines for Americans,'' USDA and DHHS, GPO;

(e) *Model health claim.* The following model health claims may be used in food labeling to describe the relationship between diets that are low in saturated fat and cholesterol and that include soy protein and reduced risk of heart disease:

(1) 25 grams of soy protein a day, as part of a diet low in saturated fat and cholesterol, may reduce the risk of heart disease. A serving of [name of food] supplies ———————— grams of soy protein.

(2) Diets low in saturated fat and cholesterol that include 25 grams of soy protein may reduce the risk of heart disease. One serving of [name of food] provides ———————— grams of soy protein.

Dated: November 2, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–30008 Filed 11–9–98; 8:45 am]

BILLING CODE 4160–01–F

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dL

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Crouse et al. (1998, submitted for pub) (Ref. 31)	CON: 9 wk NCEP Step I, low-fat (32% of E) diet with casein beverage	CON: 33 adults, 20-70 yr, with LDL-C >140 and <200 mg/dL after BASE	CON: 25 g casein	CON Prot: 15% of E Sat fat: 9% of E Chol: NR	CON v. BASE Tot-C: 0% (NS) LDL-C: 0% (NS) HDL-C: -2%(NS)
	SOY-1: 9 wk NCEP Step I, low-fat (32% of E) diet with soy beverage containing variable amounts of naturally occurring isoflavones	SOY-1: 31 as above	SOY-1: 25 g as ISP with 4.9 mg isoflavones (0.2 mg/g protein) (alcohol washed)	SOY-1 Prot: 15% of E Sat fat: 9% of E Chol: NR	SOY-1 v. BASE Tot-C: -1% (NS) LDL-C: -2% (NS) HDL-C: -2% (NS)
	SOY-2: 9 wk NCEP Step I, low-fat (32% of E) diet with soy beverage containing variable amounts of naturally occurring isoflavones	SOY-2: 31 as above	SOY-2: 25 g as ISP with 23.6 mg isoflavones (1.0 mg/d protein)	SOY-2 Prot: 15% of E Sat fat: 9% of E Chol: NR	SOY-2 v. BASE Tot-C: -3% (NS) LDL-C: -3% (NS) HDL-C: 0% (NS)
	SOY-3: 9 wk NCEP Step I, low-fat (32% of E) diet with soy beverage containing variable amounts of naturally occurring isoflavones	SOY-3: 31 as above	SOY-3: 25 g as ISP with 38.9 mg isoflavones (1.6 mg/g protein)	SOY-3 Prot: 15% of E Sat fat: 9% of E Chol: NR	SOY-3 v. BASE Tot-C: -2% (NS) LDL-C: -3% (NS) HDL-C: +2% (NS)
	SOY-4: 9 wk NCEP Step I, low-fat (32% of E) diet with soy beverage containing variable amounts of naturally occurring isoflavones	SOY-4: 30 as above	SOY-4: 25 g as ISP with 61.8 mg isoflavones (2.5 mg/g protein)	SOY-4 Prot: 15% of E Sat fat: 9% of E Chol: NR	SOY-4 v. BASE Tot-C: -4% LDL-C: -6% HDL-C: 0% (NS)
	-----	-----	-----	-----	For subjects with LDL-C > median: SOY-3 v. BASE Tot-C: -8% LDL-C: -9% HDL-C: -4% (NS) SOY-4 v. BASE Tot-C: -9% LDL-C: -12% HDL-C: -2% (NS)
	Parallel design, double-blinded; stratified randomization by gender and age; all subjects received 1 mon of instruction in NCEP Step 1 diet, then 1 mon run-in with casein beverage and NCEP Step 1 diet (BASE) prior to randomization to treatment groups	BASE Tot-C = 241 mg/dL		Dietary intake reported to be stable and comparable among groups throughout study	---- Analyses based on final values adjusted for differing baseline values in each dietary group; significance given v. CON

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dL - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Baum et al. (1998) (Ref. 28)	CON: 24 wk NCEP Step I, low-fat (<30% of E) with casein/nonfat dry milk incorporated into baked products, soup, and beverages	CON: 22 postmenopausal women, 49-83 yr, with Tot-C 240-300 mg/dL	CON: 40 g casein	CON Prot: NR* Sat fat: NR* Chol: <300 mg*	SOY-1 v. CON* Tot-C: NS LDL-C**: -11 mg/dL HDL-C: +5 mg/dL
	SOY-1: 24 wk NCEP Step I, low-fat (<30% of E) with soy protein (moderate isoflavone level) incorporated into baked products, soup, and beverages	SOY-1: 23 as above	SOY-1: 40 g as ISP with 56 mg isoflavones (1.4 mg/g protein)	SOY-1 Prot: NR* Sat fat: NR* Chol: <300 mg*	SOY-2 v. CON* Tot-C: NS LDL-C**: -10 mg/dL HDL-C: +4 mg/dL
	SOY-2 : 24 wk NCEP Step I, low-fat (<30% of E) with soy protein (high isoflavone level) incorporated into baked products, soup, and beverages	SOY-2: 21 as above	SOY-2: 40 g as ISP with 90 mg isoflavones (2.3 mg/g protein)	SOY-2 Prot: NR* Sat fat: NR* Chol: <300 mg*	
	---- Parallel design; randomized, double-blinded; 14 d run-in on BASE diet	----- BASE Tot-C = ~250 mg/dL No medications known to affect lipid or bone metabolism	-----	----- * Dietary intake was assessed; reported not to differ among treatment groups	----- * For adjusted mean difference ** Reported as non-HDL-C Body weight remained stable

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dL - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Bakhit et al. (1994) (Ref. 27)	CON-1: 4 wk self-selected, low-fat (26.6% of E); 4 added muffins to provide test protein and fiber	CON-1: 21 men, 23-70 yr, with Tot-C >220 mg/dL	CON-1: 25 g casein + 20 g cellulose	CON-1 Prot: 19.0% of E Sat fat: 22.0 g Chol: 314 mg	CON's or SOY's v. BASE Tot-C: NS LDL-C: NS HDL-C: NS
	SOY-1: 4 wk self-selected, low-fat (26.7% of E); 4 added muffins to provide test protein and fiber	SOY-1: same as above	SOY-1: 25 g as ISP + 20 g cellulose	SOY-1 Prot: 19.8% of E Sat fat: 21.5 g Chol: 286 mg	SOY's v. CON's Tot-C: NS LDL-C: NS HDL-C: NS
					For 11 subjects w/ Tot-C>220 mg/dL after BASE diet:
	CON-2: 4 wk self-selected, low-fat (24.6% of E); 4 added muffins to provide test protein and fiber	CON-2: same as above	CON-2: 25 g casein + 20 g soy cotyledon fiber	CON-2 Prot: 19.2% of E Sat fat: 17.4 g Chol: 260 mg	SOY-1 and SOY-2 v. BASE Tot-C: -16 and -19 mg/dL LDL-C: NS HDL-C: NS
	SOY-2: 4 wk self-selected, low-fat (26.7% of E); 4 added muffins to provide test protein and fiber	SOY-2: same as above	SOY-2: 25 g as ISP + 20 g soy cotyledon fiber	SOY-2 Prot: 19.7% of E Sat fat: 19.7 g Chol: 264 mg	SOY's v. CON's Tot-C: NS LDL-C: NS HDL-C: NS
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	Crossover; Latin square design; 2 wk run-in with BASE low-fat diet; free-living	BASE Tot-C = 222 mg/dL Note: 32% attrition			No changes in body weight or activity levels

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dl - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Potter et al. 1993 (Ref. 51)	CON: 4 wk low-fat (22.3% of E) diet; mixed protein sources with 50% from nonfat dry milk in baked products; ~20 g cellulose added	CON: 25 men, 48-78 yr, with Tot-C >200 mg/dL	CON: nonfat dry milk + cellulose	CON Prot: 18.6% of E Sat fat: NR* Chol: 220 mg	SOY-1 vs. CON Tot-C: -19 mg/dL LDL-C: -13 mg/dL (NS) HDL-C: +2 mg/dL (NS)
	SOY-1: 4 wk low-fat (24.4% of E) diet; mixed protein sources with 50% from soy protein (as SF) in baked products; ~20 g soy cotyledon fiber from SF	SOY-1: same as above	SOY-1: 50 g as SF	SOY-1 Prot: 19.3% of E Sat fat: NR* Chol: 203 mg	SOY-2 vs. CON Tot-C: -26 mg/dL LDL-C: -18 mg/dL HDL-C: 0 mg/dL (NS)
	SOY-2: 4 wk low-fat (20.8% of E) diet; mixed protein sources with 50% from soy protein (as ISP) in baked products; ~ 20 g cellulose added	SOY-2: same as above	SOY-2: 50 g as ISP + cellulose	SOY-2 Prot: 21.3% of E Sat fat: NR* Chol: 171 mg	SOY-3 vs. CON Tot-C: -25 mg/dL LDL-C: -19 mg/dL HDL-C: 0 mg/dL (NS)
	SOY-3: 4 wk low-fat (22.5% of E) diet; mixed protein sources with 50% from soy protein (as ISP) in baked products; ~20 g soy cotyledon fiber added	SOY-3: same as above	SOY-3: 50 g as ISP + soy cotyledon fiber	SOY-3 Prot: 21.4% of E Sat fat: NR* Chol: 195 mg	SOY-1 vs. BASE Tot-C: -5% (NS) LDL-C: -5% (NS) HDL-C: -1% (NS) SOY-2 vs. BASE Tot-C: -8% LDL-C: -8% (NS) HDL-C: -5% (NS) SOY-3 vs. BASE Tot-C: -8% LDL-C: -8% HDL-C: -5% (NS)
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	Crossover; Latin square design; 2 wk run-in with BASE low-fat diet; metabolic ward	BASE Tot-C = 224 mg/dL		* <10% of E Dietary fiber: CON=SOY-2> SOY-1>SOY-3	No changes in body weight or activity levels

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dL - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Kurowska et al. (1997) (Ref. 44)	CON-1: 4 wk usual, moderate-fat (29% of E) diet plus cow milk and low-fat milk dessert	CON-1: 34 adults, mean age 55 yr, with moderately elevated Tot-C (17 male)	CON-1: mixed sources + milk	CON-1 Prot: 19% of E Sat fat: 24.7 g Chol: 259 mg	CON-1, CON-2, SOY v. BASE Tot-C: NS LDL-C: NS HDL-C: +7% (for SOY)
	CON-2: 4 wk usual, moderate-fat (28% of E) diet plus skim milk, skim milk dessert, and soy oil	CON-2: same as above	CON-2: mixed sources + milk	CON-2 Prot: 19% of E Sat fat: 18.9 g Chol: 185 mg	*For 24 subjects with highest LDL-C:* SOY v. BASE Tot-C: NS LDL-C: -11% HDL-C: +9%
	SOY: 4 wk usual, moderate-fat (29% of E) diet plus soybean milk and soybean dessert	SOY: same as above	SOY: mixed sources + 31 g as whole soybean milk	SOY Prot: 19% of E Sat fat: 17.8 g Chol: 196 mg	
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	Crossover; random assignment; 4 wk run-in and 2 wk washouts with usual diet	BASE Tot-C = 265 mg/dL			

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dL - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Goldberg et al. (1982) (Ref. 37)	CON: 6 wk conventional food, high-fat (44% of E) diet; 75% of total protein from animal sources and 25% from vegetable sources other than soy	CON: 12 adults, 23-64 yr, with primary hypercholesterol-emia (7 male);	CON: mixed sources	CON Prot: 20.4% of E Sat fat: 29.3 g Chol: 215 mg	CON v. BASE Tot-C: -32 mg/dL LDL-C: -23 mg/dL HDL-C: 0 mg/dL (NS)
	SOY: 6 wk conventional food, high-fat (44% of E) diet; 75% of total protein from soy (isocaloric substitution) in meat analogs and soy milk	SOY: same as above	SOY: 99 g (est) as ISP and other sources	SOY Prot: 19.8% of E Sat fat: 27.3 g Chol: 219 mg	SOY v. BASE Tot-C: -40 mg/dL LDL-C: -33 mg/dL HDL-C: -1 mg/dL (NS) SOY v. CON Tot-C: -8 mg/dL LDL-C: -10 mg/dL HDL-C: -1 mg/dL (NS)
	----- Crossover; random assignment to CON or SOY initially; 6 wk run-in with moderate-fat (37.5% of E) BASE diet; no washout	----- Initial Tot-C range: 227-299 mg/dL BASE Tot-C=260 mg/dL	-----	-----	-----
Mercer et al. (1987) (Ref. 49)	CON: 6 wk "usual" moderate-fat (34% of E) diet; mixed protein sources including milk	CON: 33 adults, 25-69 yr, with normal to moderately elevated cholesterol	CON: milk and other protein sources	CON Prot: 17.6% of E P/S: 0.22 Chol: 276 mg	SOY v. CON Tot-C: -2 mg/dL (NS) LDL-C: -2 mg/dL (NS) HDL-C: +1 mg/dL (NS)
	SOY: 6 wk "usual" moderate-fat (35% of E) diet; mixed protein sources with soy beverage substituted for milk	SOY: same as above	SOY: 17 g (est) as ISP and other protein sources	SOY Prot: 16.9% of E P/S: 0.29 Chol: 290 mg	For 5 subjects w/ high Tot-C: SOY v. CON Tot-C: -16 mg/dL LDL-C: -3 mg/dL (NS)
	----- Crossover; random assignment to SOY or CON initially; no run-in or washout	----- BASE Tot-C = 221 mg/dL range 173-325 mg/dL	-----	-----	----- No significant weight changes

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dL - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Holmes et al. (1980) (Ref. 40)	CON: 3 wk moderate fat (34% of E) conventional diet; total protein comprising 40% beef, 27% other animal, and 33% vegetable sources	CON: 12 adults, 27-60 yr, with type II or type IV hyper-cholesterolemia (9 male)	CON: beef and other sources	CON Prot: 15% of E Sat fat: 8% of E Chol: 254 mg	CON v. BASE Tot-C: -36 mg/dL or -13% LDL-C: -25 mg/dL or -13% HDL-C: (NS)
	SOY: 4 wk moderate fat (34% of E) with soy substituted for beef; total protein comprising 38% soy, 31% other animal, and 31% other vegetable sources ----- Fixed sequence: CON—SOY	SOY: same as above ----- BASE Tot-C = 277 mg/dL	SOY: 27 g (est) as SF from TVP and other sources -----	SOY Prot: 15% of E Sat fat: 9% of E Chol: 254 mg -----	SOY v. CON Tot-C: -6 mg/dL (NS) LDL-C: -1 mg/dL (NS) HDL-C: -6 mg/dL (NS) -----
	CON: 3 wk moderate fat (34% of E) conventional diet; total protein comprising 71% beef and 29% vegetable sources	CON: 10 adults, 28-60 yr, with type II or type IV hyper-cholesterolemia (6 male)	CON: beef and other sources	CON Prot: 14% of E Sat fat: 9% of E Chol: 144 mg	CON (I & II) v. BASE Tot-C: - 18% (I) & NS (II) LDL-C: NS (I) & NS (II) HDL-C: NS (I) & NS (II)
	SOY: 3 wk moderate fat (35% of E) with soy substituted for beef; total protein 71% soy and 29% other vegetable sources ----- Crossover; random assignment to (I) CON—SOY or (II) SOY—CON; no run-in or washout periods	SOY: same as above ----- BASE(I)Tot-C=275 mg/dL BASE(II) Tot-C=290 mg/dL	SOY: 62 g (est) as SF from TVP and other sources -----	SOY Prot: 14% of E Sat fat: 9% of E Chol: 144 mg -----	SOY (I & II) v. BASE Tot-C: NS (I) & -19% (II) LDL-C: NS (I) & NS (II) HDL-C: NS (I) & NS (II) -----

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dL - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Shorey et al. (1981) (Ref. 54)	CON: 6 wk usual diet; prepared meals with mixed protein sources; 30-35% of E from fat	CON: 11 men, mean age 26 yr, with Tot-C >218 mg/dL	CON: mixed sources	CON Prot: 90 g Sat fat: 30 g Chol: 181 mg	CON v. BASE Tot-C: -22 mg/dL LDL-C: NR HDL-C: -4 mg/dL (NS)
	SOY: 6 wk usual diet; prepared meals with all animal protein sources replaced by soy protein; 30-35% of E from fat	SOY: 13 as above	SOY: 57 g as ISP	SOY Prot: 87 mg Sat fat: 33 g Chol: 183 mg	SOY v. BASE Tot-C: -16 mg/dL LDL-C: NR HDL-C: -8 mg/dl SOY v. CON Tot-C: +6 mg/dL LDL-C: NR HDL-C: -4 mg/dL
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	Parallel design; no run-in period	BASE Tot-C = 243 mg/dL			Note: subjects in both groups had significant weight loss; responders in both had higher protein, fat, saturated fat, and cholesterol in previous diets than in experimental diets

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dL - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Carroll et al. (1978) (Ref. 30)	CON: ~5 wk ordinary food, moderate-fat (34% of E) diet; mixed protein sources (40% animal)	CON: 10 young women, 19-25 yr, with normal Tot-C	CON: mixed sources	CON Prot: 15% of E P/S: 0.43 Chol: 168 mg	SOY v. CON Tot-C: -10 mg/dL LDL-C: NR HDL-C: NR
	SOY: ~5 wk ordinary food, moderate-fat (34% of E) diet; mixed protein sources with meats replaced by soy analogs and cow milk replaced by soy milk	SOY: same as above	SOY: 44 g (est) as ISP	SOY Prot: 16% of E P/S: 0.44 Chol: 161 mg	
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	Crossover; random assignment; no run-in or washout periods	BASE Tot-C ND			
Giovannetti et al. (1986) (Ref. 36)	CON-1: 4 wk conventional food, moderate fat (38% of E); mixed protein sources	CON-1: 12 young adults, 20-28 yr, normal cholesterol levels	CON-1: mixed sources	CON-1 Prot: 18% of E Sat fat: NR Chol: NR	SOY-1 v. CON-1 Tot-C: -4 mg/dL (NS) LDL-C: -6 mg/dL (NS) HDL-C: -3 mg/dL (NS)
	SOY-1: 4 wk conventional food; moderate fat (38% of E); meat replaced by soy analogs and milk replaced by soy beverage (88% of total protein)	SOY-1: same as above	SOY-1: 66-80 g (est) as ISP and other vegetable sources	SOY-1 Prot: 18% of E Sat fat: NR* Chol: NR**	
	CON-2: 4 wk conventional food, low fat (23% of E); mixed protein sources	CON-2: same as above	CON-2: mixed sources	CON-2 Prot: 18% of E Sat fat: NR* Chol: NR**	SOY-2 v. CON-2 Tot-C: +1 mg/dL (NS) LDL-C: -5 mg/dL (NS) HDL-C: +2 mg/dL (NS)
	SOY-2: 4 wk conventional food; low fat (23% of E); meat replaced by soy analogs and milk replaced by soy beverage (88% of total protein)	SOY-2: same as above	SOY-2: 66-80 g (est) as ISP and other vegetable sources	SOY-2 Prot: 18% of E Sat fat: NR* Chol: NR**	
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	Crossover; Latin square design	BASE Tot-C = 145 mg/dL		* P/S=1.24 ** 103-138 mg	No weight loss; LDL-C lower on soy diets for almost all subjects

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dL - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Van Raaij et al. (1981) (Ref. 58)	CON: 4 wk "typical Western" moderate fat (~38% of E) diet; 65% of total protein from casein in various foods and beverages	CON: 25 young adults, 18-28 yr	CON: casein and other sources	CON Prot: 24% of E Sat fat: 13.2% of E Chol: 387 mg	CON v. SOY-1 (BASE) Tot-C: -3 mg/dL (NS) LDL-C: -0.4 mg/dL (NS) HDL-C: +2.3 mg/dL (NS)
	SOY-1: 4 wk "typical Western" moderate fat (~38% of E) diet; 65% of total protein from a 2:1 mixture of casein and soy protein in various foods and beverages	SOY-1: 20 as above	SOY-1: 17 g (est) as ISP, casein and other sources	SOY-1 Prot: 24% of E Sat fat: 13.8% of E Chol: 398 mg	SOY-2 v. SOY-1 (BASE) Tot-C: -3 mg/dL (NS) LDL-C: -6.6 mg/dL (and sig diff from change for CON) HDL-C: +5.8 mg/dL
	SOY-2: 4 wk "typical Western" moderate fat (~38% of E) diet; 65% of total protein from soy protein in various foods and beverages	SOY-2: 24 as above	SOY-2: 54 g (est) as ISP and other sources	SOY-2 Prot: 24% of E Sat fat: 12.9% of E Chol: 365 mg	
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	Parallel design; 3 groups; 1.5 wk run-in on SOY-1(BASE) then CON, SOY-1, or SOY-2	BASE Tot-C = ~150 mg/dL			
Van Raaij et al. (1982) (Ref. 59)	CON: 4 wk "typical Western" moderate fat (34.5% of E) diet; 60% of total protein from casein	CON: 17 adults, 29-60 yr	CON: casein and other sources	CON Prot: 15.9% of E Sat fat: 15.3% of E Chol: 374 mg	SOY-1 v. CON-1 (BASE) Tot-C: -7.7 mg/dL (NS, but sig diff from SOY-2) LDL-C: -3.7 mg/dL (NS, but sig diff from SOY-2)
	SOY-1: 4 wk "typical Western" moderate fat (34.5% of E) diet; 60% of total protein from soy protein isolate	SOY-1: 20 as above	SOY-1: 55 g as ISP and other sources	SOY-1 Prot: 16.2% of E Sat fat: 15.0% of E Chol: 381 mg	HDL-C: +1.3 mg/dL (NS, but sig diff from CON-2) SOY-2 v. CON-1 (BASE) Tot-C: +1.2 mg/dL (NS) LDL-C: +7.6 mg/dL (NS)
	SOY-2: 4 wk "typical Western" moderate fat (34.5% of E) diet; 60% of total protein from soy protein concentrate	SOY-2: 20 as above	SOY-2: 55 g as SPC and other sources	SOY-2 Prot: 16.1% of E Sat fat: 14.9% of E Chol: 382 mg	HDL-C: -1.7 mg/dl (NS)
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	Parallel design; 3 groups; 2.5 wk run-in on CON –1 (BASE), then CON-2, SOY-1, or SOY-2	BASE Tot-C = 215 mg/dL; range 135-305 mg/dL		Dietary fiber CON< SOY-1<SOY-2	Greater decrease in serum lipids in subjects with weight loss >3 kg

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dl - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Jenkins et al., 1989 (Ref. 43)	CON-1: 4 wk conventional food reducing diet (1000 kcal); ~30% of E from fat	CON-1: 11 obese women, aged 23-56 yr	CON-1: mixed sources	CON-1 Prot: 55g Sat fat: NR Chol: 408 mg P/S: 0.25	CON-1 vs. BASE Tot-C: -12 mg/dL (NS) LDL-C: -13 mg/dL (NS) HDL-C: NS
	SOY: 4 wk conventional food reducing diet (1000 kcal as above) with 2 meals/d replaced by soy supplement drink; ~30% of E from fat	SOY: same as above	SOY: 17 g as ISP and SF plus other mixed sources	SOY Prot: 72 g Sat fat: NR Chol: 214 mg P/S: 0.32	SOY vs. BASE Tot-C: -22 mg/dL or –10% LDL-C: -20 mg/dL or –17% HDL-C: NS
	CON-2: 4 wk conventional food reducing diet (1000 kcal as above) with 2 meals/d replaced by milk supplement drink; ~30% of E from fat	CON-2: same as above	CON-2: 18 g as milk protein isolate and non-fat dried milk, plus other mixed sources	CON-2 Prot: 71 g Sat fat: NR Chol: 195 mg P/S: 0.30	CON-2 vs. BASE Tot-C: -14 mg/dL (NS) LDL-C: -12 mg/dL (NS) HDL-C: -3 mg/dL (NS)
	---- Randomized, crossover for two periods (CON-1 and SOY), then all CON-2	----- Base Tot-C = 197 mg/dL	-----	-----	----- Weight loss not significantly different on different diets
Bosello et al., 1988 (Ref. 29)	CON: 15 days very low calorie (375 kcal) commercial preparation with casein; then 60 days adding integrating diet of conventional foods for hypocaloric regimen (800 kcal total)	CON: 12 obese adults, 25-42 yr (6 male)	CON: 27 g as casein, plus other mixed sources	CON Prot: 47 g Sat fat: ~2 g Chol: NR P/S: 0.44	CON vs. BASE Tot-C: -15 mg/dL or -7% (NS) LDL-C: -8 mg/dL or -5% HDL-C: -9 mg/dL or -16%
	SOY: 15 days very low calorie (375 kcal) commercial preparation with soy protein; then 60 days adding integrating diet of conventional foods for hypocaloric regimen (800 kcal total)	SOY: 12 as above	SOY: 28 g as SF(?)	SOY Prot: 47 g Sat fat: ~2 g Chol: NR P/S: 0.44	SOY vs. BASE Tot-C: -35 mg/dL or -16% LDL-C: -24 mg/dL or -15% HDL-C: -4 mg/dl or -7% (NS)
	----- Parallel design; 7 day run-in with isocaloric standard diet	----- Base Tot-C: 215 mg/dL for CON; 219 mg/dL for SOY	-----	-----	----- Body weight loss was the same on the two diet

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dl - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Sacks et al. 1983 (Ref. 53)	CON: 3 wk usual macrobiotic vegetarian diet with casein supplement	CON: 13 strict vegetarians, 21-40 yr (9 male)	CON: 27 g casein	BASE Prot: 59 g Sat fat: 5 g Chol: 12 mg	CON vs. BASE Tot-C: -4 mg/dL (NS) LDL-C: -1 mg/dL (NS) HDL-C: +1 mg/dL (NS)
	SOY: 3 wk usual macrobiotic vegetarian diet with soy protein supplement	SOY: same as above	SOY: 27 g as ISP	CON and SOY Prot: 82 g Sat fat: 5 g Chol: 30 mg	SOY vs. BASE Tot-C: -3 mg/dL (NS) LDL-C: -1 mg/dL (NS) HDL-C: + 2mg/dL (NS)
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	Crossover design	BASE Tot-C = 129 mg/dL			-----

Table 1. Summary of Clinical Trials: Subjects with Total Cholesterol Levels <300 mg/dl - continued

Acronyms and Abbreviations Used in Table

BASE	baseline
Chol	dietary cholesterol
CON	control diet
d	day
dL	deciliter
E	energy
est	estimated
g	gram
HDL-C	serum high density lipoprotein cholesterol level
ISP	isolated soy protein
Kcal	kilocalorie
LDL-C	serum low density lipoprotein cholesterol level
mg	milligram
mon	month
NCEP	National Cholesterol Education Program
NR	not recorded
NS	not statistically significant*
Prot	dietary protein
P/S	polyunsaturated to saturated fat ratio
Sat fat	saturated far
SF	soy flour
sig diff	statistically significant difference
SPC	soy protein concentrate
SOY	soy-containing diet
Tot-C	serum total cholesterol level
TVP	textured vegetable protein
wk	week
yr	year

* Results are statistically significantly different unless noted otherwise

Table 2. Studies of Subjects with Type II or Familial Hypercholesterolemia

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Sirtori et al. (1977) (Ref. 55)	CON: 3 wk low-lipid (21% of E) with total protein comprising 62% animal and 38% vegetable sources	CON: 20 adults with type-II hypercholesterolemia (? male); age NR	CON: mixed protein sources	CON Prot: 21% Sat fat: 4.3% of E Chol: *	CON v. BASE (2 periods) Tot-C: -18 (NS) & +23 mg/dL LDL-C: -19(NS) & +12 mg/dL (NS) HDL-C: NR
	SOY: 3 wk low-lipid (26% of E) with total protein comprising 63% soy, 30% other vegetable, and 7% animal sources	SOY: same as above	SOY: 60 g (est) as ISP (in TVP)	SOY Prot: 21% of E Sat fat: 4.3% of E Chol: 0-6 mg	SOY v. BASE (2 periods) Tot-C: -60 & -77 mg/dL LDL-C: -36 & -56 mg/dL HDL-C: NR
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	Crossover; metabolic ward; random assignment to SOY or CON initially; 1-wk run-in on usual diet in hospital; no washout between test diets	BASE Tot-C = ~333 mg/dL	----- Details about diets NR	Note: Chol intake * 100 mg/1,000 kcal	Comparison of SOY v. CON NR
Descovich et al. (1980) (Ref. 33)	CON: 8 wk standardized usual therapeutic diet; 20% of total protein from vegetable sources; moderately hypocaloric	CON: 127 adults, mean age 50 yr (67 male)	CON: mixed protein sources	CON Prot: 20% of E Sat fat: NR P/S: 1.8-2.0	CON v. BASE Tot-C: -2.8% (NS) LDL-C: NR (NS) HDL-C: NS
	SOY: 8 wk usual diet with soy analogs substituted for most animal proteins; 90% of total protein from vegetable sources	SOY: same as above	SOY: 31-62 g as SF (in TVP)	SOY Prot: 19% of E Sat fat: NR P/S: 18-2.3	SOY v. first CON Tot-C: -24% LDL-C: -31% HDL-C: NS
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	Fixed sequence: CON—SOY—CON	BASE Tot-C = 351 mg/dL		Chol: NR	NS weight loss
Wolfe et al. (1981) (Ref. 64)	CON: 6-8 wk low-cholesterol diet of conventional foods	CON: 7 adults with hyper-cholesterolemia, 29-60 yr, (? male)	CON: mixed protein sources (77 g)	CON Prot: 15% of E Sat fat: ~10% of E Chol: 88 mg	
	SOY: 6-8 wk low-cholesterol diet with soy analogs substituted for meats and cow milk	SOY: same as above	SOY: 47 g as ISP, with other vegetable protein	SOY Prot: 15% of E Sat fat: ~10% of E Chol: 88 mg	SOY v. CON Tot-C: -41 mg/dL LDL-C: -43 mg/dL HDL-C: +1 mg/dL (NS)
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	Crossover; random assignment to CON or SOY initially; no run-in or washout	BASE Tot-C NR			No weight change on diets

Table 2. Studies of Subjects with Type II or Familial Hypercholesterolemia - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Sirtori et al. (1985) (Ref. 56)	CON: 4 wk low-lipid (25% of E) with total protein comprising 60% animal and 40% vegetable sources	CON: 65 adults with type IIa hypercholesterolemia, 20-69 yr, (29 male)	CON: mixed protein sources	CON Prot: 20% of E Sat fat: NR Chol: 140-180 mg	CON v. BASE Tot-C: -4.7% (NS) LDL-C: NS HDL-C: NS
	SOY-1: 4 wk low-lipid (25% of E) with soy replacing most of animal protein for total protein comprising 10% animal and 90% vegetable sources	SOY-1: same as above	SOY-1: 60 g (est) as SF (in TVP)	SOY-1 Prot: 20 % of E Sat fat: NR Chol: 20-60 mg	SOY-1 v. first CON Tot-C: -19% LDL-C: -23% HDL-C: +8%
	SOY-2: 4 wk low-lipid (25% of E) with soy replacing much of animal protein for total protein comprising 30% animal and 70% vegetable sources	SOY-2: same as above	SOY-2: 30 g (est) as SF (in TVP)	SOY-2 Prot: 20 % of E Sat fat: NR Chol: 80-120 mg	SOY-2 v. first CON Tot-C: -13% LDL-C: -18% HDL-C: +8%
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	Fixed sequence: CON—SOY-1—CON—SOY-2; 45-d run-in on low-lipid diet	BASE Tot-C = 364 mg/dL		P:S ratio balanced across diets	
Verrillo et al. (1985) (Ref. 60)	CON: 8 wk low-fat (~33% of E) mixed-protein diet; 60% of total protein from animal sources	CON: 66 adults with familial or type II hypercholesterol-emia, mean age 50 yrs (29 male)	CON: mixed protein sources	CON Prot: 17% of E Sat fat: 7 % of E Chol: ~200 mg	
	SOY-1: 16 wk low-fat (34% of E) with soy substituted for most of animal protein sources	SOY-1: 20 of above	SOY-1: 31 g as SF (in TVP)	SOY-1 Prot: 15% of E Sat fat: 7% of E Chol: 188 mg	SOY-1 v. mean of CON diets Tot-C: -29.5% LDL-C: -38.0% HDL-C: +7.7% (NS)
	SOY-2: 16 wk low fat (31% of E) with a supplement of soy protein added	SOY-2: 41 of above	SOY-2: 31 g as SF (in TVP)	SOY-2 Prot: 20% of E Sat fat: 7 % of E Chol: 205 mg	SOY-2 v. mean of CON diets Tot-C: -29.9% LDL-C: -36.5% HDL-C: -7.1% (NS)
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	Fixed-sequence: CON—(Soy-1 or Soy-2)—CON	BASE Tot-C = ~309 mg/dL			Difference between SOY-1 and Soy-2 NS

Table 2. Studies of Subjects with Type II or Familial Hypercholesterolemia - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Lovati et al. (1987) (Ref. 46)	CON: 4 wk low-lipid (26% of E from fat) with animal protein	CON: 12 adults with hyper-cholesterolemia, 26-64 yr (5 male)	CON: mainly animal protein; details NR	CON Prot: 20% of E P/S: ~2.0 Chol: 150 mg	CON v. BASE Tot-C: NR (NS) LDL-C: NR (NS) HDL-C: NR (NS)
	SOY: 4 wk same diet as CON with soy products substituted for all animal protein	SOY: same as above	SOY: ~70-105 g as SF (in TVP); details NR	SOY Prot: 20% of E P/S: ~2.0 Chol: 150 mg	SOY v. BASE Tot-C: -18% & –14% (for each of two sequences) LDL-C: -16% (average of both sequences) HDL-C: NR (NS)
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	Crossover; random assignment to CON or SOY initially; 1-month run-in on diet with animal protein and P/S ~2.0; 3-4 wk washout between test diets	BASE Tot-C = 410 mg/dL (range 305-600 mg/dL)			Note: SOY v. CON NR
Gaddi et al. (1991) (Ref. 35)	CON: 4 wk controlled low-lipid diet; 40% of total protein from vegetable sources	CON: 21 adults with familial hypercholesterolemia, 20-60 yr (8 male)	CON: mixed protein sources	CON Prot: 20% of E Sat fat: 6.5% of E Chol: 120-250 mg	CON v. BASE Tot-C: -11 mg/dL (NS) LDL-C: -16 mg/dL (NS) HDL-C: NS
	SOY: 4 wk low-lipid diet with soy analogs substituted for all animal proteins; 100% of protein from vegetable sources (75% of that from soy)	SOY: Same as above	SOY: 75 g as SF (in TVP)	SOY Prot: 20% of E Sat fat: 6.5% of E Chol: <10 mg	SOY v. first CON Tot-C: -82 mg/dL LDL-C: -79 mg/dL HDL-C: NS
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	Fixed sequence: CON—SOY—CON	BASE Tot-C = 402 mg/dL		Note: Chol intake	
Gaddi et al. (1987) (Ref. 34)	CON: 4 wk low-lipid (25% of E) therapeutic diet; total protein comprising 70% animal and 30% vegetable sources	CON: 16 children with familial hypercholesterolemia, 3-12 yr	CON: mixed protein sources	CON Prot: 20% of E Sat fat: NR Chol: NR	CON v. BASE Tot-C: -14 mg/dL (NS) LDL-C: -10 mg/dL (NS) HDL-C: NS
	SOY: 18 wk low lipid (25% of E) diet like CON with soy substituted for most of the animal products; total protein 10% animal and 90% vegetable sources	SOY: 12 of above	SOY: ? g as SF (in TVP) actual amount NR	SOY Prot: 20% of E Sat fat: NR Chol: NR	SOY v. CON Tot-C: -73 mg/dL LDL-C: -73 mg/dL HDL-C: NS
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	Fixed Sequence: CON—SOY	BASE Tot-C = 376 mg/dL			

Table 2. Studies of Subjects with Type II or Familial Hypercholesterolemia - continued

Study	Duration and Type of Control (CON) and Soy Protein (SOY) Dietary Treatments	Subject Numbers and Characteristics	Protein Sources and Amounts of Soy Protein	Dietary Intakes	Results
Widhalm et al. (1993) (Ref. 63)	CON: 8 wk low-fat (35% of E) diet; mixed protein sources SOY: 8 wk low-fat (32% of E) diet enriched with a soy supplement --- Crossover; Group I fed SOY initially and Group II fed CON initially; 8 wk washout with usual diet between test diets	CON: 23 children with familial or polygenic hypercholesterolemia, mean age = 9.3 yr SOY: same as above --- BASE Tot-C > 90th percentile	CON: mixed sources SOY: 14-18 g as SF --- 	CON Prot: 15% of E P/S: 0.65 Chol: 190mg SOY Prot: 18% P/S: 0.73 Chol: 140 mg --- 	CON (I & II) v. BASE Tot-C: -18% (NS) & -12% LDL-C: -7% (NS) &-13% HDL-C: -5% (NS) & +1% (NS) SOY (I & II) v. BASE Tot-C: -16% & -18% LDL-C: -22% & -25% HDL-C: -1% (NS) & -13% (NS) --- Comparison of SOY v. CON NR
Laurin et al. (1991) (Ref. 45) and Jacques et al. (1992) (Ref. 42)	CON: 4 wk low-lipid (28% of E) diet; mixed protein sources including cow milk SOY: 4 wk low-lipid (28% of E) diet; soy beverage substituted for cow milk, with other components held constant --- Crossover; random assignment to SOY or CON initially; run-in with usual diet regimen (BASE); 4-wk washout with usual diet between test diets	CON: 10 children with familial hypercholesterolemia, 6-12 yr SOY: same a above --- BASE Tot-C range: 233-378 mg/dL	CON: milk and other protein sources SOY: 28 g as ISP; other protein sources --- 	CON Prot: 19% of E Sat fat: NR Chol: 181 mg SOY Prot: 20% of E Sat fat: NR Chol: 163 --- P:M:S = 1:3:3 in both test diets	CON v. BASE* Tot-C: +10 mg/dL (NS) LDL-C: -8 mg/dL (NS) HDL-C: +1 mg/DL (NS) SOY v. BASE* Tot-C: -2 mg/dL (NS) LDL-C: -0.4 mg/dL (NS) HDL-C: +4 mg/dL (NS) SOY v. CON** Tot-C: 0 (NS) LDL-C: +2 mg/dL (NS) HDL-C: +2 mg/dL --- * From Ref. 45 for n=9 ** From Ref. 42 for n=10

Table 2. Studies of Subjects with Type II or Familial Hypercholesterolemia - continued

Acronyms and Abbreviations Used in Table

BASE	baseline
Chol	dietary cholesterol
CON	control diet
d	day
dL	deciliter
E	energy
est	estimated
g	gram
HDL-C	serum high density lipoprotein cholesterol level
ISP	isolated soy protein
kcal	kilocalorie
LDL-C	serum low density lipoprotein cholesterol level
mg	milligram
mon	month
NR	not recorded
NS	not statistically significant*
Prot	dietary protein
P/S	polyunsaturated to saturated fat ratio
P:M:S	polyunsaturated to monounsaturated to saturated fat ratio
Sat fat	saturated far
SF	soy flour
sig diff	statistically significant difference
SPC	soy protein concentrate
SOY	soy-containing diet
Tot-C	serum total cholesterol level
TVP	textured vegetable protein
wk	week
yr	year

* Results are statistically significantly different unless noted otherwise

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–121268–97]

RIN 1545–AW10

Travel and Tour Activities of Exempt Organizations; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document contains a notice of public hearing on proposed regulations that clarify when the travel and tour activities of tax exempt organizations are substantially related to the purposes for which exemption was granted.

DATES: The public hearing is being held on Wednesday, February 10, 1999, at 10 a.m. The IRS must receive outlines of topics to be discussed at the hearing by January 20, 1999.

ADDRESSES: The public hearing is being held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building.

Mail outlines to: CC:DOM:CORP:R (REG–121268–97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Hand deliver outlines Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–121268–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Submit outlines electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting them directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax__regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing LaNita VanDyke, (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations (REG–121268–97) that were published in the **Federal Register** on April 23, 1998 (63 FR 20156).

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who have submitted written comments and wish to present oral comments at the hearing, must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by January 20, 1999.

A period of 10 minutes is allotted to each person for presenting oral comments.

After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the ''FOR FURTHER INFORMATION CONTACT'' section of this document.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–30014 Filed 11–9–98; 8:45 am]

BILLING CODE 4830–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–198, RM–9304]

Radio Broadcasting Services; Cross Plains, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Alalatex Broadcasters, proposing the allotment of Channel 245C3 to Cross Plains, Texas. The channel can be allotted to Cross Plains without a site restriction at coordinates 32–07–42 and 99–11–18.

DATES: Comments must be filed on or before December 21, 1998, and reply comments on or before January 5, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Jean Hill, Partner, Alalatex Broadcasters, 6101 Bayou Road, Mobile, AL 36605.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–198, adopted October 21, 1998, and released October 30, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–30070 Filed 11–9–98; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 63, No. 217

Tuesday, November 10, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 5, 1998.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Comments regarding (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 burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business-Cooperative Service

Title: Survey for Local Cooperatives' Role in the Emerging Grain and Feed Industries.

OMB Control Number: 0570–NEW.

Summary of Collection: The mission of the Cooperative Services Program (CS) of the Rural Business-Cooperative Service (RBS) is to assist farmer-owned cooperatives in improving the economic well-being of their farmer-members. This is accomplished through a comprehensive program of research on structural, operational, and policy issues affecting cooperatives; technical advisory assistance to individual cooperatives and to groups of producers who wish to organize cooperatives; and development of educational and informational material. The interplay between market and agricultural policy has shaped, and continues to shape the potential activities of grain marketing cooperatives. The passage of the Capper-Volstead Act in 1922, the Cooperative Marketing Act of 1926, and the Agricultural Marketing Act of 1929 were responses to the drastic declines in the prices for most agricultural commodities after World War I. The alternative was direct intervention by the federal government to limit supplies on the domestic market in order to raise prices. Cooperatives are found at all levels of the grain marketing industry, but their presence is strongest at the origination stage (procuring grain from farmers), and weakest in grain exporting. RBS will collect information about cooperatives through telephone and personal interviews surveys.

Need and Use of the Information: RBS will collect information through a survey to establish a baseline of cooperative resources and preferences. This information may ultimately provide a basis for structuring the standardized production and marketing grain sector desired by end-users. The information will be used by regional cooperatives to facilitate strategic planning with member local cooperatives.

Description of Respondents: Business or other for-profit.

Number of Respondents: 800.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 800.

Emergency approval has been requested by October 30, 1998.

Agricultural Research Service/National Agricultural Library

Title: Food and Nutrition Information Center Customer Satisfaction Survey for Food and Nutrition Service Audiences.

OMB Control Number: 0518–NEW.

Summary of Collection: The Food and Nutrition Information Center, National Agricultural Library (NAL), Agricultural Research Service (ARS), USDA receives special funding to serve Food and Nutrition Service (FNS), USDA funded programs. This is documented through two Memoranda of Understanding (MOU) agreements between the Food and Nutrition Information Center, National Agricultural Library and Food and Nutrition Service and Economic Research, USDA. Because the Center and the NAL are emphasizing electronic access, availability of publications and other resources using only this method of communication may be feasible for some audiences served as many do not have access to the World Wide Web or even e-mail through the Internet. Nutrition staff in various FNS-funded programs that the Food and Nutrition Information Center is funded to serve do not have access to World Wide Web and, in some cases, e-mail. ARS will collect information using a survey.

Need and Use of the Information: ARS will collect information to plan and manage services directed to the audiences that they provide service to in order to establish how best to provide reference materials and other resources and tools.

Description of Respondents: State, Local, or Tribal Government; Federal Government.

Number of Respondents: 900.

Frequency of Responses: Reporting: Other (every 3 years).

Total Burden Hours: 450.

Rural Utilities Service

Title: Lien Accommodations and Subordinations, 7 CFR Part 1717, Subparts R&S.

OMB Control Number: 0572–0100.

Summary of Collection: The Rural Electrification Act (RE Act) of 1936, 7 U.S.C. 901 *et seq.*, as amended, authorizes and empowers the Administrator of the Rural Utilities Service (RUS) to make loans in the several States and Territories of the United States for rural electrification

and the furnishing of electric energy to persons in rural areas who are not receiving central station service. The RE Act also authorizes and empowers the Administrator of RUS to provide financial assistance to borrowers for purposes provided in the RE Act by accommodating or subordinating loans made by the National Rural Utilities Cooperative Finance Corporation, the Federal Financing Bank, and other lending agencies. RUS will collect information using forms RUS 178, Report of Progress of Construction and Engineering Services, and RUS 457, Engineer's Monthly Report of Substation Progress.

Need and Use of the Information: RUS will collect information to determine an applicant's eligibility for a lien accommodation or lien subordination under the RE Act; facilitate an applicant's solicitation and acquisition of non-RUS loans as to conserve available Government funds; monitor the compliance of borrowers with debt covenants and regulatory requirements in order to protect loan security; subsequent to granting the lien accommodation or lien subordination, administer each so as to minimize its cost to the Government.

Description of Respondents: Not-for-profit institutions; Business or other for-profit.

Number of Respondents: 20.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 93.

Forest Service

Title: Forest Products Free Use Permit, Forest Products Removal Permit and Cash Receipt, and Forest Products Sale Permit and Cash Receipt.

OMB Control Number: 0596–0085.

Summary of Collection: 16 U.S.C. 551 requires the promulgation of regulations to regulate forest use and prevent destruction of the forests. Regulations at 36 CFR 223.1 and 223.2 govern the sale of forest products such as Christmas trees, pine cones, moss, and mushrooms. Regulations at 36 CFR 223.5–223.13 set forth conditions under which free use of forest product may be obtained by individuals or organizations. 15 U.S.C. 607 provides that a defense against trespass is that the forest product be removed under the regulations. These statutes and the regulations apply to 16 U.S.C. 477, 492, and 607a. Regulations at 36 CFR 261.6 require persons to obtain permits to remove special forest products from National Forest Land. Forest Service Regional Offices have been issuing Forest Product Removal Permits for over 20 years. Each Region has developed its own Forest Product Removal Permit and policies for implementation, but have not obtained OMB authorization for the information collection. National Headquarters is preparing a Forest Product Removal Permit to be implemented in all Regions to ensure consistent implementation of National policies for free use and special forest product programs. Information is required to determine if the applicant meets the criteria under which free use or sale of forest products is authorized by the regulations and to ensure that the permittee complies with the regulations and terms of the permit. This information is also needed to allow Forest Service (FS) compliance personnel to identify permittees in the field.

Need and Use of the Information: The FS will collect information from the public in order to issue a permit, the information that is needed is the name, address, tax identification number or other identification number, this information is used by the FS to keep a record of person buying forest products. The person requesting the permit will provide the information orally and the Forest Officer will enter the information into the permit computerized program or enter onto a hard copy of a permit.

Description of Respondents: Individuals or households; Business or other for-profit.

Number of Respondents: 618,750.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 41,366.

Farm Service Agency

Title: CCC Conservation Contract.

OMB Control Number: 0560–0174.

Summary of Collection: The Farm Service Agency (FSA), in conjunction with the Natural Resources Conservation Service (NRCS), is charged with administering the Environmental Quality Incentives Program (EQIP), the Farmland Protection Program (FPP), and the Conservation Farm Option (CFO) Program. These programs provide farmers and ranchers with flexible opportunities to work with the federal government to address natural resource concerns by implementing innovative and environmentally-sound solutions. Information must be collected from potential participants who wish to apply for these programs. Additional information is required from individuals once they have been accepted into the program to ensure compliance and to issue, as appropriate, cost share and land retirement payments.

Need and Use of the Information: Information will be collected from producers and ranchers who wish to voluntarily participate in either the EQIP, FPP or CFO programs. The application information will allow agency management to select program participants which will help best achieve program objectives related to maximizing environmental benefits, minimizing land retirement, and continuing agricultural production levels. Ongoing recordkeeping and reporting requirements will be necessary to ensure compliance with program provisions.

Description of Respondents: Farms; Individuals or households; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 91,000.

Frequency of Responses: Recordkeeping; Reporting: Other (when applying).

Total Burden Hours: 383,830.

Rural Housing Service

Title: 7 CFR 1951–R, Rural Development Loan Servicing.

OMB Control Number: 0575–0015.

Summary of Collection: The Rural Development (RD) Loan Servicing was legislated in 1985 under Section 1323 of the Food and Security Act of 1985. This action is needed to inplement the provision of Section 407 of the Health and Human Services Act of 1986, which amended Section 1323 of the Food Security Act of 1985. Subpart R of part 1951 contains regulations for servicing and liquidating existing loans previously approved and administered by the U.S. Department of Health and Human Services (HHS) under 45 CFR Part 1076 and transferred from HHS to the U.S. Department of Agriculture. This subpart contains regulations for servicing and liquidating loans made by Rural Development, successor to the Farmers Home Administration, under the Intermediary Relending Program (IRP) to eligible intermediaries and applies to ultimate recipients and other involved parties.

Need and Use of the Information: RD will collect information from the intermediary, i.e. assets and liabilities, income statement and a summary of the intermediary's lending and guarantee program. The information is vital to RD for the Agency to make credit and financial analysis decisions based on financial information provided by the Intermediary.

Description of Respondents: Not-for-profit institutions; Business or other for-profit.

Number of Respondents: 420.

Frequency of Responses: Reporting: On occasion; Quarterly; Semi-annually; Annually.

Total Burden Hours: 12,675.

Animal and Plant Health Inspection Service

Title: Domestic Quarantines.

OMB Control Number: 0579–0088.

Summary of Collection: Chapter 8 of the Plant Quarantine Act (U.S.C. 161) provides authority for the Secretary of Agriculture to quarantine any State, Territory, or District of the United States to prevent the spread of insect infestation and diseases new to or not widely distributed throughout the United States. The Domestic Quarantines regulations (7 CFR Part 301) are issued under this authority. Implementing these quarantines often requires the Animal and Plant Health Inspection Service (APHIS) to collect information from a variety of individuals who are involved in growing, packing, handling, transporting, and exporting plants and plant products. The information collected from these individuals is vital to helping ensure that injurious plant diseases and insect pests do not spread within the United States. Information to be collected is necessary to determine compliance with domestic quarantine laws. Federal/State domestic quarantines are necessary to regulate the movement of articles from infested areas to noninfested areas. Collecting information requires the use of a number of forms and documents.

Need and Use of the Information: APHIS will collect information by interviewing growers and shippers at the time the inspections are being conducted and by having growers and shippers of exported plants and plant products complete an application for a transit permit. Information is collected from the growers, packers, shippers, and exporters of regulated articles to ensure that the articles, when moved from a quarantined area, do not harbor injurious plant diseases and insect pests. The information obtained will be used to determine compliance with regulations and for issuance of forms, permits, certificates, and other required documents.

Description of Respondents: Business or other for-profit; Farms; Individuals or households; Federal Government; State, Local or Tribal Government.

Number of Respondents: 174,072.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 60,126.

Rural Housing Service

Title: 7 CFR 1980–D, Rural Housing Loans.

OMB Control Number: 0575–0078.

Summary of Collection: The Rural Housing Service (RHS) offers supervised credit programs to build modest housing and essential community facilities in rural areas. RHS regulations prescribe the policy necessary to process Rural Housing loan guarantees to low- and moderate-income applicants. RHS, formerly known as the Rural Housing and Community Development Service (RHCDS), is a successor agency to the Farmers Home Administration under the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Public Law 103–354. Section 517(d) of Title V of the Housing Act of 1949 provides the authority for the Secretary of Agriculture to issue loan guarantees for the acquisition of new or existing dwellings and related facilities to provide decent, safe, and sanitary living conditions and other structures in rural areas. The purpose of the Guaranteed Rural Housing (GRH) program is to assist low- and moderate-income individuals and families in acquiring or constructing a single family residence in a rural area with loans made by private lenders. RHS will collect information using an application form from the customers for a mortgage loan.

Need and Use of the Information: RHS will collect information from potential borrowers such as household income, assets and liabilities, and monthly expenses to determine if borrowers qualify for and assure they receive all assistance for which they are eligible. All information collected is used to determine eligibility for program participation and to monitor the program efficiency and effectiveness.

Description of Respondents: Individuals or households; Business or other for-profit; State, Local, or Tribal Government.

Number of Respondents: 48,060.

Frequency of Responses: Reporting: On occasion: Monthly.

Total Burden Hours: 153,931.

Forest Service

Title: 36 CFR Part 228, Subpart A—Locatable Minerals.

OMB Control Number: 0596–0022.

Summary of Collection: The United States Mining Law of 1872, as amended, governs the prospecting for and appropriation of metallic and most nonmetallic minerals on 192 million acres of National Forest set up by proclamation from the public domain. It gives individuals the right to search for and extract valuable mineral deposits of locatable minerals. Recording that claim in the local courthouse and with the appropriate Bureau of Land Management (BLM) State Office affords protection from subsequent locators. A mining claimant is entitled to reasonable access to claim for further prospecting, mining or necessary related activities, subject to the other laws and applicable regulations. The purpose of the regulations at 36 CFR part 228, subpart A, is to set some specific rules and procedures through which use of the surface of National Forest System lands in connection with mineral operations authorized by the United States mining laws shall be conducted so as to minimize adverse environmental impacts on surface resources. The Forest Service (FS) will collect information using form FS2800–5, Plan of Operations for Mining Activities on National Forest System Lands.

Need and Use of the Information: FS will collect information requirements for a Notice of Intent to identify the area involved; the nature of the proposed operations; the route to the area of operations; the method of transport. The information requirements for a Plan of Operations includes: the name and legal mailing address of the operators; a description of the type of operations proposed; a description of how it would be conducted; a description of the type and standard of existing/proposed roads/access routes; a description of the means of transportation to be used; a description of the period during which the proposed activity will take place; and measures to meet the environmental protection requirements. The information requirements for a cessation of operations include: verification to maintain the structures, equipment and other facilities; expected reopening date; estimate of extended duration of operations; maintenance of the site, structures, equipment and other facilities during nonoperating periods.

Description of Respondents: Business or other for-profit.

Number of Respondents: 5,924.

Frequency of Responses: Reporting: Other (approved till operations change).

Total Burden Hours: 4,462.

Rural Housing Service

Rural Business-Cooperative Service

Farm Service Agency

Title: 7 CFR 1955–B, Management of Property.

OMB Control Number: 0575–0110.

Summary of Collection: The Farm Service Agency (FSA) and the Rural Business-Cooperative Service (RBS) programs are administered under the provisions of the Consolidated and Rural Development Act (CONACT), as amended. FSA Farm Loan Program (FLP) provides supervised credit in the form of loans to family farmers and ranchers to purchase land and finance

agricultural production. The Rural Housing Service (RHS) provides credit in the form of Multi-Family Housing loan and Community Facility loans. The RBS program is designed to improve, develop or finance business industry and employment and improve the economic and environmental climate in rural communities. These agencies must collect information on real property taken into custody and chattel property in the agency's inventory.

Need and Use of the Information: FSA, RHS, and RBS collect information to properly track and monitor real property and chattel property used to secure loans.

Description of Respondents: Individuals or households; Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 1,637.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 1,245.

Farm Service Agency

Title: American Indian Livestock Feed Program.

OMB Control Number: 0560–0187.

Summary of Collection: The Agricultural Act of 1970 (7 U.S.C. 1427 (a)), section 813, gives the Secretary of Agriculture the authority to relieve distress caused by a natural disaster by using funds from the sale of commodities held in the disaster reserve. On December 17, 1997, the Secretary announced there would be an American Indian Livestock Feed Program (AILFP) and allocated $8 million from the sale of disaster reserve stocks to fund the program. An additional $4.5 million was subsequently added to the funds for a total of $12.5 million. The AILFP will provide cash reimbursement to livestock owners who must purchase feed to sustain their livestock as a result of a natural disaster. Reimbursement will amount to either 30 percent of the Animal Unit Days (AUD) times the AUD value for the crop year in which the disaster took place, or the amount the owner spent to purchase the feed, whichever amount is smaller. Livestock owners are required to provide receipts substantiating their purchases. When the loss of livestock feed first becomes noticeable in a region a tribal government representative will contact the Bureau of Indian Affairs (BIA) Area Office and the Farm Service Agency (FSA) State Office to get the names of representatives from those agencies who will serve as members of a Survey Team. The Survey Team will consist of a BIA representative, an FSA representative, and at least one tribal representative. The Survey Team will examine the conditions in the region and determine if a natural disaster has had a detrimental effect on the availability of livestock feed in the region, and if so, the team will estimate the loss. FSA will collect information using several forms.

Need and Use of the Information: FSA will collect information to determine if the disaster region commended by the tribal government meets the requirements of the regulations.

Description of Respondents: Individuals or households; State, Local or Tribal Government.

Number of Respondents: 45,000.

Frequency of Responses: Reporting: On occasion; Other (when losses occur).

Total Burden Hours: 22,563.

Farm Service Agency

Title: Livestock Indemnity Program (7 CFR 1439).

OMB Control Number: 0560–0179.

Summary of Collection: Under Pub. L. 105–18, the Secretary of Agriculture is authorized to use up to $50 million from proceeds earned from the sale of grain in the disaster reserve established in the Agricultural Act of 1970 to implement a Livestock Indemnity Program. The program will provide payments to producers with livestock and poultry losses between October 1, 1996 and June 12, 1997, from natural disasters which occurred between October 1, 1996 and June 12, 1997, for which a Presidential or Secretarial Declaration was requested by June 12, 1997, and subsequently approved. Pub. L. 105–119 authorized an additional $6 million to implement a Livestock Indemnity Program for livestock and poultry losses beginning March 1, 1997, through November 26, 1997, from natural disasters which occurred beginning March 1, through November 26, 1997, for which a Presidential or Secretarial Declaration was requested between June 12, 1997, and December 1, 1997, and subsequently approved. The Farm Service Agency (FSA) will collect information using form CCC–661 to establish eligibility for the program.

Need and Use of the Information: FSA will collect information from persons who suffered livestock or poultry losses to support their reported pre-disaster inventory such as receipts for purchase of livestock, poultry, or feed and loan documents, or any information that may be available to verify their livestock or poultry possessions prior to the reported loss. Evidence to support the number of losses such as rendering receipts and a certification by the producer on CCC–661 regarding the accuracy of the information submitted. The information collected will be used by the Commodity Credit Corporation (CCC) to determine the eligibility and amount of assistance in accordance with published regulations. Failure to make sound decisions in providing livestock indemnity program payments, would result in inequitable treatment of the livestock and poultry owners.

Description of Respondents: Farms.

Number of Respondents: 60,000.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 120,000.

Farm Service Agency

Title: Upland Cotton Domestic User/ Exporter Agreement and Payment Program.

OMB Control Number: 0560–0136.

Summary of Collection: The Federal Agriculture Improvement and Reform Act of 1996 (the FAIR Act) provided that, during the period beginning August 1, 1991, and ending July 31, 2003, if for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest price U.S. growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound, the Secretary of Agriculture issue cash or commodity certificates to domestic users for cotton consumed or for exporters for exports made in the week following such consecutive 4-week period. Participating exporters must submit form CCC–1045–1, Exporter Application for Payment, or provide the same information in their own format whenever they export cotton during a week in which a payment rate is in effect. The Farm Service Agency (FSA) will collect information using form CCC–1045–1.

Need and Use of the Information: FSA will collect information from form CCC–1045, Upland Cotton Domestic User/ Exporter Agreement. The agreement contains the terms and conditions for receiving payments and outlines the responsibilities of the participants. Data collected on the agreement documents are limited to the name of exporter, address of recordkeeping office, and taxpayer ID. The agreement establishes basic eligibility to participate in the program.

Description of Respondents: Business or other for-profit.

Number of Respondents: 230.

Frequency of Responses: Reporting: Weekly.

Total Burden Hours: 3,145.

Farm Service Agency

Title: Request for Aerial Photography.

OMB Control Number: 0560–0176.

Summary of Collection: The USDA Farm Service Agency (FSA) Aerial Photography Field Office (AFPO) has the authority to coordinate aerial photography work in USDA, develop and carry out aerial photography and remote sensing programs and the Agency's aerial photography flying contract programs. Section 387 of the Agriculture Adjustment Act of February 16, 1938, states ''The Secretary may furnish reproductions of such aerial or other photographs, mosaics, and maps as have been obtained in connection with the authorized work of the Department to farmers and governmental agencies at the estimated cost of furnishing such reproductions, and to persons other than farmers at such prices (not less than estimated cost of furnishing such reproductions) and the Secretary may determine, the money received from such sales to be deposited in the Treasury to the credit of the appropriation charged with the cost of making such reproductions.'' FSA will collect information using FSA–441 form to determine the necessary customer and photography information needed for the USDA FSA Aerial Photography Field Office to produce and ship the various products ordered from our office.

Need and Use of the Information: FSA will collect information on the name, address, contact name, telephone, fax, e-mail, customer code, agency code, purchase order number, credit card number/exp. date and amount remitted/po amount. Customers have the option of placing orders by mail, fax, telephone, walk-in or floppy disk. Furnishing this information requires the customer to research and prepare their request before submitting it to APFO.

Description of Respondents: Farms; Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 12,000.

Frequency of Responses: Reporting: Other (when ordering).

Total Burden Hours: 8,000.

Rural Housing Service

Title: Form RD 1910–11, Application Certification, Federal Collection Policies for Consumer or Commercial Debts.

OMB Control Number: 0575–0127.

Summary of Collection: The Rural Development (RD) implements the requirements of the Office of Management and Budget (OMB) Circular A–129. OMB Circular A–129, ''Policies for Federal Credit programs and Non-Tax Receivables provides direction as to how agencies should inform its loan applicants of the Federal Government's debt collection policies and procedures prior to extending credit. At the time an application for a loan program is completed, the agency will ask the applicant to sign a debt collection certification statement to certify knowledge of the Government's policies. This statement details the consequences of delinquency. Form RD 1910–11 uniformly advises applicants of the debt collection methods that will and can be used in recovering on delinquent or defaulted loans. RD will collect information using Form RD 1910–11.

Need and Use of the Information: RD will collect information using Form RD 1910–11 to advise applicants of the debt collection methods that will and can be used in recovering on delinquent or defaulted loans. The information will be obtained from loan applicants for consumer and commercial debt at the time of loan application. If the application results in a loan, the information will be maintained in the borrower's case file or loan docket and used as documentation should the borrower become delinquent or default.

Description of Respondents: State, Local or Tribal Government; Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; Federal Government.

Number of Respondents: 1,565.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 392.

Farm Service Agency

Title: Power of Attorney.

OMB Control Number: 0560–NEW.

Summary of Collection: The FSA–211, Power of Attorney and FSA–211–1, Power of Attorney for Husband and Wife have been revised to provide for authority for programs provided by the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act). The power of attorney grants said attorney authority to act with respect to actions involving Farm Service Agency (FSA), Commodity Credit Corporation (CCC) and Federal Crop Insurance (FCIC) insured crops. These forms provide a service to producers who are not always able to be present to sign documents. They save the producers the legal fees associated with obtaining a power of attorney. FSA will collect information using form FSA–211 and FSA–211–1.

Need and Use of the Information: FSA will collect information using FSA–211, Power of Attorney to delegate authority to another person to act for the producer with respect to actions under a variety of programs administered by FSA and FSA–211–1, Power of Attorney for Husband and Wife used by one spouse to grant signing authority for another. Without a power of attorney a husband or wife may not be able to sign documents on behalf of a spouse. These forms provide a service to producers who are not always able to be present to sign documents.

Description of Respondents: Farms.

Number of Respondents: 500,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 150,000.

Rural Business-Cooperative Service

Title: Revolving Loan Funds Capitalized by USDA Rural Development.

OMB Control Number: 0570–0030.

Summary of Collection: The information to be collected under this action involves three programs. The Intermediary Relending Program (IRP) was authorized by Section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note). The Rural Business Enterprise Grant Program is authorized by section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932). The Rural Economic Development Grant Program is authorized by Section 313 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 940c). The Rural Business-Cooperative Service (RBS), an agency within the Rural Development mission area of the U.S. Department of Agriculture, operates several programs that provide funds to organizations to be used for loans to third-party recipients. The Intermediary Relending Program (IRP) provides long term, low interest loans to nonprofit corporations, public agencies, Indian tribes, and cooperatives to establish revolving loan funds to finance businesses and community development projects in rural areas. The Rural Business Enterprise Grant Program provides grant funds to nonprofit and emerging private business enterprises in rural areas. The Rural Economic Development Grant Program provides grants to electric and telephone program borrowers of the Rural Utilities Service, for the purpose of promoting rural economic development and job creation projects. In each of these programs there is an organization, referred to herein as an intermediary, that receives the Federal loan or grant assistance, and uses that assistance to establish revolving funds to make loan and grant assistance, to third parties, referred to herein as ultimate recipients. RBS will collect information using an automated data base of information created by Virginia Polytechnical University on ultimate recipient loans.

Need and Use of the Information: RBS will collect information to analyze the feasibility of secondary market sales of the promissory notes held by the intermediaries and to provide better measures and more accurate and complete information for measuring program impact, in accordance with the National Performance and Results Act.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 550.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 2,750.

Rural Housing Service

Title: 7 CFR 1901–E, Civil Rights Compliance Requirements.

OMB Control Number: 0575–0018.

Summary of Collection: Rural Development (RD) is required to provide Federal financial assistance through its farmer, housing, and community and business programs on an equal opportunity basis. The laws implemented in 7 CFR 1901–E, require the recipients of Rural Development's Federal financial assistance to collect various types of information by race, color, and national origin. RD will collect information using various RD forms.

Need and Use of the Information: RD will collect information on race, color and national origin. RD will use this information to monitor a recipient's compliance with the civil rights laws, and to determine whether or not service and benefits are being provided to beneficiaries on an equal opportunity basis. Without the required information, RD and its recipient will lack the necessary documentation to demonstrate that their programs are being administered in a nondiscriminatory manner and in full compliance with the civil rights laws.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government.

Number of Respondents: 19,565.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 533,017.

Farm Service Agency

Title: Debt Settlement Policies and Procedures, 7 CFR 792 and 1403.

OMB Control Number: 0560–0146.

Summary of Collection: The Federal Claims Collection Act of 1966, as revised by the Debt Collection Act of 1982 (DCIA) (31 U.S.C., 3711, et seq.) requires each Federal agency to make aggressive action to collect debts owed it, and to cooperate with other Federal agencies in their debt collection activities. The DCIA of 1996 has increased the aggressiveness required through the addition of mandated provisions to ensure that all agencies are employing the most efficient and cost effective procedures and methods to identify, report and collect outstanding debts. In order for Farm Service Agency (FSA) and the Commodity Credit Corporation (CCC) to carryout their responsibilities under this statute, information must be obtained to ensure that the Government will be able to collect, or otherwise settle, debts owed it by any person, organization, corporation, or other legal entity. The Federal Claims Collection Standards and the DCIA provided that if the debtor is financially unable to pay the debt in one lump sum, payment may be accepted in regular installments, that agencies should obtain financial statements from debtors who represent that they are unable to pay the debt in one lump sum, and that agencies which agree to accept payment in regular installments should obtain a legally enforceable written agreement from the debtor which specifies all of the terms of the agreement. FSA and CCC will collect financial information and the completion of a settlement agreement or promissory note from debtors who are unable to pay their debts in one lump sum.

Need and Use of the Information: FSA will collect information on the debtors assets, liabilities, income and expenses when a debtor requests to enter into an installment agreement to settle their debt. Based on that information a determination can be made on whether the debtor can pay the debt in one lump sum or an installment is necessary. Without this financial information FSA/CCC would have no method of allowing debtor's to pay their debts in installments while still ensuring that the government's financial interests are protected. Once an installment request has been approved, a legally enforceable written agreement incorporating the terms of payment is necessary to evidence the agreement and allow for judicial enforcement if the debtor defaults on the agreement. Form CCC–279 is executed as a promissory note in these situations.

Description of Respondents: Individuals or households; Farm; Federal Government.

Number of Respondents: 250.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 125.

Farm Service Agency

Title: Conservation and Environmental Programs—7 CFR 701.

OMB Control Number: 0560–0082.

Summary of Collection: The Conservation and Environmental Programs Regulations at 7 CFR Part 701 set forth the basic policies, program provisions, and eligibility requirements, as determined by the Secretary, under which cost-sharing assistance will be made available to eligible agricultural producers/landowners for carrying out approved long-term conservation, forestry and emergency conservation measures. The regulations include: (1) individual program goals and objectives; (2) applicable program definitions; (3) procedures for program development and implementation; (4) conditions for approvals, payments, and completion of practices; and (5) general provisions to each program. The Farm Service Agency (FSA), in cooperation with the Natural Resources Conservation Service (NRCS), the Forest (FS) and other agencies and organizations, provides eligible producers and landowners, cost-share incentives and technical assistance through several interrelated conservation and environmental programs to help farmers, ranchers and other eligible landowners and operators conserve soil, improve water quality, maintain the fertility of the land, develop the forests, and rehabilitate land damaged by natural disasters. The programs included are Emergency Conservation Program (ECP), Conservation Reserve Program (CFP), Forestry Incentives Program, and Rural Clean Water Program (RCWP). Various forms are used to collect information on the type of assistance required and to certify completions so that cost-share payments can be received.

Need and Use of the Information: Information collected is used by FSA offices to determine eligibility, calculate cost-share payments earned by participants based on the information reported by the applicant that is substantiated by the receipts or sales documents to monitor compliance.

Description of Respondents: Farm.

Number of Respondents: 450,000.

Frequency of Responses: Reporting.

Total Burden Hours: 205,000.

Farm Service Agency

Title: General Regulations Governing Sugar Loans for 1996 and Subsequent Crops—7 CFR part 1435.

OMB Control Number: 0560–0093.

Summary of Collection: Sugar loans are authorized by the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 FAIR Act),

Section 156 and the Commodity Credit Corporation (CCC) Charter Act (Pub. L. 80–806). The loans to processors are made available through CCC and implemented by regulations at 7 CFR 1435. The 1996 Act provides the Secretary shall make available recourse or nonrecourse marketing assistance loans on 1996 through 2002 crops of sugar beets and sugarcane. The Farm Service Agency (FSA), on behalf of CCC, administers recourse and nonrecourse loans for sugar. The type of loan, recourse or nonrecourse, is determined by the level of tariff rate quotas for sugar imports. CCC makes loans available to processors on eligible sugar pledged as loan collateral. The sugar may be stored in approved farm storage. Processors obtain loans on sugar processed from sugar beets and sugar cane grown by eligible producers in the United States and Puerto Rico. An eligible producer on a farm must have: (1) complied with the highly erodible land requirements; (2) reported planted acres for commodities applicable to loan requests; (3) met the applicable crop insurance requirements; and (4) share in the risk of producing the commodity. Eligible sugar must be processed and owned by the eligible processor and stored in suitable storage. May not have been processed from imported sugarcane, sugar beets, or molasses, and must have been processed in the United States or Puerto Rico and must have processor certification in the loan application that the sugar is eligible and available to be pledged as collateral. FSA will collect information using form SU–2, Application for Sugar Loan.

Need and Use of the Information: FSA will collect information on the total capacity, storage location, crop years, commodity lienholders, quantity, lot number and where the sugar was produced. The information is used to determine the eligibility of the sugar and is used to establish the quantity to be pledged as collateral for the certified loan. Furnishing the data is voluntary, however, without it, assistance under the CCC loan program cannot be provided.

Description of Respondents: Business or other for-profit.

Number of Respondents: 43.

Frequency of Responses: Reporting: Monthly.

Total Burden Hours: 15.

Nancy Sternberg,

Departmental Information Clearance Officer.

[FR Doc. 98–30122 Filed 11–9–98; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Northern Sierra Forest Plan Amendment EIS; Humboldt-Toiyabe National Forest; Carson City, Douglas, and Washoe Counties, Nevada; Alpine, Eldorado, Nevada, Sierra, Lassen, and Toulumne Counties, California

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Humboldt-Toiyabe National Forest will prepare an environmental impact statement (EIS) to consider amending the Toiyabe National Forest Land and Resource Management Plan (Forest Plan). The amendment will be comprehensive, covering a wide variety of issues needed to update the Forest Plan for the Northern Sierra area.

DECISION TO BE MADE: The Forest Service will decide whether or not to amend the Forest Plan for the Northern Sierra area, which coincides with the Carson Ranger District. The amendment will consider improving the management direction of portions of the Forest Plan and affirm continuation of other aspects of the Forest Plan's management direction for the next 10–15 years. No irreversible or irretrievable commitment of resources (site specific actions) will be taken as a result of this decision.

DATES: The public is asked to provide any information they believe the Forest Service should consider and to submit any issues regarding alternatives or potential impacts by January 23, 1999. The agency expects to file the draft EIS with the Environmental Protection Agency and make it available for public comment in November, 1999. The agency expects to file the final EIS in June, 2000.

MEETINGS: The Humboldt-Toiyabe National Forest will hold four public meetings to present information gained from the implementation of the current Forest Plan and discuss the proposed Forest Plan amendment. Comments from the public, other agencies and tribal councils are welcomed. Tentative dates and locations for these meetings are: December 11, 1998, 7:00 pm–9:00 pm at the Sierra Room, Carson City Community Center, Carson City, NV; December 15, 1998, 4:00 pm–7:00 pm at the Old Schoolhouse, Bartley Regional Park, 6000 Bartley Ranch Drive, Reno, NV; Dec. 17, 1998, 4:00 pm-7:00 pm at Turtle Rock Park, Markleeville, CA; and January 12, 1999 from 1:00 pm to 2:00 pm at the Douglas County Administration Building Courtroom, 1616 8th St., Minden, NV.

COMMENTS: Written comments on the information presented here should be submitted to the Northern Sierra Planning Team, Attn. Dave Loomis, USDA Forest Service, Humboldt-Toiyabe National Forest, 1536 South Carson St., Carson City, NV 89701. Comments should be received by January 23, 1999.

ADDITIONAL INFORMATION: For additional information contact Dave Loomis, Forest Planner, Humboldt-Toiyabe National Forest, 1536 South Carson St., Carson City, NV 89701, (702) 884–8132.

RESPONSIBLE OFFICIAL: The Regional Forester for the Intermountain Region located at 324 25th Street, Odgen Utah 84401 is the responsible official for this action.

SUPPLEMENTARY INFORMATION: The proposed amendment will address management of National Forest System lands in the Northern Sierra area, which includes portions of Lassen, Sierra, Nevada, Eldorado, and Alpine Counties in California and portions of Washoe, Carson City, and Douglas Counties in Nevada. This area is part of the Sierra Nevada mountain range. A framework for conservation and collaboration for National Forest System lands in the Sierra Nevada is currently under development. The EIS for the Northern Sierra Plan Amendment will be developed in coordination with the EIS for the Sierra Framework.

The substantive changes that will be addressed in the amendment of the Forest Plan are described in the regulations implementing the National Forest Management Act (NFMA). The amendment process begins with monitoring and evaluation of Forest Plan implementation (36 CFR 219.12(k)). It includes public involvement in monitoring and identification of opportunities for improvements to improve management.

This NOI signals the development of an EIS for the amendment of the Forest Plan. Based upon monitoring and evaluation results and the information obtained in the Analysis of the Management Situation (AMS), the Humboldt-Toiyabe National Forest is proposing to make several improvements to the long-term management direction for the Northern Sierra area. The public is invited to comment on the preliminary alternatives which have been identified.

Proposed Action

The proposed action is to amend the Toiyabe Land and Resource Management Plan to improve management direction. The purpose of the proposed action is to provide long

term management direction for the Northern Sierra area. The proposed action is needed because existing guidance is more than a decade old. That guidance does not reflect the substantial additions to the National Forest System in the area, the rapidly growing and diversifying population, or the advances in science that have occurred over the last decade. Four alternatives have been prepared to address the topics outlined below. A preferred alternative will be selected during the preparation of the drafts EIS based on public comments from this scoping process and the analysis of environmental impacts of the alternatives.

Amendment Topics

Based on the analysis of the existing direction, monitoring and evaluation of resource conditions, and public comments, the following topics have been identified as having a need for change in management direction. Heritage Resources, American Indian Religious and Cultural Use, Watershed Protection, Species and Ecosystem Viability, Roadless/Wilderness Area Management, Wild and Scenic River Suitability, Access, Transportation, Recreation, Visual Resources, Fire and Smoke Management, Forest Products Management, Livestock Grazing Management, Mining, and Land Adjustment.

Potential Alternatives

These alternatives are preliminary only and will be refined through the public scoping process. While alternatives may vary in emphases, management activities would occur within the framework of the Forest Service Natural Resources Agenda. The agenda emphasizes watershed protection, ecosystem management, recreation and road management.

Alternative A emphasizes public recreational access to Forest System lands. It protects scenic quality as a backdrop that enhances the quality of life for residents and visitors. Alternative B emphasizes public access, commercial services, and high diversity of multiple uses. It provides for local economic diversity through forest product development, forage utilization, outfitter guides, recreational facilities, and motorized recreational opportunities. Alternative C emphasizes ecological restoration including the protection, maintenance, and restoration of watershed, riparian areas, and ecosystem viability. Alternative D emphasizes sustainable multiple use to meet current and future needs and expectations of local communities and the American public. It encourages cooperative partnerships and collaborative stewardship of the National Forest.

Public Comments on the Draft EIS

The Draft Environmental Impact Statement is expected to be available for public review and comment in November, 1999. The comment period on the draft environmental impact statement will be at least 90 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. Reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is important that those interested in this proposed action participate by the close of the comment period so that substantive comments are made available to the Forest Service when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be specific and refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft statement or the merits of the alternatives discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: November 4, 1998.

Gloria E. Flora,

Forest Supervisor, Humboldt-Toiyabe National Forest.

[FR Doc. 98–30062 Filed 11–9–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Keystone Resort, Jones Gulch Development; White River National Forest, Summit County, Colorado

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The USDA, Forest Service will prepare an Environmental Impact Statement (EIS) to disclose the environmental effects from the development of the Jones Gulch ski pod at Keystone Resort. Development will be confined to Keystone Resort's existing Special Use Permit boundary. The proposed actions to construct lifts, trails, snowmaking, and associated service roads are being considered together because they represent either connected or cumulative actions as defined by the Council on Environmental Quality (40 CFR 1508.25).

The Forest Service is evaluating a proposal, submitted by Keystone Resort, which is consistent with forest management direction for ski areas. The purposes of the project are to address the following needs: (1) To improve skier/snowboarder distribution and reduce trail densities on the front side of Keystone Mountain by providing additional intermediate and advanced terrain on the front side of Keystone Mountain; (2) to improve ingress and egress and reduce out-of-base congestion by adding another portal at

Jones Gulch; (3) to meet existing and anticipated skier demand through development of infrastructure consistent with advances in equipment, lift technology, and consumer preference; (4) to address some existing environmental concerns associated with historic activities and existing development. The EIS will tier to the White River National Forest Land and Resource Management Plan (Forest Plan) and Final EIS of September 20, 1984, which provides overall guidance for ski area management of the area. All activities associated with the proposal will be designed to maintain high quality resource objectives.

DATES: Written comments and suggestions should be postmarked or received by the Dillon Ranger District no later than 30 days after the publication of this notice. Send comments to Michael Liu, Attn: Keystone, Dillon Ranger District, P.O. Box 620, Silverthorne, Colorado, 80498, fax (970) 468–7735.

FOR FURTHER INFORMATION: Contact Michael Liu, Special Projects Coordinator, Dillon Ranger District, phone (970) 262–3440.

SUPPLEMENTARY INFORMATION: The proposed action includes construction of facilities entirely within Keystone Resort's Special Use Permit area. These facilities have been conceptually approved through previous National Environmental Policy Act analysis of the Resort's Master Development Plan (MDP). Specific elements of the proposed action include: Approximately 125 acres of trail construction, approximately 95 acres of additional snowmaking coverage, construction of three chair-lifts and one surface-lift, and construction of required service roads.

The project area is located on National Forest System lands within sections 19, 20, 29, 30, 31 and 32, Township 5 South, Range 76 West of the 6th P.M., all within Summit County, Colorado. Keystone Resort is located approximately 70 miles west of Denver, Colorado.

These improvements are consistent with Forest Plan and Regional Guide direction, and are considered necessary in light of current resort deficiencies, increased visitation experienced over the past decade, and projected future visitation increases. The proposed analysis will provide additional site-specific detail for portions of the existing MDP to accommodate changing socio-economic and environmental considerations, and may modify previous approvals shown in the MDP to avoid wetlands and other environmentally sensitive areas.

Preliminary Issues

Preliminary issues identified forest fragmentation and effects to: Wildlife, wetlands, water quality, mountain hydrology, geological stability, and the relationship of the project to future development of adjacent real estate. Additional issues will be identified during the scoping process.

Public Involvement and Scoping

Analysis of this proposal was originally planned under an Environmental Assessment (EA). After further study and additional information from resource specialists, the Forest Service has decided to prepare an EIS. Public scoping was conducted for the EA during October and November of 1997 through newspaper articles, letters to interested parties and two open houses. Comments previously submitted as part of the EA scoping process will be included in the documentation for the EIS and will be used to focus analysis and develop alternatives. Interested groups and individuals that have previously commented as part of the EA scoping process will be retained on the project mailing list.

The project proposal has been modified since originally submitted by Keystone Resort. The proposed Ski Tip Return Trail has been removed and one chairlift has been added to the proposal.

This environmental analysis and decision making process will enable additional interested and affected people to participate and contribute to the final decision. The Forest Service will seek information, comments, and assistance identifying issues from Federal, State, local agencies, federally recognized Native American tribes, and other individuals or organizations who may be interested in or affected by the proposal.

Completion of the draft EIS is anticipated during the late winter or spring of 1999. The final EIS should be completed some time during the late summer or fall of 1999. The comment period on the draft EIS will be 90 days from the date the Environmental Protection Agency publishes the ''Notice of Availability'' in the **Federal Register**.

Responsible Official

The Responsible Official for this project is Martha Ketelle, Forest Supervisor for the White River National Forest. The Responsible Official will document the decision and reasons for the decision in the Record of Decision issued concurrently with the release of the final EIS. That decision will be subject to appeal under 36 CFR 215.

Dated: November 3, 1998.

Martha Ketelle,

Forest Supervisor, White River National Forest.

[FR Doc. 98–30066 Filed 11–9–98; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Amendment to Notice of Public Meeting of the West Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 5:30 p.m. on Tuesday, November 17, 1998, has a location change. The new location is the Logan Area Public Library, 1 Wildcat Way, Logan, West Virginia 25601. The notice originally published in the **Federal Register** on Thursday, October 29, 1998, Vol. 63, No. 209, p. 58008. This notice is change of location only.

Persons desiring additional information, should contact Chairperson Gregory T. Hinton, 304–367–4244 or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 5, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–30199 Filed 11–9–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Postponement of Final Results of Antidumping Duty New Shipper Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of the time limit for the final results of the new shipper administrative review of the

antidumping duty order on brake rotors from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the new shipper administrative review of the antidumping duty order on brake rotors from the People's Republic of China (PRC). This review covers the period April 1, 1997, through September 30, 1997.

EFFECTIVE DATE: November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Everett Kelly, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1766 or (202) 482–4194, respectively.

Postponement of Preliminary Results of Review

On November 28, 1997, the Department initiated a new shipper review of the antidumping duty order on brake rotors from the PRC for China National Industrial Machinery Import & Export Co., Lai Zhou Auto Brake Equipments Factory, Longkou Haimeng Machinery Co., Ltd., Qingdao Gren (Group) Co., and Yantai Winhere Auto Part Manufacturing Co., Ltd. (62 FR 64206, December 4, 1997). On September 29, 1998, the Department made its preliminary determination in the above-referenced review (63 FR 51895, September 29, 1998). The current deadline for the final results in this new shipper review is December 23, 1998. In accordance with section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended, the Department finds this new shipper review extraordinarily complicated because the large number of respondents and is extending the time limit for completion of the final results until February 23, 1999, which is 150 days after the date on which the preliminary results were issued.

Dated: November 4, 1998.

Louis Apple,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–30143 Filed 11–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Postponement of Preliminary Results of Antidumping Duty New Shipper Administrative Review and First Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of the time limit for the preliminary results in the antidumping duty new shipper administrative review and first administrative review of the antidumping duty order on brake rotors from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the antidumping duty new shipper administrative review and first administrative review of the antidumping duty order on brake rotors from the People's Republic of China (PRC). This review covers the period October 1, 1996, through March 31, 1998.

EFFECTIVE DATE: November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Everett Kelly, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1766 or (202) 482–4194, respectively.

Postponement of Preliminary Results of Review

The Department initiated a new shipper review of the antidumping duty order on brake rotors from the PRC (63 FR 28355) on May 22, 1998 and, on May 29, 1998, initiated the first administrative review of the antidumping duty order on brake rotors from the PRC (63 FR 29370). Pursuant to section 351.214(j)(3) of its regulations, and with the agreement of Yantai Chen Fu Machinery Co. Ltd., (Yantai Chen Fu) the Department is conducting the 1996–1998 administrative review and the new shipper review of Yantai Chen Fu concurrently. The current deadline for the preliminary results in these reviews is January 4, 1999. In accordance with section 751(a)(3)(A) of the Tariff Act of 1930 (''the Act''), as amended, we determine that it is not practicable to complete these reviews within the original time frame because of the large number of respondents.[1] Further, in accordance with section 751(a)(2)(B)(iv) of the Act, the Department finds the concurrent new shipper review extraordinarily complicated because it is being conducted with the administrative review of a large number of respondents. Thus the Department is extending the time limit for completion of the preliminary results until April 30, 1999, which is 365 days after the last day of the anniversary month of the order.

The final determination will occur within 120 days of the publication of the preliminary results.

Dated: November 4, 1998.

Louis Apple,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–30144 Filed 11–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–028]

Final Results of Expedited Sunset Review: Roller Chain, Other Than Bicycle, From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Review: Roller Chain, Other Than Bicycle, From Japan.

SUMMARY: On July 6, 1998, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping finding on roller chain, other than bicycle, from Japan (63 FR 26389) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate filed on behalf of the domestic industry and substantive comments filed on behalf of the domestic industry and respondent

[1] The administrative review respondents are Yantai Import and Export Co., Southwest Technical Import & Export Co.,Yangtze Machinery Co., MMB International Inc., Hebei Metals and Minerals Import and Export Co., Jilin Provincial Machinery & Equipment Import and Export Co., Shangdong Jiyuang Enterprise Co., Longjing Walking Tractor Works Foreign Trade Import and Export Co., Qindao Metals, Minerals & Machinery Import and Exports Co., Shanxi Macjinery and Equipment Import and Export Co., Xianghe Zichen Casting Co., Yenhere Co., China Non-Market Economy Entity, China National Automotive Industry Import and Export Co., Shandong Laizhou CAPCO Industry, Shenyang Honbase Machinery Co. Ltd., Lai Zhou Luyuan Automobile Fitting Co., Ltd., China National Machinery and Equipment Import and Export (Xinjiang) Corporation, Ltd. The new shipper is Yantai Chen Fu Machinery Co., Ltd.

interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping finding would be likely to lead to a continuation or recurrence of dumping at the levels indicated in the Appendix to this notice.

EFFECTIVE DATE: November 10, 1998.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The merchandise subject to this antidumping finding is roller chain, other than bicycle, from Japan. The term ''roller chain, other than bicycle'' includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmissions and/or conveyance. This chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside from the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain. This finding also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. Roller chain is currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7315.11.00 through 7619.90.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

This review covers all manufacturers and exporters of roller chain from Japan, other than Honda Motor Company and Tsubakimoto Chain, for which the finding has been revoked.

Background

On July 6, 1998, the Department initiated a sunset review of the antidumping finding on roller chain, other than bicycle, from Japan (63 FR 26389), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate from the American Chain Association (''ACA'') on July 20, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* ACA claimed interested party status under section 771(9)(E) of the Act, as a trade association, a majority of whose members manufacture roller chain in the United States. We received complete substantive responses from ACA and from Daido Tsusho Co., Ltd. (''Daido Tsusho'') and Daido Corporation (collectively ''Daido'') on August 5, 1998, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). In its substantive response, Daido stated that Daido Tsusho is an exporter of the subject merchandise manufactured by Daido Kogyo Co., Ltd. (''Daido Kogyo'') and Enuma Chain Manufacturing Co., Ltd. (''Enuma''), and that Daido Corporation is a U.S. importer of the subject merchandise manufactured by Daido Kogyo and Enuma. Additionally, Daido Tsusho stated that it had participated in administrative reviews under its former name, Meisei Trading Co., Ltd. Daido claimed interested party status as a foreign exporter and United States importer of subject merchandise under section 771(9)(A) of the Act.

Using the information on value of exports submitted by Daido and the value of imports as reported by the United States Customs Service (''Customs'') in its annual reports to Congress on administration of the antidumping and countervailing duty laws,[1] the Department determined that exports by Daido Tsusho Co., Ltd. accounted for significantly less than 50 percent of the value of total exports of the subject merchandise over the five calendar years preceding the initiation of the sunset review. Therefore, the Department determined that respondent interested parties provided an inadequate response to the notice of initiation, and, in accordance with section 351.218(e)(1)(ii)(C)(2) of the *Sunset Regulations,* the Department determined to conduct an expedited review.

On September 14, 1998, Daido submitted comments arguing that ACA's response to the notice of initiation was inadequate and, thus, the Department should conduct a 90-day sunset review and revoke the antidumping finding. Daido argued that ACA does not qualify as an interested party because four members of ACA that are U.S. manufacturers of roller chain are also importers of roller chain from Japan. On September 17 1998, we received unsolicited rebuttal comments on behalf of ACA. On October 5, 1998, Daido argued that ACA's September 17 letter should be disregarded and removed from the record because it constituted an unauthorized and unsolicited written argument.

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping finding would be likely to lead to a continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping finding, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the finding is revoked.

As discussed more fully in the ''Department's Position'' contained in the ''Continuation or Recurrence of Dumping'' section of this notice, given that dumping has continued over the life of the finding, consistent with Section II.A.3. of the *Sunset Policy Bulletin,* the Department determines that dumping is likely to continue if the finding were revoked. Further, on the bases discussed more fully in the ''Department's Position'' contained in the ''Magnitude of the Margin'' section of this notice, we determine that the original margins calculated by the

[1] This information is available to the public on the Internet at ''http://www.ita.doc.gov/import_admin/ records/sunset''.

Department are probative of the behavior of the Japanese manufacturers and exporters of roller chain and we will report to the Commission the company-specific and ''all others'' margins contained in the Appendix to this notice.

Below, we address the issues raised in this sunset review.

Continuation or Recurrence of Dumping

Interested Party Comments

In its substantive response, ACA argues that the actions taken by producers and exporters of Japanese roller chain during the life of the finding indicate that ''dumping would persist, and indeed grow worse, were the finding revoked.'' (*See* August 5, 1998, Substantive Response of ACA.) With respect to whether dumping continued at any level above de minimis after the issuance of the finding, ACA asserts that, as documented in the final results of reviews reached by the Department, dumping levels have increased during the life of the finding, with company-specific margins ranging up to 43.29 percent.

With respect to whether imports of the subject merchandise ceased after the issuance of the finding, ACA observes that the number of firms exporting roller chain to the United States has declined dramatically in recent years, noting that the first administrative review conducted by the Department covered 110 entities, while the more recent reviews cover only a handful of firms. While recognizing that the Department's figures appear to understate the true volume of the imported subject merchandise, ACA notes that information available on the Department's web site demonstrates that imports of covered chain in 1997 surged to the highest level in at least five years.

In conclusion, ACA argues that the Department should determine that there is a likelihood that dumping would continue were the finding revoked because (1) dumping margins have been significant and have increased over the life of the finding, and (2) certain companies have ceased exporting altogether.

In its substantive response, Daido states that the revocation of the dumping finding would likely result in (1) no significant change in Japanese roller chain import volumes, (2) no significant change in Japanese roller chain prices, and (3) no adverse impact on U.S. roller chain manufacturers. (*See* August 5, 1998, Substantive Response of Daido.) In its submission, Daido does not address the fact that dumping margins above de minimis continue to exist. Commenting on the question of import volumes, Daido states that Japanese chain (including both subject and non-subject merchandise) import volumes increased from 20,215,319 pounds in 1973 to a high point of 38,317,728 pounds in 1985 and have since moved erratically to 24,459,000 pounds in 1997. Additionally, in its August 5, 1998, rebuttal comments, Daido states that import values are significantly affected by exchange rate fluctuations and the use of value figures is likely to produce mistaken conclusions. In its substantive response, Daido did not address the issue of whether dumping is likely to continue.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc., No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3. of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3. of the *Sunset Policy Bulletin*).

The antidumping finding on roller chain, other than bicycle, from Japan was published in the **Federal Register** as Treasury Decision 73–100 (38 FR 9226, April 12, 1973). Since that time, the Department has conducted numerous administrative reviews. On August 14, 1989, and April 23, 1991, the Department revoked the finding with respect to imports from Tsubakimoto Chain Company and Honda Motor Company effective October 1982 and September 1983, respectively (54 FR 33259 and 56 FR 18564). The finding remains in effect for all other imports of roller chain from Japan.

We find that the existence of dumping margins after the issuance of the finding is highly probative of the likelihood of continuation or dumping. Deposit rates above de minimis levels continue in effect for exports by several Japanese manufacturers and exporters of roller chain (for example, Daido Kogyo; Enuma; Hitachi; Izumi Chain Manufacturing Co; Pulton Chain Company, Inc.; Sugiyama Chain Company, Ltd; and Toyota Motor Company). As discussed in Section II.A.3. of the Sunset Policy Bulletin and the SAA at 890, and the House Report at 63–64, ''[i]f companies continue dumping with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed.'' Therefore, absent argument and evidence to the contrary and, given that dumping has continued over the life of the finding, the Department determines that dumping is likely to continue if the finding were revoked.

Magnitude of the Margin

Interested Party Comments:

In its substantive response, Daido recommends that the Department select the dumping margins reported by Customs in the administrative reviews conducted immediately after the publication of the dumping finding. Specifically, Daido suggests that the Department adopt the Customs determinations that sales by Enuma and Daido Kogyo had not been made at less than fair value for a period of two years since the dumping finding. Indeed, noting that ''it appears'' that certain companies ''are not selling roller chain, other than bicycle, from Japan at less than fair value,'' in 1977 and 1978, Treasury published three **Federal Register** notices of *tentative* determinations to modify or revoke the finding of dumping on roller chain from Japan with respect to merchandise sold by Honda Motor Company, Ltd. and Toyota Motor Sales Co., Ltd. and merchandise produced and sold by Enuma and Daido Kogyo (*see* 42 FR 41517 (August 17, 1977), 42 FR 54043 (October 4, 1977), and 43 FR 30635 (July 17, 1978)). ACA objected to the use of those margins, stating that so much time has elapsed that those margins are no longer probative and that use of such margins ignores the fact that dumping margins have increased over the life of the finding (*see* August 10, 1998, Rebuttal Comments of ACA).

Daido suggests that, alternatively, consistent with the *Sunset Policy Bulletin,* the Department should select the margins from the first administrative review conducted by the Department, which generally covers the period April

1, 1979 through March 31, 1980. Daido states that the dumping margin for Daido Kogyo and Enuma for that period is 1.18 percent (*see* 46 FR 44488 (September 4, 1981)).

ACA argues in both its substantive response and rebuttal comments that margins from 1981 are no longer probative as to the level of dumping that would likely occur should the finding be revoked. ACA proposes that, for each company which is currently being reviewed or which has been reviewed within the past five years, the Department should report to the Commission the highest margin determined or applied as the margin likely to prevail in the event of revocation. Additionally, for companies not currently being reviewed, or not reviewed within the past five years, ACA suggests that the Department select the highest ''all others'' rate from the past five years. To support its position, ACA contends that it is reasonable to expect that a company that is dumping with the restraining influence of an antidumping finding in place would continue to dump if the finding were revoked at a level at least as high as the highest recent level. Further, ACA argues that the use of a more recently calculated margin provides a better indication of the likely conduct of producers and/or exporters than 25-year, or even 18-year old conduct. Finally, ACA suggests that employing margins calculated in the most recent five years would be consistent with standard five-year reviews to be conducted by the Department.

Daido objects to the use of the highest dumping margins from the past 25 years, arguing that, in a case with such a long history as this, the best basis for predicting future conduct is past conduct—excluding aberrational margins found to exist over the many years. Daido argues that aberrational margins result from a number of factors besides a willful intent to dump, *e.g.*, exchange rate fluctuations and clerical errors in reporting data. Daido urges the Department to select, as the magnitude of the margin likely to prevail, a zero or de minimis margin for Daido Kogyo and Enuma because these companies demonstrated a consistent pattern of zero or de minimis margins.

Department's Position

In the *Sunset Policy Bulletin*, the Department stated that, in a sunset review of an antidumping finding for which no company-specific margin or all others rate is included in the Treasury finding published in the **Federal Register**, the Department normally will provide to the Commission the company-specific margin from the first final results of administrative review published in the **Federal Register** by the Department. Additionally, if the first final results do not contain a margin for a particular company, the Department normally will provide the Commission, as the margin for that company, the first ''new shipper'' rate established by the Department for that finding. (*See* section II.B.1. of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3. of the *Sunset Policy Bulletin*).

Because Treasury did not publish weighted-average dumping margins in its finding, and such margins are not otherwise publicly available, the margins determined in the original investigation are not available to the Department for use in this sunset review. Under these circumstances, the Department normally will select the margin from the first administrative review conducted by the Department as the magnitude of the margin of dumping likely to prevail if the finding is revoked. We note that, to date, the Department has not issued any duty absorption findings in this case.

ACA argues that the Department should abandon its policy of selecting the margins from the first administrative review conducted by Commerce and, instead, should select the highest margins from the recent administrative reviews. In the *Sunset Policy Bulletin* the Department stated that ''a company may choose to increase dumping in order to maintain or increase market share'' and that ''the Department may, in response to argument from an interested party, provide to the Commission a more recently calculated margin for a particular company, where, for that particular company, dumping margins increased after the issuance of the order.'' (*See* section II.B.2. of the *Sunset Policy Bulletin*.) The Department's intent was to establish a policy of using the original investigation margin as a starting point, thus providing interested parties the opportunity and incentive to come forward with data which would support a different estimate. ACA, however, merely asserts that it is reasonable to expect that a company dumping with the restraining influence of an antidumping finding in place would continue dumping if the finding were revoked at a level at least as high as the highest recent level. Additionally, ACA suggests that the current economic crisis in Asia generally, and in Japan in particular, as well as the resulting increase in Japanese exports and the attendant surge in Japanese imports (including the 1997 surge in covered roller chain imports reflected on the Department's web site), provide further support for concluding that dumping is likely to continue if the finding were revoked. ACA did not, however, present arguments with respect to changes in margin levels as related to market share. In fact, using the volume and value of Daido Tsusho's exports of subject merchandise for five calendar years beginning with 1993, provided in Daido's substantive response, we find that, although increasing on a value basis over the five years, Daido's exports, on a volume basis, actually decreased. This information does not present the Department with a picture of the relative market share held by Daido over this period. Given the information available to the Department, it is not possible to discern whether Daido's recent margins reflect an effort to obtain or increase market share.

With respect to Daido's suggestion that the Department select rates established in administrative reviews conducted by Customs, we do not agree with ACA that margins dating back to 1977 and 1978 are no longer probative because so much time has elapsed. We do agree, however, that tentative determinations by Treasury are not an appropriate source of margins for the purpose of sunset reviews, because they were never finalized and, in fact, when considered by the Department, were determined no longer applicable.

Our review of the margin history over the life of this finding demonstrates that, for the most part, margins remained relatively constant. Although we recognize that there have been fluctuations, we do not view them as demonstrating a consistent pattern of behavior. Therefore, we determine that the original margins calculated by the Department are probative of the behavior of the Japanese manufacturers and exporters of roller chain.

Adequacy

Interested Party Comments

On September 14, 1998, Daido submitted comments arguing that ACA's response to the notice of initiation was inadequate and, thus, the Department should conduct a 90-day sunset review and revoke the antidumping finding. Daido argued that ACA does not qualify as an interested party because four members of ACA that are U.S. manufacturers of roller chain are also importers of roller chain from Japan. On September 17, 1998, we received

unsolicited rebuttal comments on behalf of ACA. On October 5, 1998, Daido argued that ACA's September 17 letter should be disregarded and removed from the record because it constituted an unauthorized and unsolicited written argument.

Department's Position

In an expedited review, the *Sunset Regulations* provide only for comments on the appropriateness of the Department's determination to conduct an expedited review based on inadequate response from respondent interested parties. *See* section 351.309(e)(i) of the *Sunset Regulations,* referencing sections 351.218(e)(1)(ii) (B) and (C) (inadequate response from a foreign government or respondent interested parties, respectively). Daido's and ACA's comments do not address this issue. Section 351.218(d)(4) of the *Sunset Regulations* explicitly provides that, in an expedited review, the Department normally will not consider any additional information from a party after the time for filing rebuttals to substantive responses has expired. Since both parties submitted these comments after the deadline had expired, and did not request any extension of submission deadlines, we find these comments to be untimely and have not considered Daido's September 14, 1998, and October 5, 1998 submissions, or ACA's September 17, 1998, in making our final determination. We note that the parties could have submitted comments addressing the adequacy of response by domestic interested parties in either the substantive responses that were due on August 5, 1998, or August 10, 1998.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: November 3, 1998.

Holly Kuga,

Acting Assistant Secretary for Import Administration.

Appendix

Manufacturer/Exporter	Margin (percent)
A & K Co.	1.84
Ajia Kikei Boeki	1.84
APC Corp.	0
Asia Machinery	2.00
Auto Dynamics	5.36
C. Itoh	0
Central Automotive	2.00
Cherry Industrial	20.00
Daido Enterprising	2.00
Daido Kogyo Co., Ltd	1.18
Daido Sangyo	5.36
Deer Island	43.29
Detroit Industries	5.36
Empire Motor	5.36
Enuma Chain Manufacturing Co.	1.18
Enuma Chain/Daido	15.92
Enuma Chain/Meisi	15.92
Fee International	1.84
Fuji Lumber	0
Fuji Motors (Zenoah)	5.36
Fuji Seiko	43.29
Fukoku	5.36
Hajime	5.36
Harima Enterprise	0
Henry Abe	5.36
HIC Trading Co., Ltd.	0
Hiro Enterprises	0
Hitachi Metals/Hitachi Intl.	2.76
Hitachi Metals/All Other Importers.	1.84
HKS Japan	20.00
Hodaka Kogyosho	5.36
Honda Motor	Revoked
I & OC	5.36
Iketoku	5.36
Izumi Chain Mfg. Co., Ltd.	6.93
Jeico	0
Kaga Kogyo (Kaga Industries Co., Ltd.).	0
Kaga/APC	0
Kaga Koken/TK Products	1.00
Karl Mayer Textile	0
Kashima Trading	43.29
Katayama Chain Co., Ltd	43.29
Kawasaki	1.00
Kokusai	5.36
Marubeni	0
Maruka Machinery	5.36
MC Intl.	5.36
Meiho Yoko	43.29
Meisei Trading	1.18
Miewa Trading	3.00
Mitsui	13.40
Mitsubishi	5.36
Mitsubishi Boeki	34.80
Mitsubishi Motors	5.36
Myasaki Shokai	5.36
Naniwa Kogyo	43.29
Nankai Buhin	5.36
Nickel & Lyons	5.36
Nippo Buhin	5.36
Nissan Motor	0
Nissei Company	12.80
Nissho Iwai	0
Nomura Shoji	5.36
Oriental Chain	0
Osaka Buhin	5.36
Pulton Chain	0
Pulton/HIC Trading	0
Pulton/I&OC	0
Refac Intl.	5.36
Rocky Asia	6.93
Royal Industires	2.00
Ryobi Ltd.	2.00
Sanko Co.	9.37
Schneider Engineering	2.00
Shima Trading	6.99
Shinyei Kaisha	5.36
Shinyo Ind.	43.29
Sugiyama/Fuji Lumber	0
Sugiyama/Harima Enterprise	0
Sugiyama/HKK	15
Sugiyama/I & OC	0
Sugiyama/All Others	0
Sumitomo Shoji Kaisha	5.36
Suzuki Motor	0
Tabard	43.29
Taikyo Sangyo	0
Taiyo Shokai	43.29
Takara Auto Parts	29.52
Takasago (currently RK Excel)	5.36
Tanaka Kogyo	5.36
Tashiro	5.36
Tatsumiya Kogyo	2.00
TEC Engineering	5.36
Teijin Shojhi Kaisha Ltd.	5.36
TK Products	1.00
Tokyo Enterprise	5.36
Tokyo Incentive	5.36
Tokyo Ryuki Seizo	0
Tosho	5.36
Toyo Kogyo Mazda	0
Toyo Menka Kaisha	5.36
Toyota Motor Sales	43.29
Tsubakimoto Chain	Revoked
Tsujimoto Shokai	5.36
United Trading Co.	5.36
Universal Trading	5.36
Y–K Brothers Shokai	5.36
Yamaha Motor	2.00
Yamakyu Chain	9.37
Yoshida Auto	43.29
Yoshimura	5.36
Zushi Industries	5.36
All Other Firms	15.92

[FR Doc. 98–30142 Filed 11–9–98; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bahrain

November 4, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, 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 import restraint limits for textile products, produced or manufactured in Bahrain and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see 63 FR 53881, published on October 7, 1998). A visa will continue to be required for non-integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator ''pt.''

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 1999 period.

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 62 FR 66057, published on December 17, 1997). Also see 62 FR 51832, published on October 3, 1997. Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 4, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products in the following categories, produced or manufactured in Bahrain and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
237, 239pt.[1], 331–336, 338, 339, 340–342, 345, 347, 348, 350–352, 359pt.[2], 431, 433–436, 438, 440, 442–448, 459pt.[3], 631, 633–636, 638, 639, 640–647, 648, 649, 650–652, 659pt.[4], 831, 833–836, 838, 840, 842–847, 850–852, 858 and 859pt.[5], as a group.	47,389,134 square meters equivalent.
Sublevels in Group I	
338/339	658,482 dozen.
340/640	315,928 dozen of which not more than 236,945 dozen shall be in Categories 340–Y/640–Y[6].

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 359pt.: all HTS numbers except 6406.99.1550.

[3] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[4] Category 659pt.: all HTS numbers except 6406.99.1510 and 6406.99.1540.

[5] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

[6] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated December 19, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Effective on January 1, 1999, a visa will no longer be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see directive dated September 30, 1998). A visa will continue to be required for non-integrated products. For quota purposes only, products remaining in categories partially integrated will continue to be designated by the designator ''pt.''

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to 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. 98–30133 Filed 11–9–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in Colombia

November 4, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, 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 import restraint limits for textile products, produced or manufactured in Colombia and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body

pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1999 limits.

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 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 4, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Colombia and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following restraint limits:

Category	Twelve-month limit
315	25,953,465 square meters.
443	129,828 numbers.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated November 6, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.98–30132 Filed 11–9–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits and Guaranteed Access Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

November 4, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing import limits and guaranteed access levels.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, 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 import restraint limits and guaranteed access levels for textile products, produced or manufactured in Guatemala and exported during the period January 1, 1999 through December 31, 1999 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits and guaranteed access levels for 1999.

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 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

Requirements for participation in the Special Access Program are available in **Federal Register** notice 63 FR 16474, published on April 3, 1998.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 4, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Guatemala and exported during the period beginning on January 1, 1999 and extending through December 31, 1999, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
340/640	1,497,682 dozen.
347/348	1,793,301 dozen.
351/651	315,928 dozen.
443	72,305 numbers.
448	45,303 dozen.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limits for that year (see directive dated December 19, 1997) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Also pursuant to the ATC, and under the terms of the Special Access Program, as set forth in 63 FR 16474 (April 3, 1998), effective on January 1, 1999, you are directed to establish guaranteed access levels for properly certified textile products in the following categories which are assembled in Guatemala from fabric formed and cut in the United States and re-exported to the United States from Guatemala during the period January 1, 1999 through December 31, 1999:

Category	Guaranteed Access Level
340/640	520,000 dozen.
347/348	1,000,000 dozen.
351/651	200,000 dozen.

Category	Guaranteed Access Level
443	25,000 numbers.
448	42,000 dozen.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification in accordance with the provisions of the certification requirements established in the directive of January 24, 1990, as amended, shall be denied entry unless the Government of Guatemala authorizes the entry and any charges to the appropriate specific limit. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

The Committee for the Implementation of Textile Agreements has determined that these actions fall 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. 98–30134 Filed 11–9–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

ARMS Initiative Implementation

AGENCY: Armament Retooling and Manufacturing Support (ARMS) Executive Advisory Committee (EAC).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the Armament Retooling and Manufacturing Support (ARMS) Executive Advisory Committee (EAC). The EAC is chartered to develop new and innovative methods to maintain the government-owned, contractor-operated ammunition industrial base and retain critical skills for a national emergency. This meeting will update attendees on the status of ongoing actions with decisions being made to close out or continue these actions. Topics for this meeting include Funding Status, 10 U.S.C. 2692 Delegation of Authority, and Commercial Sector Privatization. This meeting is open to the public.

Dates of Meeting: December 9–10, 1998.

Place of Meeting: Holiday Inn Select, 130 Clairemont Avenue, Decatur, Georgia 30030.

Time of Meeting: 8:00 AM–5:00 PM on December 9 and 10.

FOR FURTHER INFORMATION CONTACT: Mr. Elwood H. Weber, ARMS Task Force, HQ Army Materiel Command, 5001 Eisenhower Avenue, Alexandria, Virginia 22333; Phone (703) 617–9788.

SUPPLEMENTARY INFORMATION: Participants are encouraged to make reservations immediately by calling (800) 225–6079. Be sure to mention that you will be attending the ARMS PPTF meeting to obtain the negotiated group rate of $86.50 per night (plus 12% room tax). Request you contact Mike Perez on the ARMS Team, telephone (309) 782–3360 or Mike Lopez at (309) 782–4090, if you will be attending the meeting, so that our roster of attendees is accurate. This number may also be used if other assistance regarding the ARMS meeting is required.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–30083 Filed 11–9–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Forces Epidemiological Board (AFEB)

AGENCY: Office of The Surgeon General, DoD.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of Public Law 92–463, The Federal Advisory Committee Act, this announces the forthcoming AFEB Infectious Disease Subcommittee meeting. This subcommittee will meet from 0700–1600 on Thursday, 10 December and 0800–1400 on Friday, 11 December. The purpose of the meeting is to address pending Board issues, provide briefings for Board members on topics related to ongoing and new Board issues, conduct subcommittee meetings, and to conduct an executive working session.

The meeting location will be at the Walter Reed Army Institute of Research, Washington, DC.

The meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before or file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: COL Benedict Diniega, AFEB Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 682, Falls Church, Virginia 22041–3258, (703) 681–8012/4.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–30082 Filed 11–9–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 16 November 1998.

Time of Meeting: 0900–1600.

Place: 490 L'Enfant Plaza, SW, Suite 7170, Washington, DC 20024.

Agenda: The Army Science Board's (ASB) Summer Study Panel on ''Improving Mobility for Army XXI and Beyond'' will meet for discussions. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please call our office at (703) 604–7490.

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 98–30013 Filed 11–9–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intend To Prepare a Draft Supplemental Environmental Impact Statement (DSEIS) for Proposed Improvements to the Cheasapeake & Delaware Canal and Connecting Channels, Delaware and Maryland

AGENCY: U.S. Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The action being taken is an evaluation of the outstanding issues of concern raised by State and Federal agencies and local interest groups during the Feasibility Study for the Cheaspeake and Delaware Canal-Baltimore Harbor Connecting Channels (Deepening), Delaware and Maryland.

FOR FURTHER INFORMATION CONTACT: Questions regarding the DSEIS should be addressed to Ms. Barbara Conlin, (215) 656–6557, U.S. Army Corps of Engineers, CENAP–PL–E, Wanamaker

Building, 100 Penn Square East, Philadelphia, PA 19107–3390.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

a. The proposed document will address outstanding economic issues including the appropriate channel depth. Potential environmental impacts will be further evaluated, including possible impacts to groundwater quality from the disposal of dredged material, loss of groundwater into the canal/river, bank erosion, impacts to aquatic resources and water quality impacts in the Chesapeake Bay.

b. The authority for the proposed project is the resolution adopted by the House of Representatives Committee on Public Works and Transportation September 8, 1988.

c. The resolution authorized the review of existing reports of the Chief of Engineers for the Inland Waterway-Delaware River to Chesapeake Bay, Delaware and Maryland, and the report on the Baltimore Harbor and Channels, Maryland, with a view to determine the feasibility of measures to promote and encourage the efficient, economic, and logical development of the channel system serving the Port of Baltimore.

2. Alternatives

In response to the study resolution a reconnaissance report was completed in February 1990 at 100% Federal expense. The results indicated there was Federal interest in further feasibility phase studies of improvements to the canal and the connecting channels. The feasibility phase of study was cost-shared 50%–50% between the Maryland Port Administration (MPA) and the Federal government and was completed in December 1996 with the issuance of the Chief of Engineers' report. The Chief of Engineers' report concluded that the plan developed by the reporting officers was engineeringly sound. The review also found that the Reedy Point entrance flare, bend widening at Sandy Point, and the establishment of an emergency anchorage at Howell Point were economically justified. However, questions remain regarding the appropriate channel depth which are to be addressed during this phase of study (Planning, Engineering and Design).

3. Scoping

a. The Planning, Engineering and Design (PED) phase was initiated 8 April 1997 with the execution of a cost sharing agreement between the Federal government and the MPA. As part of the PED phase a working group has been established to help disseminate information to the interested public, review the information, make suggestions on the study process, and assure that all the issues are addressed. Also, as part of the PED phase, several repositories have been established at local libraries, Corps offices, and the MPA offices. The repositories contain pertinent reports from the feasibility study as well as information developed during the on-going PED phase.

b. The scoping process is on-going and has involved coordination with Federal, State, and local agencies and interest groups. The public and all agencies are invited to comment on this proposal. Any pertinent information that Federal, State or local agencies or the private sector can provide will be used to the greatest extent possible. We welcome any assistance and suggestions pertaining to the conduct of this study. All comments should be directed to the above address, Attn: CENAP–PL–E.

4. Availability

It is estimated that the DSEIS will be made available to the public in Spring 2000.

Leonard J. Lipski,

Assistant Chief of Planning Division.

[FR Doc. 98–30084 Filed 11–9–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Lee County Beach Erosion Control Project, Gasparilla and Estero Islands, Lee County, Florida

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers intends to prepare a Draft Environmental Impact Statement for the Lee County Beach Erosion Control Project, Gasparilla and Estero Islands, Lee County, Florida.

FOR FURTHER INFORMATION CONTACT: Kenneth Dugger, 904–232–1686, Environmental Branch, Planning Division, P.O. Box 4970, Jacksonville, Florida 32232–0019.

SUPPLEMENTARY INFORMATION: The Beach Erosion Control Project for Lee County, Florida, was authorized in accordance with recommendations of the Chief of Engineers in House Document number 91–393, under the provisions of Section 201 of the Flood Control Act of 1965 enacted by House Resolution dated December 15, 1970, and Senate Resolution dated December 17, 1970. The authorization provides for Federal participation in beach restoration and periodic nourishment along portions of the Gulf shore of Lee County. Captiva Island was included in this authorization and has been constructed. The proposed action consists of a protective beach, estimated berm width of up to 120 feet, along 2.7 miles of shore on Gasparilla Island, and 4.6 miles on Estero Island. The borrow site for Estero Island has an area of 1.59 square miles, and is located in the Gulf approximately 1.5 miles southwest of Sanibel Island. The borrow site for Gasparilla Island has an area of 2.8 square miles, and is located in the Gulf just north of Boca Grande Pass.

Alternatives: Alternatives considered include no action, non-structural measures, the construction of revetments, perched beaches, breakwaters, beach fills of varying widths, construction of submerged near-shore berms, beach fill transitions, and a beach fill/groin combination. Alternative sand sources in addition to the use of the proposed borrow area for nourishment, include the use of other local offshore sand sources, the use of other sand sources such as upland sources, Bahamian sand, other foreign sands, or other distant sources.

Issues: The EIS will consider impacts on hardbottom communities, protected species, shore protection, health and safety, water quality, aesthetics and recreation, fish and wildlife resources, cultural resources, energy conservation, socio-economic resources, and other impacts identified through scoping, public involvement, and interagency coordination.

Scoping: A scoping letter was sent to interested parties on August 12, 1996. In addition, all parties are invited to participate in the scoping process by identifying any additional concerns on issues, studies needed, alternatives, procedures, and other matters related to the scoping process. At this time, there are no plans for a public scoping meeting.

Public Involvement: We invite the participation of affected Federal, state and local agencies, affected Indian tribes, and other interested private organizations and parties.

Coordination: The proposed action is being coordinated with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service under Section 7 of the Endangered Species Act, with the State Historic Preservation Officer, and with the FWS under the Fish and Wildlife Coordination Act. A request and scope of work for a Fish and

Wildlife Coordination Act Report was forwarded to FWS on October 20, 1998.

Other Environmental Review And Consultation: The proposed action would involve evaluation for compliance with guidelines pursuant to Section 404(b) of the Clean Water Act; application (to the State of Florida) for Water Quality Certification pursuant to Section 401 of the Clean Water Act; certification of state lands, easements, and rights of way; and determination of Coastal Zone Management Act consistency.

DEIS Preparation: It is estimated that the DEIS will be available to the public on or about January 13, 1999.

Dated: October 28, 1998.

Michael A. Moore,

Lieutenant Colonel, U.S. Army Acting Chief, Planning Division.

[FR Doc. 98–30085 Filed 11–9–98; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Re-Open Scoping Process for the Draft Environmental Impact Statement for the Proposed Disposal and Reuse of Naval Air Station South Weymouth, Massachusetts

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy announces the intent to re-open the Scoping process for the preparation of a Draft Environmental Impact Statement (DEIS) for the proposed disposal and reuse of Naval Air Station (NAS) South Weymouth, Massachusetts. A second scoping workshop will be held to receive oral and written comments to identify potentially significant issues for study in the DEIS and to notify parties interested in and affected by the property transfer and reuse. Federal, state, and local agencies, and interested individuals are invited to be present or represented at the workshop.

DATES: The Navy will hold a second public meeting to further identify the scope of issues to be addressed in the DEIS in light of the revised Reuse Plan. The meeting will be held on Wednesday, December 9, 1998, beginning at 7:00 p.m., at the Abigail Adams Intermediate School, Middle Street, Weymouth, Massachusetts.

ADDRESSES: Navy representatives will make a brief presentation, then members of the public will be asked to provide their comments. Agencies and the public are encouraged to provide written comments in addition to, or, in lieu of, oral comments at the scoping meeting. To be most helpful, comments should clearly describe specific issues or topics, which the EIS should address. Written comments must be postmarked by Jan 15, 1999, and should be mailed to Commanding Officer, Northern Division, Naval Facilities Engineering Command, Attn: Mr. Robert Ostermueller (Code 202), 10 Industrial Highway, MS 82, Lester, Pennsylvania 19113. All statements, both oral and written, will become part of the public record on this action and will be given equal consideration.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this notice may be obtained by contacting Mr. Robert Ostermueller (Code 202), Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, MSC 82, Lester, Pennsylvania 19113, telephone (610) 595–0759, facsimile (610) 595–0778.

SUPPLEMENTARY INFORMATION: Pursuant to Council on Environmental Quality regulations (40 CFR Parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of the Navy announces its intention to prepare a DEIS for the proposed disposal and reuse of NAS South Weymouth, Massachusetts.

In December 1995, the Congressional Committee on Base Realignment and Closure (BRAC) recommended the closure of NAS South Weymouth and its subsequent relocation to NAS Brunswick, Maine. This recommendation was approved by President Clinton and accepted by the One Hundred Fifth Congress in 1995. The BRAC legislation also identified the requirements for compliance with NEPA, stating that the provisions of NEPA shall apply during the process of property disposal. Accordingly, the Navy initiated the process to prepare an Environmental Impact Statement (EIS) to evaluate the environmental effects of the disposal and likely reuse of this property with the publication of a Notice of Intent (NOI) to prepare an EIS in the **Federal Register** on April 14, 1997. A public scoping workshop was held at the NAS South Weymouth Officers Club on April 29, 1997.

The proposed action that was to be considered and evaluated in the DEIS was the Reuse Plan prepared by the NAS South Weymouth Reuse Committee acting as the Local Reuse Authority (LRA). Subsequent to this scoping process, the LRA informed the Navy that it was revising the Reuse Plan and requested that the EIS process be deferred until the revised Reuse Plan was submitted. The recently submitted revised Reuse Plan represents a reasonable and likely redevelopment scenario based on the proposed zoning of the site including the development of a mall and other facilities providing approximately 2.1 million square feet of retail space. The Draft EIS will evaluate environmental impacts of the revised Reuse Plan as well as of reasonable possible redevelopment scenarios. Navy will also evaluate the no action alternative, defined as the retention of NAS South Weymouth by the federal government.

Based on an evaluation conducted and accepted by the State Historic Preservation officer in 1990, none of the NAS buildings or structures are eligible for listing on the National Register of Historic Places. A re-evaluation of these buildings and structures, particularly with regard to Cold War significance, will be conducted as part of the EIS process.

Dated: November 5, 1998.

Ralph W. Corey,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 98–30118 Filed 11–9–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records Notice

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend a record system.

SUMMARY: The Department of the Navy proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on December 10, 1998, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems report. The record system being amended is set forth below, as amended, published in its entirety.

Dated: October 30, 1998.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N01500-2

SYSTEM NAME:

Student Records *(January 19, 1994, 59 FR 2834).*

Changes:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

In line 12, after the words 'test scores,' add 'psychological profile'.

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Individual; schools and educational institutions; Commander, Navy Personnel Command; Chief of Naval Education and Training; Commandant of the Marine Corps; Commanding Officer, Naval Special Warfare Center; Commander, Navy Recruiting Command; and instructor personnel.'

* * * * *

N01500-2

SYSTEM NAME:

Student Records.

SYSTEM LOCATION:

Schools and other training activities or similar organizational elements of the Department of the Navy and Marine Corps. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records of present, former, and prospective students at Navy and Marine Corps schools and other training activities or associated educational institution of Navy sponsored programs; instructors, staff and support personnel; participants associated with activities of the Naval Education and Training Command, including the Navy Campus for Achievement and other training programs; tutorial and tutorial volunteer programs; dependents' schooling.

CATEGORIES OF RECORDS IN THE SYSTEM:

Schools and personnel training programs administration and evaluation records. Such records as basic identification records i.e., Social Security Number, name, sex, date of birth, personnel records i.e., rank/rate/grade, branch of service, billet, expiration of active obligated service, professional records i.e., Navy enlisted classification, military occupational specialty for Marines, sub-specialty codes, test scores, psychological profile, basic test battery scores, and Navy advancement test scores. Educational records i.e., education levels, service and civilian schools attended, degrees, majors, personnel assignment data, course achievement data, class grades, class standing, and attrition categories. Academic/training records, manual and mechanized, and other records of educational and professional accomplishment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and E.O. 9397 (SSN).

PURPOSE(S):

To record course and training demands, requirements, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; provide guidance and counseling to students; prepare required reports; and for other training administration and planning purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records may be stored in file folders, card files, file drawers, cabinets, or other filing equipment. Automated records may be stored on magnetic tape, discs, or in personal computers.

RETRIEVABILITY:

Social Security Number and name.

SAFEGUARDS:

Access is provided on a 'need-to-know' basis and to authorized personnel only. Records are maintained in controlled access rooms or areas. Data is limited to personnel training associated information. Computer terminal access is controlled by terminal identification and the password or similar system. Terminal identification is positive and maintained by control points. Physical access to terminals is restricted to specifically authorized individuals. Password authorization, assignment and monitoring are the responsibility of the functional managers. Information provided via batch processing is of a predetermined and rigidly formatted nature. Output is controlled by the functional managers who also control the distribution of output.

RETENTION AND DISPOSAL:

Destroy after completion of training, transfer, or discharge, provided the data has been recorded in the individual's service record or on the student's record card.

SYSTEM MANAGER(S) AND ADDRESS:

The commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Requester should provide his full name, Social Security Number, military or civilian duty status, if applicable, and other data when appropriate, such as graduation date. Visitors should present drivers license, military or Navy civilian employment identification card, or other similar identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Requester should provide his full name, Social Security Number, military or civilian duty status, if applicable, and other data when appropriate, such as graduation date. Visitors should present

drivers license, military or Navy civilian employment identification card, or other similar identification.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; schools and educational institutions; Commander, Navy Personnel Command; Chief of Naval Education and Training; Commandant of the Marine Corps; Commanding Officer, Naval Special Warfare Center; Commander, Navy Recruiting Command; and instructor personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 98–29576 Filed 11–9–98; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF ENERGY

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet November 18–19, 1998 at the headquarters of the International Energy Agency in Paris, France.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Acting Assistant General Counsel for International and Legal Policy, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202–586–6738.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on November 18 and November 19, 1998, at the headquarters of the IEA, 9 rue de la Federation, Paris, France, beginning at approximately 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ) which is scheduled to be held at the IEA's offices on November 18–19, 1998, including a preparatory encounter among company representatives on November 18 from approximately 8:30 a.m. to 9:30 a.m. The Agenda for the preparatory encounter among company representatives is to elicit views regarding items on the SEQ's Agenda. The Agenda for the SEQ meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following Agenda:

Agenda—Emergency Response Exercise 1998

November 18, 1998

1. Welcome to the IEA
2. Objectives of the Session
3. General Introduction and Description of IEA Emergency Management Organization
   - The Agreement on an International Energy Program (IEP) and basic objectives of the IEA
   - Emergency Management Organization—the IEP, IAB, SEQ, Industry Supply Advisory Group, and Emergency Operations Team
4. Introduction to the Emergency Management Manual (EMM) and Reference Guide and to Coordinated Emergency Response Measures (CERM)
5. An Introduction to IEA Communications and Information
   - Communication services at the IEA and data security
   - Data available at the IEA to ISAG
   - Structure and contents of Questionnaires A and B, and reporting relationships
6. Activation Procedures and Responsibilities
   - Calculations (Base Period Final Consumption, Available Supplies, Emergency Response Drawdown Obligation, Allocation Rights/Allocation Obligations)
7. The Balancing Process and Voluntary Offers
   - Definitions of Voluntary Offers (VOs) and their role in the EMM balancing process
   - The functions of the Emergency Operations Team, National Emergency Sharing Organizations, and Reporting Companies in generating and processing VOs
   - Creation of a Voluntary Offer
8. IEA Actions and Response and Country Contributions to Joint Response (Scenario Stages 1 and 2 and Initial Response to Stage 3)
9. Round Table of Country Responses to the Scenario Stages 1 and 2

November 19, 1998

1. Round Table of Country Responses to the Scenario Stage 3
2. ISAG Report on Results of ISAG Session of November 16–17, 1998
3. Assessment of the Situation from the IAB Perspective; Company Insights from NESO Consultations on Scenarios
4. General Discussion of Situation following Stage 3 Country Responses; Assessment of Further Action Needed
5. Surprise Scenario Exercise and Reaction of Participants to Additional Disruption and/or New Scenario
6. Overall Assessment of Exercise and Suggestions on Further Work

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), this meeting is open only to representatives of members of the IAB and their counsel, representatives of members of the SEQ, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of the Congress, the IEA, and the European Commission, and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, D.C., November 5, 1998.

Mary Anne Sullivan,

General Counsel.

[FR Doc. 98–30145 Filed 11–9–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Nonproliferation and National Security

Information Briefing Regarding the Nuclear Cities Initiative

AGENCY: Office of Nonproliferation and National Security, DOE.

ACTION: Notice of public information presentation.

SUMMARY: The Department of Energy (DOE) will hold an informal public information workshop to introduce the Nuclear Cities Initiative, a new joint US-Russia project in nonproliferation commercialization focusing on the ten closed nuclear cities of the Russian Federation. The initiative was officially launched with the signing of the government-to-government agreement on September 22, 1998 in Vienna, Austria by Energy Secretary Bill Richardson and Russian Minister of Atomic Energy Evgeny Adamov. DOE staff will explain the goals and objectives of the Nuclear Cities Initiative, introduce the Nuclear Cities Initiative staff, and solicit suggestions for parameters of public participation in this project from those attending.

DATES: The information presentation will be held on Wednesday, December 2, 1998, with the briefing portion held from 10:00 a.m. until 11:30 a.m. A Questions and Answer session will follow from 11:30–1 p.m. with members of the Nuclear Cities Initiative staff responsible for specific aspects of the program. Representatives from the Office of General Counsel and the Office of Procurement Operations will also be present to provide program support.

ADDRESSES: The information presentation will be held at the U.S. Department of Energy, Forrestal building, Main Auditorium, 1000 Independence Avenue, SW, Washington, DC 20585. It is advisable to register for attendance in advance by contacting either individual named above and to provide the program office with the name of the company or firm that you represent and a list of any other attendees from your company/firm in advance. All those inquiring will be added to an Nuclear Cities Initiative database and will receive any additional information and updates.

FOR FURTHER INFORMATION CONTACT: Reeshemah Speaks NN–40, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–6568, email:reeshemah.speaks@hq.doe.gov; or Denise Tramble, NN40, U.S. Department of Energy, Office of Initiatives of Proliferation Prevention, 1000 Independence Avenue, SW, Washington, DC 20585, 202–586–1007, e-mail:denise.tramble@hq.doe.gov. FAXES ARE WELCOME. Fax number is 202–586–2164.

SUPPLEMENTARY INFORMATION: The Department of Energy, together with the Russian Ministry of Atomic Energy, is the Executive Agent charged with carrying out the Nuclear Cities Initiative.

The Nuclear Cities Initiative is an agreement between the US and Russian Federation for mutual cooperation to address the problems faced by the ten closed cities which house the Russian nuclear weapons uranium enrichment, plutonium production, weapons design, and weapons assembly facilities.

The Nuclear Cities Initiative has near term goals to provide civilian employment for displaced weapons workers in the ten closed nuclear cities and long term goals to assist the Russian Federation in reducing the size of its nuclear weapons complex. In its first year the project will focus on three of the ten nuclear cities designated by Minatom for assistance. Those cities are Sarov (Arzamas-16), Snezhinsk (Chelyabinsk-70), and Zheleznogorsk (Krasnoyarsk-26).

The Department of Energy has thus far allocated $15,000,000 for the Nuclear Cities Initiative in Fiscal Year 1999. Early activities will feature assessment trips to the first three nuclear cities to yield an analysis of the strengths, weaknesses opportunities and potential problems specific to each of the three cities.

Once that is accomplished DOE will be looking to the private sector to participate in assessing business opportunities and job creation in these cities.

This information briefing will provide opportunities for interested parties to find out more about the nuclear cities, the mandate of the project, and how the public and private sector can participate. Nongovernmental Organizations within the nonproliferation and social support communities will also have a role under Nuclear Cities Initiative and are also welcome.

Information about the Nuclear Cities Initiative including project description, chronology, mission statement, lists and maps of the nuclear cities, copies of the Government-to-Government Agreement and descriptions of the business, commercial development, training and social support components of the project will be available.

This program is intended to provide general information and will not necessarily result in any future request for proposals, invitation for bids, or preapplications or applications for a financial assistance agreement such as a Grant or Cooperative Agreement. Unsolicited proposals and/or any offer to enter into a contract with the Department of Energy will not be invited and shall not be accepted. Matters that will be considered are described below.

Matters to be Considered: DOE is interested in receiving comments and views of interested parties, such as statements of capability, informational brochures and other written materials prepared by attendees providing relevant information and activities that would facilitate creation of conditions necessary for business training, job creation, and the attracting of investment opportunities in the designated nuclear cities for the purposes prescribed in the ''Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Nuclear Cities Initiative'' signed on September 22, 1998, in Vienna, Austria.

After reviewing comments from those attending the information briefing and the assessment reports of the working groups, the Department will issue a report on the results, with outlines of how interested parties can continue to actively participate in the initiative.

Those unable to attend can receive an information packet about the Nuclear Cities Initiative by contacting the Nuclear Cities Initiative program office at the address given above.

Tentative Agenda: Wednesday, December 2, 1998

- Welcoming Remarks and Opening of Meeting.
- Overview of NCI by Director of Office of Initiative for Proliferation Prevention and Nuclear Cities Initiative.
- Introduction to staff of Nuclear Cities Initiative.
- Outline of program activities envisioned under NCI.
- Question and Answer period/Public Discussion.

Issued in Washington DC on November 4, 1998.

Louis Licht,

Interagency Coordinator and Federal Liaison, Nuclear Cities Initiative.

[FR Doc. 98–30139 Filed 11–9–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–127–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Tariff

November 4, 1998.

Take notice on October 30, 1998, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 336, Sixth Revised Sheet No. 337, Fourth Revised Sheet No. 337A, Third Revised Sheet No. 337B, and Second Revised Sheet No. 337C, with an effective date of January 1, 1999.

CIG states the purpose of this filing is to comply with Section 1.7 of the Gas Research Institute (GRI) Settlement dated January 21, 1998 in Docket No. RP97–149–003, *et al.*, to provide for a voluntary GRI contribution mechanism in CIG's General Terms and Conditions.

CIG states that copies of the filing were served upon the company's jurisdictional firm customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission,

888 First Street, N.E., Washington, D.C. 20426, in accordance with 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30036 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–287–027]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1998.

Take notice that on October 30, 1998, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets to become effective November 1, 1998:

Twentieth Revised Sheet No. 30
Twelfth Revised Sheet No. 31

El Paso states that the above tariff sheets are being filed to implement ten negotiated rate contracts pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services on Natural Gas Pipelines issued January 31, 1996 at Docket Nos. RM95–6–000 and RM96–7–000.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30020 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–40–000]

Granite State Gas Transmission, Inc.; Notice of Request Under Blanket Authorization

November 4, 1998.

Take notice that on October 28, 1998, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581, filed in Docket No. CP99–40–000, a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a new delivery point located in the Town of South Berwick, York County, Maine, for service to Northern Utilities, Inc. (Northern Utilities) under Granite State's blanket certificate issued in Docket No. CP82–515–000, pursuant to 18 CFR Part 157, Subpart F of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Granite State proposes to construct and operate an additional delivery point for Northern Utilities on its pipeline system to enable Northern Utilities to provide firm gas service to the new Marshwood High School under construction in South Berwick, Maine. Granite State further states that the estimated proposed volumes delivered through the new delivery point would be approximately 9,811 Mcf. Granite State further states that the estimated cost of the facility is $68,000 for which Northern Utilities would reimburse to Granite State. It is further stated that the operation of the new delivery point would not adversely affect Granite State's ability to provide its maximum daily delivery and annual obligations to other transportation shippers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30017 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–124–000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1998.

Take notice that on October 30, 1998, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective January 1, 1999.

Thirteenth Revised Sheet No. 5
Eleventh Revised Sheet No. 6
Second Revised Sheet No. 124
Fourth Revised Sheet No. 891

Kern River states that the purpose of this filing is (1) to include a ''check the box'' mechanism in the General Terms and Conditions of the tariff that allows Kern River's customers to voluntarily contribute funds to the Gas Research Institute (GRI) in addition to the amounts collected by Kern River through GRI surcharges, and (2) to update Kern River's tariff to reflect the 1999 GRI surcharges.

Kern River states that a copy of this filing has been served upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30033 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–226–002 and RP98–61–005]

Koch Gateway Pipeline Company; Notice of Compliance Filing

November 4, 1998.

Take notice that on October 30, 1998, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective October 1, 1998:

Eighth Revised Sheet No. 2700
Sixth Revised Sheet No. 2701
Sixth Revised Sheet No. 2702
Fifth Revised Sheet No. 2704
Tenth Revised Sheet No. 2705
Ninth Revised Sheet No. 2706
Ninth Revised Sheet No. 5200

Koch has submitted the above referenced tariff sheets in compliance with the Commission's Letter Order issued October 16, 1998, accepting Koch's Offer of Settlement and Stipulation and Agreement (Settlement) filed on August 28, 1998, in Docket Nos. RP98–61 and RP98–226. The Settlement resolved all outstanding issues regarding the resolution of imbalances resulting from Prior Period Adjustments (PPA's).

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30023 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–410–002]

Koch Gateway Pipeline Company; Notice of Compliance Filing

November 4, 1998.

Take notice that on October 29, 1998, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective October 19, 1998:

Substitute Second Revised Sheet No. 201
Substitute Fourth Revised Sheet No. 800
Substitute Sixth Revised Sheet No. 801
Substitute Sixth Revised Sheet No. 802
Substitute Second Revised Sheet No. 1701
Substitute Sixth Revised Sheet No. 1804
Substitute Fourth Revised Sheet No. 1805
Substitute Fourth Revised Sheet No. 1806
Substitute First Revised Sheet No. 2000

Koch states that it is submitting the above listed tariff sheets to respond to the Commission's Order issued on October 14, 1998, in Docket No. RP98–410, which accepted, subject to review and conditions, Koch's proposed tariff changes to comply with the intra-day nomination standards adopted by Order 587–H.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30027 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–404–000]

Mississippi River Transmission Corporation; Notice Rescheduling Technical Conference

November 4, 1998.

Take notice that the Commission staff will convene a technical conference as provided by the Commission order in this proceeding issued October 14, 1998.[1] The technical conference, previously scheduled for Wednesday, November 4, 1998, at 10:00 a.m., has been rescheduled. The technical conference will be held on Thursday, November 12, 1998, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

Attendance will be limited to parties and staff. For additional information, please contact Jerie O'Connor at (202) 208–0459, or Harris Wood at (202) 208–0224.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc 98–30026 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–42–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

November 4, 1998.

Take notice that on October 29, 1998, NorAm Gas Transmission Company (Applicant), 525 Milam Street, P.O. Box 21734, Shreveport, Louisiana, 71151, filed in Docket No. CP99–42–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for approval to construct and operate a new delivery tap for service to ARKLA, a division of NorAm Energy Corporation and an affiliate of Applicant, under Applicant's blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file

[1] Mississippi River Transmission Corporation, 85 FERC ¶61,049 (1998).

with the Commission and open to public inspection.

Applicant proposes to construct and operate an additional two-inch delivery tap and first-cut regulator to render service for ARKLA located on Applicant's Line No. BT–14 in Faulkner County, Arkansas. Applicant asserts that the volumes of natural gas to be delivered at the proposed tap, up to 9,000 Dth per year and 30 Dth on a peak day, are within the certificated entitlement of ARKLA. Applicant states that ARKLA will construct, at its cost, a two-inch meter station and convey ownership to Applicant. Applicant further asserts that it has sufficient capacity to accomplish the deliveries without detriment to Applicant's other customers. Applicant indicates that the total cost of construction of the proposed facility is estimated to be $2,250, which sum ARKLA will reimburse Applicant.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30018 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–034]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1998.

Take notice that on October 30, 1998, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective November 1, 1998.

Seventeenth Revised Sheet No. 7
Sixth Revised Sheet No. 7D
Seventh Revised Sheet No. 7E

NGT states that the purpose of this filing is to reflect the implementation of two new negotiated rate transactions.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc 98–30019 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–203–004]

Northern Natural Gas Company; Notice of Compliance Filing

November 4, 1998.

Take notice that on October 30, 1998, Northern Natural Gas Company tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective on November 1, 1998:

Northern states that this filing is made in compliance with the Commission's order issued October 29, 1998 in Docket Nos. RP98–203–000, et al., to effectuate changes in the terms and conditions applicable to Northern's services under Rate Schedules TF, TFX, TI, GS–T, FDD, IDD, MPS and SMS, the Forms of Service Agreements thereunder, and the General Terms and Conditions of Northern's Tariff.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30022 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–125–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1998.

Take notice that on October 30, 1998, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, following tariff sheets, to become effective January 1, 1999:

Third Revised Volume No. 1

Fourteenth Revised Sheet No. 5
Seventh Revised Sheet No. 225

Original Volume No. 2

Twenty-Fourth Revised Sheet No. 2.2

Northwest states that the purpose of this filing is (1) to include a ''check the box'' mechanism in the General Terms and Conditions of the tariff that allows Northwest's customers to voluntarily contribute funds to the Gas Research Institute (GRI) in addition to the amounts collected by Northwest through GRI surcharges, and (2) to update Northwest's tariff to reflect the 1999 GRI surcharges.

Northwest states that a copy of this filing has been served upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30034 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–266–004]

Ozark Gas Transmission, L.L.C.; Notice of Compliance Filing

November 4, 1998.

Take notice that on October 22, 1998, Ozark Gas Transmission, L.L.C. (Ozark) filed copies of ''errata'' sheets to its October 1, 1998, ''Compliance Filing of Complete Tariff and Initial Rates'', all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 10, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party to a proceeding 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30077 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–365–002]

Sea Robin Pipeline Company; Notice of Proposed Changes to FERC Gas Tariff

November 4, 1998.

Take notice that on October 30, 1998, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the First Substitute, Fourth Revised Tariff Sheet No. 95 to become effective on December 1, 1998. In addition, Sea Robin has notified the Commission that it proposes to implement SoNet Premier for Sea Robin shippers on December 1, 1998.

On July 31, 1998, Sea Robin made a tariff filing in which it proposed to streamline certain contract, billing, and information processing requirements to better serve its customers' needs. At that time Sea Robin believed that SoNet Premier would be operational to transact business for the gas day of September 1, 1998. By filing dated August 27, 1998, Sea Robin notified the Commission that the September 1, 1998 implementation date would not be met. On August 28, 1998, the Commission issued a ''Notice of Extension of Time'' extending the effective date of the tariff sheets until the date SoNet Premier is placed in service. Since that time, Sea Robin found that Sheet No. 95 did not incorporate in the tariff or by reference all of the GISB standards that it was proposing to implement on SoNet Premier.

Accordingly, Sea Robin hereby files Sheet No. 95 to incorporate by reference all of the GISB standards for which Sea Robin had previously obtained a waiver and to add those standards that it had inadvertently omitted.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30024 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–126–000]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1998.

Take notice that on October 30, 1998, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective December 1, 1998:

Second Revised Sheet No. 196

Southern states that its filing is in compliance with the Commission's April 29, 1998 order approving the January 21, 1998 Stipulation and Agreement related to continued funding of Gas Research Institute programs. Specifically, the tariff filing provides for implementation of a voluntary contribution procedure through a ''check the box'' mechanism.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc 98–30035 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–105–000]

TCP Gathering Company; Notice of Tariff Filing

November 4, 1998.

Take notice that on October 30, 1998, TCP Gathering Co. (TCP) tendered for filing to become a part of TCP's FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets, to be effective January 1, 1999:

First Revised Sheet No. 2
First Revised Sheet No. 83
Second Revised Sheet No. 84
Original Sheet No. 84A

TCP is making this filing pursuant to the January 21, 1998 Stipulation and Agreement (Settlement) approved by the FERC's order issued April 29, 1998 in Docket Nos. RP97–149–003, *et al.* In the Settlement, TCP and other pipelines have agreed to be voluntary collection agents for shippers who voluntarily choose to contribute to GRI programs through ''check-the-box'' approach on pipelines' invoices. Therefore, TCP proposed revised tariff language in Section 21.1 of the General Terms and Conditions of its Tariff to implement the ''check-the-box'' mechanism.

TCP states that copies of the filing were served upon all affected firm customers of TCP and applicable state 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 Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc 98–30029 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–188–002]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

Take notice that on October 29, 1998, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Sub Third Revised Sheet No. 339A, to become effective November 1, 1998.

Tennessee states that the revised tariff sheet is being filed in compliance with the ''Order Following Technical Conference'' of the Federal Energy Regulatory Commission (the ''Commission'') issued in the captioned proceeding on October 14, 1998. Tennessee Gas Pipeline Company, 85 FERC ¶ 61,052 (1998). In compliance with the Commission's order, the revised tariff sheet provides, in new Article III, Section 11(n), that where nominations from a releasing shipper and a replacement shipper overlap in a particular portion of Tennessee's system at the same time, such overlapping nomination will be allowed provided that the combined total of the volumes nominated do not exceed the original entitlement level of the underlying firm contract. Tennessee further states that volumes in excess of the contractual entitlement will only be allowed if such volumes were separately nominated under authorized overrun or Rate Schedule IT.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30021 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–106–000]

TransColorado Gas Transmission Company; Notice of Tariff Filing

November 4, 1998.

Take notice that on October 30, 1998, TransColorado Gas Transmission Company (TransColorado) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective January 1, 1999:

Third Revised Sheet No. 20
Second Revised Sheet No. 102
First Revised Sheet No. 112

TransColorado states that this filing is a general rate case under Section 4(e) of the Natural Gas Act and is filed in compliance with ordering paragraph (c) of the September 30, 1996, order in Docket No. CP90–1777–008. The September 30, 1996, order required TransColorado within 3 years of the date of the Phase I facilities are placed in service or at least 60 days prior to placing Phase II facilities in service, whichever comes first, to make a Natural Gas Act Section 4(e) general rate case filing to reflect current costs and volumes. TransColorado expects that the Phase II facilities will be ready for service on January 1, 1999. Therefore, this rate case filing was filed 60 days prior to the effective date of the Phase II facilities being placed in service. Further, TransColorado has requested authority to withdraw the rate case filing in the event the Phase II facilities are not placed in service prior to February 1, 1999.

TransColorado states that the rates it has proposed are based on the overall cost of service for the base period consisting of the twelve months ended June 30, 1998, adjusted for known and measurable changes through December 31, 1999. The proposed jurisdictional transportation rates are based on a 25 year levelized rate design. TransColorado has sought waiver of 18 CFR § 154.303 to allow rates to go into effect on January 1, 1999.

TransColorado further states that a copy of this filing has been served upon TransColorado's jurisdictional customers, the Colorado Public Utilities Commission, and the New Mexico Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C.

20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30030 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–381–000]

Transcontinental Gas Pipe Line Corporation; Notice Granting Late Intervention

November 4, 1998.

Motions to intervene in the above-captioned proceeding were due on September 14, 1998. Williams Energy Services Company filed a motion to intervene out of time on October 9, 1998. No party filed an answer in opposition to the motion.

The petitioner appears to have a legitimate interest under the law that is not adequately represented by other parties. Granting the intervention will not cause a delay or prejudice any other party. It is in the public interest to allow the petitioner to appear in this proceeding. Accordingly, good cause exists for granting the late intervention.

Pursuant to Section 375.302 of the Commission's Regulations (18 CFR 375.202), the petitioner is permitted to intervene in this proceeding subject to the Commission's rules and regulations under the Natural Gas Act, 15 U.S.C. §§ 717–717(W). Participation of the late intervenor shall be limited to matters set out in its motion to intervene. The admission of the late intervenor shall not be construed as recognition by the Commission that the intervenor might be aggrieved by any order entered in this proceeding.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30025 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–121–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1998.

Take notice that on October 30, 1998, Transwestern Pipeline Company (Transwestern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective January 1, 1999:

First Revised Sheet No. 79A
Fourteenth Revised Sheet No. 80

Transwestern states that the above-referenced tariff sheets are being filed to revise Transwestern's Gas Research Institute (GRI) tariff provisions to comply with the Stipulation and Agreement Concerning GRI Funding, dated January 21, 1998, in Docket Nos. RP97–391–000, *et al.* (GRI Settlement).

Transwestern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30031 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–2–000]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1998.

Take notice that on October 30, 1998, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, with the proposed effective date of December 1, 1998:

First Revised Sheet No. 222

Williams states that the instant filing is being made pursuant to 18 CFR 161.3(1) and 250.16(b)(1). 18 CFR 161.3(1) requires interstate pipelines to post the names and addresses of its marketing affiliates on its web site on the public Internet, and 18 CFR 250.16(b)(1) requires interstate pipelines to maintain tariff provisions containing a complete list of operating personnel and facilities shared by the interstate pipeline and its marketing or brokering affiliates. Williams is updating the list of shared operating personnel in Section 8.9 of its tariff, and making reference to the list of marketing affiliates on its web site on the Internet.

Williams states that a copy of its filing was served on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed 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.

David P. Boergers,

Secretary.

[FR Doc 98–30016 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–16–001]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1998.

Take notice that on October 30, 1998, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, with the proposed effective date of November 1, 1998:

Substitute Third Revised Sheet No. 6

Williams states that on October 1, 1998, it made a filing pursuant to Article 14 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1, to submit its fourth quarter 1998 report of GSR costs. Williams has discovered that the Base Maximum FTS–M Reservation Balancing Fee was misstated in the ''Base Maximum Rate'' column on Sheet No. 6 in that filing. The Rate was correct in the ''Total Maximum Rate'' column. The instant filing is being made to correct this error.

Williams states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the docket referenced above and on all of Williams' jurisdictional 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30028 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–123–000]

Williams Gas Pipeline Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

November 4, 1998.

Take notice that on October 30, 1998, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with the proposed effective date of January 1, 1999:

First Revised Sheet Nos. 285–287

Williams states that the instant filing is being made pursuant to Order Approving Settlement, issued April 29, 1998, in Docket No. RP97–391–002, *et al.* and the Stipulation and Agreement filed January 21, 1998, in Docket No. RP97–391–002. Williams is making a tariff filing to add a section to Article 25, Gas Research Institute RD&D Funding Unit, to provide for a voluntary contribution mechanism for collecting contributions for GRI funding from Shippers. Williams will add a ''check the box'' option on its transportation invoices for Shippers to specify the level of contribution and the projects or project areas to be funded.

Williams states that a copy of its filing was served on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30032 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–2–76–000]

Wyoming Interstate Company, Ltd., Notice of Proposed Change in FERC Gas Tariff

November 4, 1998.

Take notice that on October 30, 1998, Wyoming Interstate Company (WIC), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 5.2 and Second Revised Volume No. 2, Eighth Revised Sheet No. 4A, with an effective date of December 1, 1998.

WIC states that the tariff sheets are reflecting an increase in the percentage for Fuel, Lost and Unaccounted-for Gas (''FL&U Percentage'') from .49% to .80% effective December 1, 1998.

WIC states that copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30037 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–3–76–000 and RP99–129–000]

Wyoming Interstate Company, Ltd.; Notice of GRI Filing

November 4, 1998.

Take notice on October 30, 1998, Wyoming Interstate Company, Ltd. (WIC), tendered for filing to become part

of its FERC Gas Tariff, First Revised Volume No. 1 and Second Revised Volume No. 2, the tariff sheets listed on Appendix A to the filing, with an effective date of November 1, 1998.

WIC states the purpose of this filing is to permit WIC to collect Gas Research Institute (GRI) charges associated with WIC transportation pursuant to the Commission's Opinion No. 418 issued November 12, 1997 in Docket No. RP97–391–000. WIC will begin transporting quantities of gas subject to GRI charges in November 1998. The attached Appendix A tariff sheets implement the GRI rates requested and change WIC's General Terms and Conditions to allow for GRI collection.

WIC states that copies of the filing were served upon the company's jurisdictional firm customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30038 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–4335–000, et al.]

Commonwealth Edison Company, et al.; Electric Rate and Corporate Regulation Filings

November 2, 1998.

Take notice that the following filings have been made with the Commission:

1. Commonwealth Edison Company

[Docket No. ER98–4335–000]

Take notice that on October 28, 1998, Commonwealth Edison Company (ComEd), filed a revised Dynamic Scheduling Agreement (WMD Agreement), dated March 1, 1998, between ComEd and Wholesale Marketing Department of Commonwealth Edison Company (WMD) in response to inquiries from the Commission Staff concerning the WMD Agreement.

ComEd continues to seek an effective date of March 1, 1998, ComEd served copies of the amended filing on the Illinois Commerce Commission, WMD and all parties to the proceeding.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, Southwestern Electric Power Company

[Docket No. ER99–191–000]

Take notice that on October 28, 1998, Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and West Texas Utilities Company (collectively, the CSW Operating Companies) tendered for filing an amendment to the service agreement filed on October 14, 1998 in Docket No. ER99–191–000 establishing Western Farmers Electric Cooperative (Western), as a customer under the CSW Operating Companies' market-based rate power sales tariff. The amendment consists of a page of the agreement that was inadvertently omitted from the original filing.

The CSW Operating Companies state that a copy of this filing was served on Western.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Puget Sound Energy, Inc.

[Docket No. ER99–339–000]

Take notice that on October 28, 1998, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Firm Point-To-Point Transmission Service (Firm Point-To-Point Service Agreement) and a Service Agreement for Non-Firm Point-To-Point Transmission Service (Non-Firm Point-To-Point Service Agreement) with Constellation Power Source, Inc. (Constellation), as Transmission Customer.

A copy of the filing was served upon Constellation.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Puget Sound Energy, Inc.

[Docket No. ER99–340–000]

Take notice that on October 28, 1998, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Firm Point-To-Point Transmission Service (Firm Point-To-Point Service Agreement) and a Service Agreement for Non-Firm Point-To-Point Transmission Service (Non-Firm Point-To-Point Service Agreement) with Statoil Energy Trading, Inc. (Statoil), as Transmission Customer.

A copy of the filing was served upon Statoil.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Puget Sound Energy, Inc.

[Docket No. ER99–341–000]

Take notice that on October 28, 1998, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Firm Point-To-Point Transmission Service (Firm Point-To-Point Service Agreement) and a Service Agreement for Non-Firm Point-To-Point Transmission Service (Non-Firm Point-To-Point Service Agreement) with Engage Energy US, L.P. (Engage), as Transmission Customer.

A copy of the filing was served upon Engage.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Puget Sound Energy, Inc.

[Docket No. ER99–342–000]

Take notice that on October 28, 1998, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Firm Point-To-Point Transmission Service (Firm Point-To-Point Service Agreement) and a Service Agreement for Non-Firm Point-To-Point Transmission Service (Non-Firm Point-To-Point Service Agreement) with PacificCorp Power Marketing, Inc. (PPM), as Transmission Customer.

A copy of the filing was served upon PPM.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Washington Water Power Company

[Docket No. ER99–343–000]

Take notice that on October 28, 1998, Washington Water Power Company (WWP), tendered for filing, with the Federal Energy Regulatory Commission pursuant to 18 CFR Section 35.13, an executed Mutual Netting Agreement and

Certificate of Concurrence allowing arrangements of amounts which become due and owing to one Party to be set off against amounts which are due and owing to the other Party with PG&E Energy Trading—Power, L.P.

WWP requests waiver of the prior notice requirement and requests an effective date of October 1, 1998.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Southern Company Services, Inc.

[Docket No. ER99–344–000]

Take notice that on October 28, 1998, Southern Company Services, Inc. (SCSI), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies), tendered for filing amendments to service agreements under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) entered into previously with Associated Electric Cooperative, and Calpine Power Services Company. SCSI states that the amendments are prospective only and will enable Southern Companies to engage in further short-term market-based rate sales with these entities.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power & Light Company

[Docket No. ER99–345–000]

Take notice that on October 27, 1998, Florida Power & Light Company (FPL), tendered for filing notice of cancellations for FPL Rate Schedule FERC No. 77 and Service Agreements with the cities of Jacksonville Beach, Green Cove Springs and Clewiston, Florida, under FPL's FERC Electric Tariff, Third Revised Volume No. 1.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. PP&L, Inc.

[Docket No. ER99–346–000]

Take notice that on October 28, 1998, PP&L, Inc. (PP&L), tendered for filing a Power Supply Agreement dated September 2, 1998, with Citizens' Electric Company of Lewisburg, Pennsylvania (Citizens' Electric) an amendment and addendum to a Power Supply Agreement dated January 25, 1994 with Citizens' Electric and a Service Agreement dated October 22, 1998 with Citizens' Electric under PP&L's FERC Electric Tariff Revised Volume No. 5. The Service Agreement adds Citizens' Electric as an eligible customer under the Tariff.

PP&L requests an effective date of February 1, 1999, for the Power Supply Agreement dated September 2, 1998. PP&L requests an effective date of February 1, 1998, for the amendment and addendum to the Power Supply Agreement dated January 25, 1994. PP&L requests that the Service Agreement become effective sixty days from the date of filing.

PP&L states that copies of this filing have been supplied to Citizens' Electric and to the Pennsylvania Public Utility Commission.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

[Docket No. ER99–347–000]

Take notice that on October 28, 1998, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Point-to-Point Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Enserch Energy Services, Inc.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Entergy Services, Inc.

[Docket No. ER99–348–000]

Take notice that on October 28, 1998, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Point-to-Point Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and the Board of Municipal Utilities of Sikeston, Missouri.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER99–349–000]

Take notice that on October 28, 1998 Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Market Rate Sales Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Western Farmers Electric Cooperative for the sale of power under Entergy Services' Rate Schedule SP.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. FirstEnergy Corp.

[Docket No. ER99–353–000]

Take notice that on October 28, 1998, FirstEnergy Corp. (FirstEnergy), tendered for filing a form of Service Agreement for Network Integration Transmission Service Under the Pennsylvania Electric Choice Program (Service Agreement) as Attachment J to the FirstEnergy Open Access Transmission Tariff (Tariff). Also filed as Attachment K to the Tariff is a form of Operating Agreement for Network Integration Transmission Service of FirstEnergy Under the Pennsylvania Electric Choice Program (Operating Agreement). Filed as Attachment L to the Tariff is the Index of Network Integration Transmission Service Customers Under the Pennsylvania Electric Choice Program (Index). The agreements and Index are consistent with the Tariff which became effective November 8, 1997 subject to refund by Federal Energy Regulatory Commission order in Docket No. ER97–4142.

FirstEnergy also tendered for filing a Notice of Cancellation of the Service Agreement for Network Integration Transmission Service Under the Pennsylvania Retail Access Pilot, Attachment J to the Tariff, and the Index of Network Integration Transmission Service Customers Under the Pennsylvania Retail Access Pilot, Attachment K to the Tariff. These Attachments are superseded by the agreements and Index filed above relating to the Pennsylvania Electric Choice Program.

The proposed effective date for the Service Agreement, Operating Agreement, and Index and for the Cancellation is January 1, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, Pennsylvania Public Utility Commission and the designated agents for Pennsylvania Retail Access Pilot Program, customers currently being served under the Tariff.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. FirstEnergy System

[Docket No. ER99–354–000]

Take notice that on October 28, 1998, FirstEnergy System filed Service Agreements to provide Non-Firm Point-to-Point Transmission Service for West Penn Power and Columbia Power Marketing, the Transmission Customers. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective date under these Service Agreements is October 15, 1998.

Comment date: November 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Nevada Power Company

[Docket No. ER99–356–000]

Take notice that on October 28, 1998, Nevada Power Company (Nevada Power), tendered for filing a 230 kV Facilities Interconnection Agreement between Nevada Power Company and El Dorado Energy, L.L.C., (EDE). The Agreement facilitates the construction, operation and maintenance of certain interconnection facilities required to interconnect EDE's proposed power generation project to Nevada Power's 230 kV transmission system.

Nevada Power requests an effective date no later than sixty (60) days after the filing date of the Agreement.

In addition to the Parties to this Agreement, copies of this filing have also been served on the Public Utilities Commission of Nevada and the Utility Consumer's Advocate.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Illinois Power Company

[Docket No. ER99–357–000]

Take notice that on October 28, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Merchant Energy Group of the Americas, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of October 1, 1998.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Consumers Energy Company

[Docket No. ER99–361–000]

Take notice that on October 28, 1998, Consumers Energy Company (CECo), tendered for filing proposed amended tariff sheets to its Open Access Electric Transmission Tariff implementing new rates, terms and conditions of service which result from the split of its transmission and local distribution facilities approved in the Federal Energy Regulatory Commission's declaratory order issued on July 29, 1998 in Docket No. EL98–21–000.

CECo requests that these amended tariff sheets be accepted for filing and made effective on January 1, 1999.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Atlanta Gas Light Services, Inc.

[Docket No. ER97–542–000]

Take notice that on October 28, 1998, Atlanta Gas Light Services, Inc. (AGLS), tendered for filing Notification of Change in Status. Atlanta Gas Light Services, Inc., seeks to notify the Commission that it has become affiliated with SouthStar Energy Services, LLC. a non-regulated vendor of natural gas, propane, fuel oil, electricity, and other energy commodities.

Comment date: November 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Arizona Public Service Company

[Docket No. OA97–466–002]

Take notice that on October 27, 1998, Arizona Public Service Company (PS) tendered for filing a Motion For An Extension Of Time To Submit Its Compliance Filing And Request For Expedited Consideration Of This Motion. APS requests an additional 60 days to submit the required information. The additional time is requested because APS is in the midst of a major reorganization and the changes will directly impact the information APS is required to file in compliance with the Commission's Order on Standards of Conduct issued September 29, 1998, in Docket No. OA97–466–001.

Comment date: November 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. LUZ Solar Partners Ltd., III

[Docket No. QF86–734–005]

On October 28, 1998, LUZ Solar Partners Ltd., III, filed with the Federal Energy Regulatory Commission (Commission) a supplement to its Application for Recertification of a Qualifying Small Power Production Facility which was filed with the Commission on August 4, 1998.

Comment date: November 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. LUZ Solar Partners Ltd., IV

[Docket No. QF86–736–005]

On October 28, 1998, LUZ Solar Partners Ltd., IV, filed with the Federal Energy Regulatory Commission (Commission) a supplement to its Application for Recertification of a Qualifying Small Power Production Facility which was filed with the Commission on August 4, 1998.

Comment date: November 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. LUZ Solar Partners Ltd., V

[Docket No. QF87–402–005]

On October 28, 1998, LUZ Solar Partners Ltd., V, filed with the Federal Energy Regulatory Commission (Commission) a supplement to its Application for Recertification of a Qualifying Small Power Production Facility which was filed with the Commission on August 4, 1998.

Comment date: November 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. LUZ Solar Partners Ltd., VI

[Docket No. QF88–33–006]

On October 28, 1998, LUZ Solar Partners Ltd., VI, filed with the Federal Energy Regulatory Commission (Commission) a supplement to its Application for Recertification of a Qualifying Small Power Production Facility which was filed with the Commission on August 4, 1998.

Comment date: November 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. LUZ Solar Partners Ltd., VII

[Docket No. QF88–34–006]

On October 28, 1998, LUZ Solar Partners Ltd., VII, filed with the Federal Energy Regulatory Commission (Commission) a supplement to its Application for Recertification of a Qualifying Small Power Production Facility which was filed with the Commission on August 4, 1998.

Comment date: November 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Salton Sea Power Generation L.P. (Salton Sea II Facility)

[Docket No. QF89–297–004]

On October 26, 1998, Salton Sea Power Generation L.P., 302 South 36th Street, Omaha, Nebraska 68131, filed

with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 (b) and (d)(2) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The facility was previously self-certified as a qualifying small power production facility in 1989 in Docket No. QF89–297–000 and again self-certified in Docket Nos. QF89–297–002 and 003. Recertification is being sought to reflect a change in status of the owner of the facility.

Comment date: November 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 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.

David P. Boergers,

Secretary.

[FR Doc. 98–30015 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2073]

Wisconsin Electric Power Company; Notice of Availability of Draft Application and Preliminary Draft Environmental Assessment (DEA)

November 4, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major New License.

b. *Project No.* 2073.

c. *Applicant:* Wisconsin Electric Power Company.

d. *Name of Project:* Michigamme Falls Hydroelectric Project.

e. *Location:* Michigamme River near Crystal Falls, Iron Mountain, and Kingsford, in Iron County, Michigan.

f. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 333 W. Everett Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

g. *FERC Contract:* Patti Leppert-Slack, (202) 219–2767.

h. Wisconsin Electric Power Company (Wisconsin Electric) mailed a copy of the Draft License Application and Preliminary DEA to all entities on October 20, 1998. The Commission received a copy of the Draft License Application and Preliminary DEA on October 22, 1998. Copies of these documents, as well as the resource study reports previously distributed for review and comment, are available for review at Wisconsin Electric's Office, 800 Industrial Park Drive, Iron Mountain, Michigan.

Copies are also available at the following libraries: Crystal Falls District Community Library, 401 Superior Ave., Crystal Falls, Michigan; Dickinson County Library, 401 Iron Mountain St., Iron Mountain, Michigan; and Dickinson County Library-Norway Branch, 620 Section St., Norway, Michigan.

i. As discussed in the Commission's June 14, 1996, letter to all parties, with this notice we are soliciting preliminary terms, conditions, and recommendations on the Draft License Application and Preliminary DEA.

j. All comments on the Draft License Application and Preliminary DEA should be sent to the address noted above in Item (f), with one copy filed with the Commission at the following address: Patti Leppert-Slack, Federal Energy Regulatory Commission, 888 First Street, NE, Room 72–33, Washington, DC 20426.

All comments must include the project name and number, and bear the heading ''Preliminary Comments,'' ''Preliminary Recommendations,'' ''Preliminary Terms and Conditions,'' or ''Preliminary Prescriptions.'' Any party interested in commenting must do so on or before January 22, 1999.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30043 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File An Application for a New License

November 4, 1998.

a. *Type of filing:* Notice of Intent to File An Application for a New License.

b. *Project No.:* 469.

c. *Date filed:* October 23, 1998.

d. *Submitted By:* Minnesota Power, Inc., current licensee.

e. *Name of Project:* Winton Project.

f. *Location:* On the Kawishiwi River, in St. Louis and Lake Counties, Minnesota.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of current license:* March 1, 1981.

i. *Expiration date of current license:* October 31, 2003.

j. *The project consists of two developments:* The Winton Development consists of: (1) a concrete dam comprising: (a) a 176-foot-long spillway section; (b) a 84-foot-long taintor gate section; (c) a 80-foot-long stop-log gate section; (d) a 111-foot-long and 120-foot-long non-over-flow section; and (e) a 161-foot-long intake section; (2) approximately 1,500-foot-long earth dikes; (3) a 2,982-acre reservoir comprising of the Garden, Farm, and Friday Lakes at normal water surface of the Garden, Farm, and Friday Lakes at normal water surface elevation of 1,388.0 feet msl; (4) two 250-foot-long, 9-foot-diameter penstocks extending to; (5) a powerhouse containing two generating units with a total installed capacity of 4,000 kW; and (6) appurtenant facilities.

The Birch Lake Reservoir Development consists of: (1) 227-foot-long rock-filled timber crib dam comprising; (a) a 72-foot-long taintor gate section; and (b) a 85-foot-long sluice gate section; (2) the 7,724-acre Birch Lake reservoir at normal water surface elevation of 1,418.0 feet msl. This development provides water storage for the Winton Development.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Minnesota Power, Inc., 30 West Superior Street, Duluth, MN 55802, Ms. Ingrid Kane, (218) 720–2534.

l. *FERC contact:* Tom Dean (202) 219–2778.

m. Pursuant to 18 CFR 16.9 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the

existing license. All applications for license for this project must be filed by October 31, 2001.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30039 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment to Project Design

November 4, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment to Project Design.

b. *Project No:* 7115-028.

c. *Date Filed:* 06/03/1998.

d. *Applicant:* Southeastern Hydro-Power, Inc.

e. *Name of Project:* George W. Andrews.

f. *Location:* At the existing United States Army Corps of Engineers' George W. Andrews Lock and Dam, on the Chattahoochee River in Houston County, Alabama, and Early County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)-825(r).

h. *Applicant Contact:* Charles B. Mierek, President, Southeastern Hydro-Power, Inc.; 5250 Clifton-Glendale Road; Spartanburg, SC 29307-4618; (864) 579-4405.

i. *FERC Contact:* Mohamad Fayyad, (202) 219-2665.

j. *Comment Date:* December 12, 1998.

k. *Description of Amendment:* Licensee proposes the following design changes: (1) installing 6 generating units rated at 4,000 kW each, with a hydraulic capacity of 3,500 cfs each, instead of the licensed 4 units rated at 8,850 kW each, with a hydraulic capacity of 5,250 cfs each; and (2) a 140-foot-long by 300-foot-wide integral headworks-powerhouse structure, instead of the 116-foot-long by 182-foot-wide structure. The change in project design would allow operation at a minimum turbine flow of 1,000 cfs instead of the current design that requires 2,000 cfs.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. 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.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. 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 respresentatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30040 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Draft License Application and Preliminary Draft Environmental Assessment (PDEA)

November 4, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major New Licenses.

b. *Project Nos.:* P–2058 and P–2075.

c. *Applicant:* Washington Water Power Company, Spokane, WA.

d. *Name of Projects:* Cabinet Gorge Project and Noxon Rapids Project.

e. *Location:* The Cabinet Gorge and Noxon Rapids projects are located on the Clark Fork River, in Bonner County, Idaho and Sanders County, Montana. Both projects are partially within the Idaho Panhandle National Forest and the Kanisku National Forest.

f. *Applicant Contact:* Mr. Robert Anderson, Washington Water Power Company, E. 1411 Mission Avenue, Spokane, WA 99202, (509) 489–0500.

g. *FERC Contact:* Bob Easton (202) 219–2782.

h. Washington Water Power Company mailed a copy of the PDEA and Draft License Application to interested parties on October 15. The Commission received a copy of the PDEA and Draft License Application on October 15.

i. With this notice we are soliciting preliminary terms, conditions, and recommendations for the PDEA and comments on the draft license application.

j. All comments on the PDEA and draft license application for the Cabinet Gorge Project and the Noxon Rapids Project should be sent to the address noted above in item (f) with one copy filed with the Commission at the following address: David P. Boergers, Secretary, Federal Energy Regulatory Commission, Dockets—Room 1A, 888 First Street, Washington, DC 20426.

All comments must (1) bear the heading ''Preliminary Comments'', ''Preliminary Recommendations'', ''Preliminary Terms and Conditions'', or ''Preliminary Prescriptions''; and (2) set forth in the heading the name of the applicant and the project number of the application. Any party interested in commenting must do so before January 15, 1999.

k. With this notice, we are initiating consultation with the STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30041 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File Application for New License

November 4, 1998.

a. *Type of filing:* Notice of Intent to File Application for New License.

b. *Project No.:* 233.
c. *Date filed:* October, 13, 1998.
d. *Submitted By:* Pacific Gas and Electric Company, current licensee.
e. *Name of Project:* Pit No. 3, 4, and 5.
f. *Location:* On the Pit River, in Shasta County, California. Several project facilities are within the Shasta-Trinity and Lassen National Forests.
g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.
h. *Effective date of original license:* February 1, 1981.
i. *Expiration date of original license:* October 31, 2003.
j. The project consists of the Pit No. 3, Pit No. 4, and Pit No. 5 developments, each consisting of a dam and reservoir, a tunnel and penstock, a powerhouse, and a transmission line. The project has a total installed capacity of 317,000 kilowatts.
k. Pursuant to 18 CFR 16.7, information on the project is available at: Pacific Gas and Electric Company, 245 Market Street, Room 1103, San Francisco, CA 94105, ATTN: John Gourley, (415) 972–5772.
l. *FERC contact:* Héctor M. Pérez (202) 219–2843.
m. Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by October 31, 2001.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30042 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing With the Commission

November 4, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major Relicense.
b. *Project No.:* P–2634–007.
c. *Date Filed:* April 28, 1998.
d. *Applicant:* Great Northern Paper, Inc.
e. *Name of Project:* Storage Project.
f. *Location:* On Ragged Stream, Caucomgomoc Stream, and West Branch and South Branch of the Penobscot River in the Counties of Somerset and Piscataquis, Maine.
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).
h. *Applicant Contact:* Brian Stetson, Manager of Environmental Affairs, Great Northern Paper, Inc., One Katahdin Avenue, Millinocket, ME 04462–1398, (207) 723–2664.
i. *FERC Contact:* William Diehl, P.E. (202) 219–2813.
j. *Comment Date:* December 10, 1998.
k. *Status of Environmental Analysis:* This application has been accepted, but is not ready for environmental analysis at this time—see attached paragraph E1.
l. *Description of Project:* The constructed project consists of four dams and reservoirs on headwaters tributaries of the Penobscot River. The four developments are named Canada Falls Lake, Seboomook Lake, Caucomgomoc Lake, and Ragged Lake. There are no power generating facilities included in the project. The total storage capacity of the four reservoirs is about 9,224 billion cubic feet or about 212,000 acre-feet.
m. *Purpose of Project:* The project reservoirs are used to store water during periods of high stream runoff, and release that water during low-runoff periods. This controlled release program benefits downstream river users and adjacent land interests.
n. This notice also consists of the following standard paragraphs: B1 and E1.
o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files and Maintenance Branch, located at 888 First Street, N.E., Room 2A–1, Washington, D.C. 20426, or by calling (202) 208–2326. A copy is also available for inspection and reproduction at Great Northern Paper, Inc., One Katahdin Avenue, Millinocket, Maine 04462–1398, (207) 723–2664.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–30078 Filed 11–9–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6187–1]

Reopening of Comment Period for Florida Department of Environmental Protection; Underground Injection Control (UIC); Application for Revision of State Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reopening of comment period on application for revision of Florida UIC program.

SUMMARY: The Environmental Protection Agency (EPA) is reopening the comment period for the application for revision of the Florida UIC program which was published in the **Federal Register** on October 2, 1998 at 63 FR 53047. The reopening of the comment period will allow all interested parties to submit written comments on the proposal.

DATES: The comment period for this proposal will be reopened on November 11, 1998 and will close on November 25, 1998.

ADDRESSES: Copies of the application and pertinent materials are available between 8:30 a.m. and 3:30 p.m. Monday through Friday at the following locations for inspection and copying: Environmental Protection Agency, Region 4, Ground Water & UIC Section, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, PH: (404) 562–9450; and Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400, PH: (850) 487–0505. Comments should be mailed to Nancy H. Marsh, Ground Water & UIC Section, Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Nancy H. Marsh, Ground Water & UIC Section, Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303, (404) 562–9450.

SUPPLEMENTARY INFORMATION: The reopened comment period for the proposed revision of Florida UIC program now ends November 25, 1998. All comments submitted in accordance with the instructions in the notice of public comment period will be incorporated into the Record and considered before promulgation of the final rule.

Dated: October 28, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 98–30150 Filed 11–9–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6186–9]

National Drinking Water Advisory Council, Health Care Provider Outreach and Education Working Group; Notice of Open Meeting

Under section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the ''Health Care Provider Outreach and Education Working Group'' of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on December 2, 1998 from 9 am to approximately 5 pm, and on December 3, 1998 from 9 am to approximately 12:30 pm. The meeting will be held at the Holiday Inn-Georgetown, located at 2101 Wisconsin Avenue, N.W., Washington DC, 20007, telephone (202) 338–4600. The meeting is open to the public, but due to past experience, seating will be limited.

The purpose of this meeting is to clarify the needs of the health care provider community for information on drinking water, and begin to consider a strategy for meeting these needs. The meeting is open to the public to observe. The working group members are meeting to gather information on this topic and recommend steps towards a draft position paper for deliberation by the Advisory Council within the next year. Given the scope of this effort, therefore, there will be only limited time at the meeting available for statements from the public.

For more information, please contact, Ron Hoffer, Designated Federal Officer, of the Health Care Provider Outreach and Education Working Group, U.S. EPA, Office of Ground Water and Drinking Water (Mail Code 4607), 401 M Street SW, Washington, D.C. 20460. Mr. Hoffer's telephone number is (202) 260–7096 and E-mail address is hoffer.ron@epa.gov. In Mr. Hoffer's absence you may contact Ms. Sherri Umansky, U.S. EPA, Office of Ground Water and Drinking Water (Mail Code 4607) at (202) 260–0432, and by E-mail at umansky.sherri@epa.gov.

Dated: October 29, 1998.

Charlene E. Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 98–30148 Filed 11–9–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6187–2]

Old ATC Refinery Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Old ATC Refinery site in Wilmington, New Hanover County, North Carolina with the following settling parties: Linda Carroll and Carroll Carolina Corporation. The settlement requires the settling parties to pay $170,000.00 to the Hazardous Substance Superfund should the site property sell before April 1, 1999. If the property fails to sell before April 1, 1999, the settlement requires the settling parties to pay $85,000.00 to the Hazardous Substance Superfund in annual installments over the subsequent three years. The settlement includes a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). 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 the address below.

DATES: Comments must be received by December 10, 1998.

ADDRESSES: Copies of the proposed settlement may be obtained from: Attn: Paula V. Batchelor, Waste Management Division, U.S. EPA, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303, (404) 562–8887.

Comments should reference the Old ATC Refinery Site in Wilmington, New Hanover County, North Carolina, and should be addressed to Paula Batchelor at the above address.

Dated: October 23, 1998.

Anita Davis,

Acting Chief, Program Services Branch, Waste Management Division.

[FR Doc. 98–30149 Filed 11–9–98; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 90–53; DA–2208]

Private Land Mobile Radio Service Rules, New England Area Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief Public Safety and Private Wireless Division released this Public Notice inviting comments on the New England Area Public Safety Regional Plan (Region 19 Plan) that proposes to revise the current channel allotments for radio frequencies in the 821–824/866–869 MHz bands within the New England area. In accordance with the National Public Safety Plan,

each region is responsible for planning its use of public safety radio frequency spectrum in the 821–824/866–869 MHz bands.[1]

DATES: October 30, 1998.

FOR FURTHER INFORMATION CONTACT: Joy Alford, Federal Communications Commission, Washington, DC, (202) 418–0680.

SUPPLEMENTARY INFORMATION: On September 14, 1998, Region 19 submitted a proposed amendment to its Public Safety Plan that would revise the current channel allotments to reflect changes made as a result of its fourth window application process. In accordance with the National Public Safety Plan, each region is responsible for planning its use of public safety radio frequency spectrum in the 821–824/866–869 MHz bands.[2] The Public Safety Plan for Region 19, which was adopted by the Commission on April 26, 1990, governs the use of frequency assignments in the 821–824/866–869 MHz within the New England area.[3] The Commission is soliciting comments from the public before taking action on this proposed plan amendment. Interested parties may file comments to the proposed amendment on or before November 29, 1998, and reply comments on or before December 14, 1998. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), [*See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (1998)], or by filing paper copies. Commenters who submit by paper should send original and five copies of comments to the Secretary, Federal Communications Commission, Washington, DC 20554. Commenter should clearly identify all comments and reply comments, whether submitted electronically or as paper copies, as submissions to General Docket 90–53 New England Public Safety Region 19. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number.

Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Questions regarding this public notice may be directed to Joy Alford, Wireless Telecommunications Bureau (202) 418–0694.

The original Region 19 Public Safety Plan, is available for inspection and copying during normal business hours in the FCC Reference Center (Room 230) 1919 M Street, NW, Washington, DC. The original Region 19 Public Safety Plan, may also be ordered from the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036, Telephone (202) 857–3800.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–30069 Filed 11–9–98; 8:45 am]

BILLING CODE 6712–01–P

[1] Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987).

[2] Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987).

[3] Order, General Docket 90–53, 5 FCC Rcd 2844 (1990).

FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 93–150; DA 98–2207]

Private Land Mobile Radio Service Rules, North Carolina Public Safety Regional Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief Public Safety and Private Wireless Division released this Public Notice amending the North Carolina Public Safety Regional Plan (Region 31 Plan) that revises the current channel allotments for radio frequencies in the 821–824/866–869 MHz bands within the state of North Carolina. As a result of approving the amendment for the Plan for Region 31, the interests of the eligible entities within the region will be furthered.

DATES: October 30, 1998.

FOR FURTHER INFORMATION CONTACT: Joy Alford, Federal Communications Commission, Washington, DC, (202) 418–0680.

SUPPLEMENTARY INFORMATION: By this Public Notice, the Commission announces that the North Carolina Regional Planning Committee proposal to amend the North Carolina Public Safety Regional Plan (Region 31 Plan) revising the current channel allotments for radio frequencies in the 821–824/866–869 MHz bands within North Carolina is approved. In accordance with the Public Safety National Plan, Region 31 is responsible for planning public safety radio frequency spectrum use in the 821–824/866–869 MHz bands within North Carolina.[1]

On February 5, 1998, we received a request from the North Carolina Regional Planning Committee proposing to amend the Region 31 Plan, which was adopted by the Commission on August 3, 1993.[2] We have reviewed the Region 31 request. The amendment is considered a minor amendment and includes concurrences from each of the adjacent Regions 10, 37, 39, and 42. The amendment is, therefore, approved as submitted. The Secretary's Office will place the amended Region 31 Plan in the official docket file where it will be available to the public. Questions regarding this public notice may be directed to Joy Alford, Wireless Telecommunications Bureau (202) 418–0694.

The original Region 31 Public Safety Plan is available for inspection and copying during normal business hours in the FCC Reference Center (Room 230) 1919 M Street, NW, Washington, DC. The original Region 31 Public Safety Plan may also be ordered from the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036, Telephone (202) 857–3800.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–30068 Filed 11–9–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 89–573; DA 98–1778]

Private Land Mobile Radio Service Rules, Philadelphia Region Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief Public Safety and Private Wireless Division released this Public Notice amending the Philadelphia Public Safety Regional Plan (Region 28 Plan) that revises the current channel allotments for radio frequencies in the 821–824/866–869 MHz bands within the Philadelphia area. As a result of approving the amendment for the Plan for Region 28,

[1] Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987).

[2] Order, PR Docket 93–150, 8 FCC Rcd 5447 (1993).

the interests of the eligible entities within the region will be furthered.

DATES: September 11, 1998.

FOR FURTHER INFORMATION CONTACT: Joy Alford, Federal Communications Commission, Washington, D.C., (202) 418–0680.

SUPPLEMENTARY INFORMATION: By this Public Notice, the Commission announces that the Philadelphia Region 28 Planning Update Committee proposal to amend the Philadelphia Public Safety Regional Plan (Region 28 Plan) revising the current channel allotments for radio frequencies in the 821–824/866–869 MHz bands within the Philadelphia area is approved. On March 17, 1998, we received a request from the Philadelphia Region 28 Planning Update Committee proposing to amend the Region 28 Plan, which was adopted by the Commission on February 2, 1990,[1] and subsequently revised on December 16, 1993.[2] In accordance with the Public Safety National Plan, Region 28 is responsible for planning public safety radio frequency spectrum use in the 821–824/866–869 MHz bands within eastern Pennsylvania, southern New Jersey, and Delaware.[3] We have reviewed the Region 28 request and find that the amendment furthers this goal. The amendment is considered a minor amendment and includes concurrences from each of the adjacent Regions 8, 20, 30, 36, and 55. The amendment is, therefore, approved as submitted.

The Secretary's Office will place the amended Region 28 Plan in the official docket file where it will be available to the public. Questions regarding this public notice may be directed to Joy Alford, Wireless Telecommunications Bureau (202) 418–0680. The original Region 28 Public Safety Plan, is available for inspection and copying during normal business hours in the FCC Reference Center (Room 230) 1919 M Street, NW, Washington, DC. The original Region 28 Public Safety Plan, may also be ordered from the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036, Telephone (202) 857–3800.

List of Subjects

Public Safety Radio Services, Special Emergency Radio Services.

[1] Order, General Docket 89–573, 5 FCC Rcd 764 (1990).

[2] Order, DA 93–1530, 9 FCC Rcd 82 (1994).

[3] Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987).

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–30067 Filed 11–9–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:49 a.m. on Thursday, November 5, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) matters relating to the Corporation's corporate activities, and (2) an administrative enforcement proceeding.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Ellen S. Seidman (Director, Office of Thrift Supervision), concurred in by Director Julie L. Williams (Acting Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: November 5, 1998.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–30231 Filed 11–6–98; 1:05 pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

''FEDERAL REGISTER'' NUMBER: 98–30004.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, November 12, 1998, 10:00 a.m. Meeting Open to the Public.

The Following Item Has Been Added to the Agenda:

Proposed Directive to the Audit Division.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–30267 Filed 11–6–98; 3:13 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Oceanair Freight Int'l, Inc., 509–513 S. Caroline Street, Baltimore, MD 21231, Officer: Fola S. Jinaou, President.

Allied Maritime Services Inc., 360 Rue Saint Jacques, Montreal, Quebec H2y 1R2, Officers: Michael H. Belmer, President, James G. Allan, Vice President.

Dated: November 4, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–30086 Filed 11–9–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 24, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Robert Valdez, La Junta, Colorado; as Trustee of ESOP; and Dale L. Leighty, Las Animas, Colorado; to acquire voting shares of First National Bank of Las Animas, Las Animas, Colorado.

Board of Governors of the Federal Reserve System, November 4, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–30095 Filed 11–9–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 4, 1998.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Aberdeen Financial Corporation, Sierra Blanca, Texas; to become a bank holding company by acquiring 90 percent of the voting shares of Aberdeen Financial Intermediate Holding Company, Inc., Wilmington, Delaware, and thereby indirectly acquire Bank of Sierra Blanca, Sierra Blanca, Texas.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Wells Fargo & Company, San Francisco, California; to merge with Riverton State Bank Holding Company, Riverton State Bank, both of Riverton, Wyoming, and Dubois National Bank, Dubois, Wyoming.

Board of Governors of the Federal Reserve System, November 4, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–30097 Filed 11–9–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 24, 1998.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. U.S. Bancorp, Minneapolis, Minnesota; to acquire Libra Investments, Inc., Irvine, California, through this acquisition, U.S. Bancorp will acquire an equity interest in Libra Investors, LLC, LFM, LLC, Libra Investors II, LLC, and LFC, LLC, all of Los Angeles, California, and thereby engage in underwriting and dealing in, to a limited extent, all types of debt and equity securities other than open-end investment companies. *J.P. Morgan & Co., Incorporated*, 75 Fed. Res. Bull. 192 (1989). Engaging in financial advisory activities pursuant to § 225.28(b)(6) of the Board's Regulation Y. Providing agency transactional services for customer investments pursuant to § 225.28(b)(7) of Regulation Y. Acting directly or indirectly through subsidiaries or affiliates, as general partner for a series of limited partnerships and limited liability companies now existing or to be established in the future, that are excluded from the definition of ''investment company'' under the Investment Company Act of 1940 and are exempt from registration and the prospectus requirements of the Securities Act of 1933, which may invest in securities or other assets eligible for investment by U.S. Bancorp and may make, service and invest in discounted bank loans and other debt securities (other than discounted debt securities collateralized by shares of banks and bank holding companies), including secured and unsecured debt in the form of bank loans, privately placed and publicly-traded debt instruments, bonds, notes, debentures and discounted receivables. *Dresdner Bank AG*, 84 Fed. Res. Bull. 361 (1998); Letter to Swiss Bank Corporation from the Federal Reserve Bank of New York (March 28, 1995); *Meridian Bancorp, Inc.*, 80 Fed. Res. Bull. 736 (1991).

Board of Governors of the Federal Reserve System, November 4, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–30096 Filed 11–9–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 12:00 noon, Monday, November 16, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. 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: November 6, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–30238 Filed 11–6–98; 3:13 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 9723189]

The May Department Stores Company, et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 11, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: John T. Dugan or Paul G. Block, Boston Regional Office, Federal Trade Commission, 101 Merrimac Street, Suite 810, Boston, MA 02114–4719, (617) 424–5960 or 424–5971.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for November 2, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can by obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from The May Department Stores Company. The proposed respondent is a large retailer that operates over 350 department stores nationwide through eight regional divisions and ten trade names, including Lord & Taylor, Hecht's, Strawbridge's, Foley's, Robinsons-May, Kaufmann's, Filene's, Famous Barr, L.S. Ayres, and Meier & Frank.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

The Commission's complaint alleges several unfair or deceptive acts or practices related to the proposed respondent's policy of inducing consumers who have filed for bankruptcy protection to sign agreements reaffirming debts owed to proposed respondent prior to the filing of the bankruptcy petition. The complaint charges that the proposed respondent: falsely represented to consumers that signed reaffirmation agreements would be filed with the bankruptcy courts, as required by the United States Bankruptcy Code; falsely represented to consumers that debts associated with unfiled reaffirmation agreements, or agreements that were filed but not approved by the bankruptcy courts, were legally binding on the consumers; and unfairly collected debts that it was not permitted by law to collect. The proposed consent order contains provisions designed to remedy the violations charged and to prevent the proposed respondent from engaging in similar acts in the future.

The proposed consent order preserves the Commission's right to seek consumer redress if the Commission determines that redress to consumers provided through related named and unnamed legal actions is not adequate.

Part I of the proposed order prohibits the proposed respondent from misrepresenting to consumers who have filed petitions for bankruptcy protection under the United States Bankruptcy Code that (A) reaffirmation agreements will be filed in bankruptcy court; or (B) any reaffirmation agreement is legally binding on the consumer. Part I.C of the proposed order prohibits the proposed respondent from taking any action to collect any debt (including any interest, fee, charge, or expense incidental to the principal obligation) that has been legally discharged in bankruptcy proceedings and that the proposed respondent is not permitted by law to collect. Part II of the proposed order prohibits the proposed respondent from making any material misrepresentation in the collection of any debt subject to a pending bankruptcy proceeding.

Part III of the proposed order contains record keeping requirements for materials that demonstrate the compliance of the proposed respondent with the proposed order. Part IV requires distribution of a copy of the consent decree to certain current and future personnel who have responsibilities related to collecting debts subject to bankruptcy proceedings.

Part V provides for Commission notification upon any change in the corporate respondent affecting compliance obligations arising under the order. Part VI requires the proposed respondent to notify the Commission of proposed settlement terms in related actions filed by various named and unnamed parties. Part VII requires the filing of compliance report(s). Finally, Part VIII provides for the termination of the order after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–30087 Filed 11–9–98; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99009]

Notice of Availability of Funds; Cooperative Agreement for Limb Loss Research and the Prevention of Secondary Conditions

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for limb loss research and the prevention of secondary conditions. The purpose of the program is to advance the field of limb loss epidemiology, surveillance, data analysis, and intervention design including health promotion programs for persons with limb loss and the prevention of secondary conditions. This program addresses the ''Healthy People 2000'' priority area of Preventive Services.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations, and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

It is anticipated that a maximum of $500,000 will be available in FY 1999 to fund one award, including direct and indirect costs. It is expected that the project period will begin on April 1, 1999 and the award will be made for a 12-month budget period within a project period of up to four years. This funding estimate may change. Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports, CDC site visits, and the availability of funds.

Use of Funds

Project funds may be used to support personnel services, supplies, equipment, travel, subcontracts, and other services consistent with the approved scope of work.

Project funds may not be used to supplant other available applicant or collaborating agency funds, for construction, or purchase of facilities or space, or for patient care. Project funds may not be used for individualized preventive measures (direct patient support) such as wheelchairs, assistive technology, and medical appliances including prosthetic devices unless specifically approved by the funding agency. Travel funds should be requested for at least three project staff to participate in a CDC Office on Disability and Health workshop in Atlanta, GA during the first budget year.

D. Program Requirements

The applicant should: (1) propose and utilize a six month planning period at the beginning of the project in order to structure key staffing and organizational activities; (2) establish formal collaborations with identified outside entities, and solicit diverse input for use in project design, objective setting, and operations; and (3) appoint a full-time manager/coordinator with the authority and responsibility to conduct and manage all components of the project.

Cooperative Activities

In conducting activities to achieve the purposes of this program, the Recipient shall be responsible for activities listed under Recipient Activities, item A; and CDC shall be responsible for activities listed under CDC Activities, item B.

A. Recipient Activities

1. Develop an epidemiologic capacity to understand and characterize secondary conditions in persons with limb loss including analyses of differential secondary conditions and their associations with co-morbidities.

2. Collect, compile, and analyze information relevant to the incidence and prevalence of limb loss and amputations on a national, regional, and state/local basis.

3. Develop cost-effectiveness measures and models as optimal approaches for intervention design and efficacy, and provide guidance for their implementation.

4. Characterize the population of persons with limb loss by determined incidence, etiology/causality, functional effects, co-morbidities, and affected limb site variables.

5. Develop and maintain research literature and resources on the prevention of secondary conditions and health promotion strategies regarding limb loss, and establish a communication process to disseminate prevention information to research entities including collaboration with the National Limb Loss Information Center.

6. Provide technical assistance on health promotion and community-directed interventions that has as its purpose the prevention of secondary conditions in targeted populations.

7. Develop a model limb loss and amputation reporting system that could be piloted in a geographic or health jurisdiction.

8. Collaborate with other organizations for the design and/or implementation of programs meriting replication in other settings, recognizing appropriate cultural sensitivity and controlled by a formal program evaluation protocol.

9. Establish relationships and client access linkage with public/community/advocacy/voluntary agencies and provider organizations that serve persons with limb loss for the purpose of addressing and understanding secondary conditions and promoting best practices from the health promotion and personal perspective of persons who have experienced limb loss.

10. Collect and report information on community programs related to limb loss including complications from surgery, comparisons of clinical and community programs geared toward preventing secondary conditions, vocational and educational outcomes in persons with limb loss, gaps in services and data, and provider training needs.

B. CDC Activities

1. Provide consultation in the development of data collection instruments, methods, procedures, and outcome determinations.

2. Provide technical consultation, assistance, and referrals on existing epidemiological information regarding limb loss and amputations in the United States.

3. Serve as a reference for accessing other data sets that will be of value to the surveillance and epidemiologic activities of the recipient.

4. Provide consultation on the development of cost-effectiveness and cost-utility models, and in designing minimal data sets for developing pilot reporting systems for limb loss and amputations.

5. Assist the project in the planning and organizing of conferences and

workshops regarding surveillance activities, developing partnerships, and in the characterization of limb loss nationally and in population sub-groups.

6. Assist in the transfer of information and methods developed in the project to other disability-related entities and programs.

E. Application Content

Use the information in the Program Requirements, Cooperative Activities, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The narrative addressing the scored criteria should be no more than 40 single-spaced pages, printed on one side, with one inch margins, and unreduced font.

F. Submission and Deadline

Letter of Intent (LOI)

A non-binding letter of intent to apply is requested from potential applicants. The LOI should identify the Announcement number, name the proposed project director, and describe the scope of the proposed project in not more than three pages. The letter will not influence review or funding decisions, but it will enable CDC to plan the review more efficiently, and ensure that each applicant receives timely and relevant information prior to the application review.

The LOI should be submitted on or before *December 22, 1998* to Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE, Mailstop E–13, Atlanta, Georgia 30305-2209.

Application

Applicants must submit a separate typed abstract/summary of their proposal as a cover to their applications, consisting of no more than two single-spaced pages. Applicants should also include a table of contents for the project narrative and related attachments. It is strongly suggested that applications be organized to be compatible with the evaluation scoring criteria, as that is the process by which the review committee will assess the quality of the proposals.

Submit the original and five copies of PHS–398 (OMB Number 0925–0001). Adhere to the instructions on the Errata Instruction Sheet for PHS 398. Budget and other required forms are in the application kit. Applications are due on or before *Wednesday, January 20, 1999.*

Submit the application to Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE, Mailstop E–13, Atlanta, Georgia 30305–2209. Please list the Announcement Number 99009 on the covering address label. If your application does not arrive in time for submission to the independent review group, it will not be considered in the current competition unless you can provide proof that you mailed it on or before the deadline (i.e., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

A. Problem Statement and Evidence of Need—15 Points

This includes: 1. the extent to which the applicant understands the purpose and requirements of the program.

2. The presentation of the magnitude and impact of limb loss as a public health issue with cited references.

3. The understanding of unmet needs as they affect the occurrence and documentation of secondary conditions, and the information gaps associated with the epidemiology of secondary conditions related to limb loss.

4. The presentation of the full range of surveillance activities required and inventory of data sets to be developed and accessed.

5. The description of research needs in the development of models for intervention design, and the problems (and opportunities) inherent in developing uniform reporting systems for limb loss and amputations.

B. Research Resources and Organizational Capacity—20 Points

This includes: 1. the capability of the applicant to conduct the project, taking into account its institutional experience and its current activities in the field for all required activities.

2. The ability of the applicant to ensure timely access to necessary population-based data related to the surveillance and epidemiology of secondary conditions associated with limb loss.

3. The understanding demonstrated and the resources available to address the development of cost-effectiveness models for the design and conduct of health promotion interventions.

4. The capacity of the applicant to provide evidence of effective collaborations and linkages to meet the research requirements of the project including documented letters of support and commitments from collaborating entities.

5. The capacity of the applicant to include and effectively work with community organizations and service providers in order to develop and sustain an outreach capacity to assess the needs of persons with limb loss, and to provide guidance and consultation regarding health promotion interventions to prevent secondary conditions.

6. The capacity of the applicant to collect and secure confidential information, and to protect study participants through rigorous human subjects clearance procedures.

C. Research Approach—35 Points

This includes: 1. the methods to be employed to gather necessary etiological/causality, demographic, and functional data, including the kinds and resources of data to be accessed, collected, analyzed, and used.

2. The quality and scope of the data collection and data analysis plan, and the description of the staff and organizations charged with its control.

3. The approach proposed to use extant or emerging epidemiologic data to assess the frequency and significance of secondary conditions, including risk and protective factors.

4. The approach to translate epidemiological/ surveillance data into outreach intervention protocols designed to prevent secondary conditions in persons with limb loss through the provision of guidance and technical assistance to community groups and service providers.

5. The approach to gather information on the experiences, perceptions, and concerns/needs of persons with limb loss (and their families), and translate that information into intervention protocols designed to provide knowledge to prevent secondary conditions. This approach should consider both healthy living practices (e.g., tobacco use cessation, nutrition, weight management, physical activity and exercise), as well as secondary medical/clinical conditions directly related to an amputation/limb loss (e.g., infections, fall-related injury, pain, depression, prosthetic adaptability, etc).

6. The capacity of the applicant to describe their approach and later develop a prototype uniform reporting system for limb loss and amputations

that could be piloted in a selected jurisdiction to demonstrate feasibility and reasonableness.

7. The quality and comprehensiveness of the overall research plan that includes innovative approaches to best address the epidemiologic/surveillance, demographic characterization, health promotion interventions, and collaborative opportunities.

8. The degree to which the applicant has met CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in proposed research. This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The proposed justification when representation is limited or absent.

c. A statement as to whether the design of the study is adequate to measure differences when warranted.

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

D. Management Plan and Project Goals and Objectives—30 Points

This includes: 1. how the applicant will use the six month planning period to gather diverse input and engage all collaborating partners and constituencies in meeting the full range of activities required under this announcement.

2. The management work plan for conducting the project including the advantage defined by its placement within the applicant organization (include an organization chart and denote the relationship of this project within the applicant organization).

3. The presentation of the approach, methods, and goals, objectives and timelines for the first year by calendar month or quarter; and a work plan outline for the second, third, and fourth years of the project.

4. The description of the specified tasks and responsibilities for all positions proposed for financial assistance, including both applicant organization staff and contractual/consultant personnel.

5. The manner in which the project will seek out, utilize, and benefit from other research and provider organizations in developing limb loss project priorities and objectives.

6. The proposed plan to maintain and disseminate appropriate limb loss information through defined communications technology processes and systems.

7. The process for how the applicant will evaluate the management work plan and all research and outreach activities of the project.

E. Budget Justification—Not Scored

This criteria includes the adequacy of the budget justification and its relationship to program operations, collaborations, and services. Each line item of the budget must be well justified in a brief narrative with special attention given to contractual requests including the responsibilities of consultants, percentage time equivalents, hourly or daily rates, etc. This section will also be evaluated on the adequacy of facilities to conduct the project. The relevance of this section to the other evaluation criteria will be measured on the extent to which the budget narrative is reasonable, clearly documented, accurate, and consistent with the purpose of this announcement.

F. Human Subjects—Not Scored

This includes the extent to which the application adequately addresses the requirements of Title 45 CFR Part 46 for the protection of human subjects. If the project involves research on human participants, assurance and evidence must be provided to demonstrate that the project will be subject to initial and continuing reviews by an appropriate institutional review board. Does the project adequately address the requirements of 45 CFR 46 for the protection of human subjects?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. semi-annual progress reports; due dates to be denoted in the notice of grant award;

2. financial status report, due no more than 90 days after the end of each budget period; and

3. final financial and performance reports, due no more than 90 days after the end of the project period.

The following additional requirements are applicable to this program. For a complete description of each, see Addendum I.

AR98–1 Human Subjects Requirements
AR98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR98–9 Paperwork Reduction Act Requirements
AR98–10 Smoke-Free Workplace Requirements
AR98–11 Healthy People 2000
AR98–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act [42 U.S.C. section 241 (a)], as amended. The Catalog of Federal Domestic Assistance number is 93.184.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest. Also, the CDC Home Page on the Internet: http://www.cdc.gov is available for copies of this Announcement, application forms, and funding information.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99009, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE, Mailstop E–13, Atlanta, GA, 30305–2209, telephone (404) 842–6804. E-mail address: vxw1@cdc.gov

For program technical assistance, contact Jack Stubbs, Office on Disability and Health, Centers for Disease Control and Prevention, National Center for Environmental Health (NCEH) 4770 Buford Highway, Mailstop F–29, Atlanta, GA, telephone (770) 488–7096. E-mail address: jbs2@cdc.gov

Dated: November 4, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–30058 Filed 11–9–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99010]

Notice of Availability of Funds; Cooperative Agreement for a National Information Center on Physical Activity for Persons With Disabilities

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999

funds to establish a National Information Center on Physical Activity for Persons with Disabilities. The purpose of this Center is to provide information, technical assistance, and consultation on physical activity, exercise, and health promotion practices targeting persons with disabilities across all segments of the population. It includes addressing the prevention of secondary conditions in persons who have a disability by promoting and assessing the benefits of physical activity and exercise toward reducing the risk for associated adverse health and participation outcomes among persons who have a disabling condition. This program addresses the ''Healthy People 2000'' priority areas of Preventive Services and Physical Activity and Fitness.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations. Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

It is anticipated that a maximum of $750,000 will be available in FY 1999 to fund one award, including direct and indirect costs. It is expected that the project will begin on April 1, 1999, and the award will be made for a 12 month budget period within a project period of up to four years. Funding estimates may change. Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports, CDC site visits, and the availability of funds.

Use of Funds

Project funds may be used to support personnel services, supplies, equipment, travel, subcontracts, and other services consistent with the approved scope of work. Project funds may not be used to supplant other available applicant or collaborating agency funds, for construction, for purchase of facilities or space, or for patient care. Project funds may not be used for individualized or group program support such as wheelchairs, sport/recreational and fitness equipment, assistive technology, and medical appliances unless specifically approved by the funding agency. Travel funds should be requested for three project staff to participate in a CDC Office on Disability and Health workshop in Atlanta, GA during the first budget year, and two project staff members to attend the American College of Sports Medicine Annual Meeting in Seattle, WA in June 1999.

D. Program Requirements

Applicants should: (1) propose a full-time manager/coordinator with the authority and responsibility to conduct and manage all components of the project; (2) demonstrate the capacity to motivate persons with disabilities to engage in physical activity and exercise; (3) demonstrate the capacity to provide consultation to organizations that provide direct services, guidance, and instruction to persons with disabilities toward increasing participation and beneficial outcomes in physical activity and exercise programs; (4) demonstrate the capacity to serve in a national leadership role to establish and operate the National Information Center, given the applicant's reputation, experience, and expertise in the field; and (5) provide direction and leadership in developing recommendations and programs promoting fully accessible physical facilities and equipment designed to increase opportunities for physical activities and exercise for persons with disabilities.

Cooperative Activities

In conducting activities to achieve the purposes of this program, the recipient shall be responsible for activities listed under Recipient Activities, item A; and CDC shall be responsible for activities listed under CDC activities, item B.

A. Recipient Activities

1. Collect, compile, and provide information regarding physical activity and exercise for persons with disabilities on a national, regional, and state/local basis to a broad range of requestors including individuals, researchers, disability service organizations, community groups, service providers, legislative and governing bodies, and the public.

2. Identify, enumerate, and characterize the nature of such requests, inquiries and needs from persons with disabilities, providers, and organizations seeking information on physical activity and exercise.

3. Provide guidance for initiating and maintaining physical activity among persons with disabilities, including imparting information regarding the benefits of physical activity to individuals and to those populations served by requesting organizations.

4. Provide technical assistance and consultation in the design, conduct, and evaluation of health promotion and community-directed physical activity and exercise programs in targeted populations of persons with disabilities.

5. Develop and provide information regarding innovative and acceptable physical activity facilities (e.g. buildings, parks, trails, equipment, new technology) that are fully accessible and available to persons with disabilities with attention to geographical proximity and cost issues.

B. CDC Activities

1. Provide technical consultation on current available and emerging research, literature, epidemiological, and physical activity information in the United States.

2. Serve as a conduit for accessing other data sets and for referrals to information resources that would be of value to the information gathering/dissemination and technical assistance activities of the recipient.

3. Assist the project in the planning and organizing of conferences and workshops related to project activities regarding physical activity and exercise for persons with disabilities.

4. Assist the project in the transfer of information and methods developed in the project to other disability-related entities and programs.

E. Application Content

Use the information in the Program Requirements, Cooperative Activities, and Evaluation Criteria sections to develop the application content. The application will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The narrative addressing the scored criteria should be no more than 40 single-spaced pages, printed on one side, with one inch margins, and unreduced font.

F. Submission and Deadline

Letter of Intent (LOI)

A non-binding letter of intent to apply is requested from potential applicants. The LOI should identify the announcement number, name the proposed project director, and describe the scope of the proposed project in not more than three pages. This letter will not influence review or funding

decisions, but it will enable CDC to plan the review more efficiently, and ensure that each applicant receives timely and relevant information prior to the application review.

The LOI should be submitted on or before December 22, 1998 to Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE, Mailstop E–13, Atlanta, Georgia 30305–2209.

Application

Applicants must submit a separate typed abstract/summary of their proposal as a cover to their applications, consisting of no more than two single-spaced pages. Applicants should also include a table of contents for the project narrative and related attachments. It is suggested that applications be organized to be compatible with the evaluation scoring criteria, as that is the process by which the review committee will assess the quality of the applications.

Submit the original and five copies of PHS–398 (OMB Number 0925–0001). Adhere to instructions on the Errata Instruction Sheet for PHS 398. Budget and other required forms are in the application kit. Applications are due on or before Wednesday January 20, 1999.

Submit the application to Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE, Mailstop E–13, Atlanta, Georgia 30305–2209. Please list Announcement Number 99010 on the covering address label. If your application does not arrive in time for submission to the review group, it will not be considered in the current competition unless you can provide proof that you mailed it on or before the deadline (i.e., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

A. Problem Statement and Evidence of Need—15 Points. This includes: 1. The extent to which the applicant understands the purpose and requirements of the program.

2. The accounts of the value of promoting physical activity among persons with disabilities as an important public health issue with cited references in the literature.

3. The presentation of the full range of information and communications activities that will be required with an inventory of resources and databases to be accessed as referral sources.

4. The description of unmet needs and gaps (barriers and constraints) as they relate to advancing a coordinated and comprehensive information system on physical activity and exercise among persons with disabilities; and how this project would move toward elimination of those barriers.

B. Research Resources and Organizational Capacity—20 Points. This includes: 1. The capability of the applicant to conduct the project, taking into account its institutional experience, evidence of leadership, and current activities in the field for those activities required.

2. The ability of the applicant to ensure timely access to necessary data and educational materials related to physical activity, denoting the sources for such data and materials.

3. The capacity of the applicant to provide evidence of effective collaborations and linkages with both the disability and physical activity fields, professional groups, service providers, fitness facilities, governmental agencies, and community organizations to meet the requirements of the project; including documented letters of support and commitments from those collaborating entities.

4. The capacity of the applicant to gather necessary demographic and functional outcome information regarding sub-group patterns for engaging in physical activity and the benefits to be derived; including the kinds and sources of information to be accessed, analyzed, and publicized, the staff/organizations charged with its control, and how that data would be used.

C. Operational Approach—40 Points. This includes: 1. The methods to be employed to establish an effective information resources system and communications network.

2. The approach to: (a) Gather information on the determinants (facilitators and barriers) to physical activity and exercise; (b) assess the perceptions and experiences of persons with disabilities and their families regarding physical activity; (c) formulate a strategy to enable and motivate persons with disabilities to engage in physical activity, exercise, and recreational programs; and (d) promote guidelines and recommendations for sustaining such activities over the long-term.

3. The methods by which the applicant will develop and disseminate educational materials on facts, benefits, programs, and motivational tools based on their value for promoting physical activity in persons with disabilities across all age ranges and literacy levels during medical treatment, rehabilitation, and in the home and community settings.

4. The approach proposed to construct a centralized listing of programs, events, and service providers to be disseminated to requestors for personal, organizational, and constituency use.

5. The accounts of the proposed resource development and communications capacity for employing information technology to reach key targeted groups including impairment-specific populations; children; older citizens; women; minorities; lower socio-economic strata; professionals/clinicians/fitness/allied health providers and educators/trainers; persons with varying fitness levels; and changing (persons with improving/regressing physical conditioning) in order to best translate information into physical activity and exercise programs and protocols for persons with disabilities.

6. The description of how the applicant will develop and implement appropriate readability levels, cultural sensitivity, and fully accessible formats in all communication and program activities.

7. The methods by which the applicant will provide technical assistance, information, and consultation to participants and supporting organizations regarding the design, conduct, and evaluation of programs to introduce and sustain physical activity and exercise in persons with disabilities.

8. The degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in proposed research (as appropriate). This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The proposed justification when representation is limited or absent.

c. A statement as to whether the design of the study is adequate to measure differences when warranted.

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

D. Management Plan and Project Goals and Objectives—25 Points. This includes: 1. The management work plan for conducting the project including the process (approach and methods) by which the applicant will meet established goals and objectives.

2. The presentation of those specific goals, objectives and timelines (with performance expectations for the first year by calendar month or quarter, and a work plan outline for the second, third, and fourth years of the project).

3. The description of the major tasks and responsibilities for key positions including the applicant organization and identified contractual/consultant personnel (include an organization chart and denote the relationship of this project within the applicant organization).

4. The methods by which the applicant will seek out, utilize, and benefit from input by persons with disabilities and their families, and from organizations representing the disability and physical activity communities in planning for project priorities and activities.

5. The description of how the applicant will evaluate its work plan and all informational, referral, communications, and technical assistance activities.

E. Budget Justification—Not Scored. This criteria includes the adequacy of the budget justification and its relationship to program operations, collaborations, and services. Each line item of the budget must be well justified in a brief narrative with special attention given to contractual requests including the responsibilities of consultants, percentage time equivalents, hourly or daily rates, etc. This section will also be evaluated on the adequacy of facilities to conduct the project. The relevance of this section to the other evaluation criteria will be measured on the extent to which the budget narrative is reasonable, clearly documented, accurate, and consistent with the purpose of this announcement.

F. Human Subjects—Not Scored. This includes the extent to which the application adequately addresses the requirements of Title 45 CFR Part 46 for the protection of human subjects. If the proposed project involves research on human participants, assurance and evidence must be provided that the project will be subject to initial and continuous reviews by an appropriate institutional review board. Does the applicant adequately address the requirements of 45 CFR 46 for the protection of human subjects?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of: 1. Semi-annual progress reports; due dates to be denoted in the notice of grant award;

2. Financial status report, due no more than 90 days after the end of each budget period; and

3. Final financial status and performance reports, due no more than 90 days after the end of the project period.

The following additional requirements are applicable to this program. For a complete description of each, see Addendum I.

AR98–1 Human Subjects Requirements
AR98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR98–9 Paperwork Reduction Act Requirements
AR98–10 Smoke-Free Workplace Requirements
AR98–11 Healthy People 2000
AR98–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act, Section 301(a) [42 U.S.C. section 241(a), as amended. The Catalog of Federal Domestic Assistance number is 93.184.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement Number of interest. Also, the CDC Home Page on the Internet: http://www.cdc.gov is available for copies of this Announcement, application forms and funding information.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99010, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE, Mailstop E–13, Atlanta, GA 30305–2209, telephone (404) 842–6804. E-mail address: vxw1@cdc.gov.

For program technical assistance, contact Joseph B. Smith, Office on Disability and Health, National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention, 4770 Buford Highway, Mailstop F–29, Atlanta, GA, telephone (770) 488–7082. E-mail address: jos4@cdc.gov

Dated: November 4, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–30060 Filed 11–9–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Federal Allotments to States for Social Services Expenditures, Pursuant to Title XX, Block Grants to States for Social Services; Promulgation for Fiscal Year 2000

AGENCY: Administration for Children and Families, Department of Health and Human Services.

ACTION: Notification of allocation of title XX—social services block grant allotments for Fiscal Year 2000.

SUMMARY: This issuance sets forth the individual allotments to States for Fiscal Year 2000, pursuant to title XX of the Social Security Act, as amended (Act). The allotments to the States published herein are based upon the authorization set forth in section 2003(c) of the Social Security Act and are contingent upon Congressional appropriations for the fiscal year. If Congress enacts and the President approves an amount different from the authorization, the allotments will be adjusted proportionately.

FOR FURTHER INFORMATION CONTACT: John K. Jolley, (202) 401–5284.

SUPPLEMENTARY INFORMATION: Section 2003(c) of the Act authorizes $2.380 billion for Fiscal Year 2000 and provides that it be allocated as follows:

(1) Puerto Rico, Guam, the Virgin Island, and the Northern Mariana Islands each receives an amount which bears the same ratio to $2.380 billion as its allocation for Fiscal Year 1981 bore to $2.9 billion.

(2) American Samoa receives an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the most recent data available at the time such allotment is determined.

(3) The remainder of the $2.380 billion is allotted to each State in the same proportion as that State's population is to the population of all

States, based upon the most recent data available from the Department of Commerce. For Fiscal Year 2000, the allotments are based upon the Bureau of Census population statistics contained in its reports ''Population of States by Broad Age Groups and Sex: 1990 and 1995 (CB96–88, Table 4) released May 31, 1996, and ''1990 Census of Population and Housing'' (CPH–6–AS and CPH–6–CNMI) published April 1992, which was the most recent data available from the Department of Commerce at the time of the Department's initial promulgation.

EFFECTIVE DATE: The allotments are effective October 1, 1999.

FISCAL YEAR 2000 FEDERAL ALLOTMENTS TO STATES FOR SOCIAL SERVICES—TITLE XX BLOCK GRANTS

Alabama	$38,307,808	$37,004,055
Alaska	5,440,375	5,255,219
American Samoa	88,560	85,546
Arizona	37,992,554	36,699,530
Arkansas	22,373,994	21,612,526
California	284,529,822	274,846,246
Colorado	33,750,142	32,601,503
Connecticut	29,498,723	28,494,775
Delaware	6,458,194	6,238,398
Dist. of Col	4,990,013	4,820,185
Florida	127,596,615	123,254,041
Georgia	64,861,162	62,653,702
Guam	410,345	396,379
Hawaii	10,691,598	10,327,724
Idaho	10,475,425	10,118,909
Illinois	106,555,694	102,929,219
Indiana	52,269,036	50,490,132
Iowa	25,598,587	24,727,374
Kansas	23,103,580	22,317,282
Kentucky	34,767,961	33,584,682
Louisiana	39,109,452	37,778,416
Maine	11,177,990	10,797,562
Maryland	45,423,530	43,877,603
Massachusetts	54,709,999	52,848,020
Michigan	86,010,171	83,082,934
Minnesota	41,523,394	40,110,202
Mississippi	24,292,536	23,465,773
MissourI	47,954,566	46,322,499
Montana	7,836,302	7,569,604
Nebraska	14,744,858	14,243,037
Nevada	13,781,083	13,312,063
New Hampshire	10,340,316	9,988,397
New Jersey	71,562,552	69,127,020
New Mexico	15,177,206	14,660,671
New York	163,355,373	157,795,800
North Carolina	64,807,119	62,601,499
North Dakota	5,773,643	5,577,145
No. Mariana Islands	82,069	79,276
Ohio	100,439,775	97,021,447
Oklahoma	29,525,745	28,520,877
Oregon	28,291,753	27,328,883
Pennsylvania	108,735,447	105,034,787
Puerto Rico	12,310,345	11,891,379
Rhode Island	8,917,171	8,613,687
South Carolina	33,083,606	31,957,651
South Dakota	6,566,281	6,342,807
Tennessee	47,342,073	45,730,851
Texas	168,651,632	162,911,808
Utah	17,573,133	16,975,056
Vermont	5,269,238	5,089,907
Virgin Islands	410,345	396,379
Virginia	59,609,939	57,581,197
Washington	48,918,341	47,253,473
West Virginia	16,465,242	15,904,870
Wisconsin	46,144,110	44,573,659
Wyoming	4,323,477	4,176,334
Total	2,380,000,000	2,299,000,000

Dated: November 3, 1998.

Donald Sykes,

Director, Office of Community Services.

[FR Doc. 98–30075 Filed 11–9–98; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96N–0393]

Agency Information Collection Activities; Proposed Collection; MedWatch: The FDA Medical Products Reporting Program; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed revision of two forms for collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the proposed revision of two forms from ''MedWatch: The FDA Medical Products Reporting Program'' (MedWatch). These forms, Form FDA 3500 (voluntary) and Form FDA 3500A (mandatory), will be used to report to the agency on adverse events and product problems that occur with all medical products regulated by FDA.

DATES: Submit written comments on the collection of information by January 11, 1999.

ADDRESSES: Submit written requests for single copies of the revised MedWatch reporting forms, Form FDA 3500 (voluntary) and Form FDA 3500A (mandatory), and a summary of the proposed revisions to the forms, by e-mail to ''medwatch@oc.fda.gov'', by fax to 301–827–7241, or by mail to ''MedWatch: The FDA Medical Product Reporting Program,'' Food and Drug Administration (HF–2), 5600 Fishers Lane, rm. 17–65, Rockville, MD 20857 (301–827–7240). Requests by mail should include one self-addressed adhesive label to assist that office in processing your request. Copies of the forms and the summary of the changes may also be obtained via Internet at ''http://www.fda.gov/medwatch'' under ''How to Report''.

Submit written comments on the revised MedWatch reporting forms to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mark L. Pincus, Office of Information Resources Management (HFA–80), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1471.

SUPPLEMENTARY INFORMATION:

I. Background

Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

MedWatch—The FDA Medical Products Reporting Program (Forms FDA 3500 and FDA 3500A) (OMB Control Number 0910–0291—Revision)

Under sections 505, 507, 512, 513, 515, and 903 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355, 357, 360b, 360c, 360e, and 393); and section 351 of the Public Health Service Act (42 U.S.C. 262), FDA has the responsibility to ensure the safety and effectiveness of drugs, biologics, and devices. Under section 502(a) of the act (21 U.S.C. 352(a)), a drug or device is misbranded if its labeling is false or misleading. Under section 502(f)(1) of the act it is misbranded if it fails to bear adequate warnings, and under section 502(j), it is misbranded if it is dangerous to health when used as directed in its labeling.

Under section 4 of the Dietary Supplement Health and Education Act of 1994 (the DSHEA) (21 U.S.C. 301), section 402 of the act (21 U.S.C. 342) is amended so that FDA must bear the burden of proof to show a dietary supplement is unsafe.

To carry out its responsibilities, the agency needs to be informed whenever an adverse event or product problem occurs. Only if FDA is provided with such information, will the agency be able to evaluate the risk, if any, associated with the product, and take whatever action is necessary to reduce or eliminate the public's exposure to the risk through regulatory action ranging from labeling changes to the rare product withdrawal. To ensure the marketing of safe and effective products, certain adverse events must be reported. Requirements regarding mandatory reporting of adverse events or product problems have been codified in parts 310, 314, 600, and 803 (21 CFR 310, 314, 600, and 803), specifically §§ 310.305, 314.80, 314.98, 600.80, 803.30, 803.50, 803.53, and 803.56.

To implement these provisions for reporting of adverse events and product problems with all medications, devices, and biologics, as well as any other products that are regulated by FDA, two very similar forms are used. Form FDA 3500 is used for voluntary (i.e., not mandated by law or regulation) reporting of adverse events and product problems by health professionals and the public. Form FDA 3500A is used for mandatory reporting (i.e., required by law or regulation). Respondents to this collection of information are health professionals, hospitals and other user-facilities (e.g., nursing homes, etc.), consumers, manufacturers of biologics, drugs and medical devices, distributors, and importers.

II. Use of the Voluntary Version (FDA Form 3500):

Individual health professionals are not required by law or regulation to submit adverse event or product problem reports to the agency or the manufacturer. There is one exception. The National Childhood Injury Act of 1986 mandates that certain adverse reactions following immunization be reported by physicians to the joint FDA/Centers for Disease Control and Prevention (CDC) Vaccine Adverse Event Reporting System (VAERS).

Hospitals are not required by Federal law or regulation to submit adverse event reports on medications. However, hospitals and other medical facilities are required by Federal law to report medical device related deaths and serious injuries.

Manufacturers of dietary supplements do not have to prove safety or efficacy of their products prior to marketing, nor do they have mandatory requirements for reporting adverse reactions to FDA. However, the DSHEA of 1994 puts the onus on FDA to prove that a particular product is unsafe. Consequently, the agency is totally dependent on voluntary reporting by health professionals and consumers about problems with the use of dietary supplements.

The voluntary version of the form is used to submit all adverse event and product problem reports not mandated by Federal law or regulation.

Experience over the past 5 years has revealed the need to modify the voluntary form to better utilize the available space and to better query reporters for information specific to dietary supplements and medication quality problems.

III. Use of the Mandatory Version (FDA Form 3500A):

A. Drug and Biologic Products

In section 505(j) and 704 (21 U.S.C. 374) of the act, Congress has required that important safety information relating to all human prescription drug products be made available to FDA so that it can take appropriate action to protect the public health when necessary. Section 702 of the act (21 U.S.C. 372) authorizes investigational powers to FDA for enforcement of the act. These statutory requirements regarding mandatory reporting have been codified by FDA under parts 310 and 314 (drugs) and part 600 (biologics) of the Code of Federal Regulations. Parts 310, 314, and 600 mandate the use of the FDA Form 3500A for reporting to FDA on adverse events that occur with drugs and biologics.

B. Medical Device Products

Section 519 of the act (21 U.S.C. 360i) requires manufacturers, importers, or distributors of devices intended for human use to establish and maintain records, make reports, and provide information as the Secretary of Health and Human Services may by regulation reasonably require to ensure that such devices are not adulterated or misbranded and to otherwise ensure its safety and effectiveness. Furthermore, the Safe Medical Device Act of 1990, signed into law on November 28, 1990, amends section 519 of the act. The amendment requires that user facilities such as hospitals, nursing homes, ambulatory surgical facilities and outpatient treatment facilities report deaths related to medical devices to FDA and to the manufacturer, if known. Serious illnesses and injuries are to be reported to the manufacturer or to FDA if the manufacturer is not known. These statutory requirements regarding mandatory reporting have been codified by FDA under 21 CFR part 803 (part 803). Part 803 mandates the use of FDA Form 3500A for reporting to FDA on medical devices.

C. Other Products Used in Medical Therapy

There are no mandatory requirements for the reporting of adverse events or product problems with products such as dietary supplements. However, the DSHEA puts the onus on FDA to prove that a particular product is unsafe. Consequently, the agency is totally dependent on voluntary reporting by health professionals and consumers about problems with the use of dietary supplements.

The mandatory form has been modified to incorporate some new data elements and to allow drug and biologic manufacturers to use only the front page rather than the full two-page form. (Note: Most pharmaceutical manufacturers already use a one-page modified version of the 3500A form where Section G from the back of the form is substituted for Section D on the front of the form.)

IV. Estimated Reporting Burden

FDA estimates the burden for completing the forms for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

FDA Center(s)[1] and Forms (with applicable 21 CFR Section)	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
CBER/CDER					
Form 3500[2]	16,008	1	16,008	0.5	8,004
Form 3500A[3] (§§ 310.305, 314.80, 314.98, and 600.80)	410	573.9	235,304	1.0	235,304
CDRH					
Form 3500[2]	2,353	1	2,353	0.5	1,176.5
Form 3500A[3] (§ 803)	3,116	24.8	77,337	1.0	77,337
CFSAN					
Form 3500[2]	237	1	237	0.5	118.5
Form 3500A[3] (no mandatory requirements)	0	0	0	1.0	0
Total Hours					321,940
Form 3500[2]					9,299
Form 3500A[3]					312,641

[1] CBER (Center for Biologics Evaluation and Research), CDER (Center for Drug Evaluation and Research), CDRH (Center for Devices and Radiological Health), and CFSAN (Center for Food Safety and Applied Nutrition).
[2] FDA Form 3500 is for voluntary reporting.
[3] FDA Form 3500A is for mandatory reporting.

The figures shown in Table 1 of this document are based on actual number of calendar year 1997 reports and respondents for each center and type of report.

As more medical products are approved by FDA and marketed, and as knowledge increases regarding the importance of notifying FDA when adverse events and product problems are observed, it is expected that more reports will be submitted.

V. Request for Comments

Interested persons may, on or before January 11, 1999, submit written

comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments and copies of the revised MedWatch reporting forms, Form FDA 3500 (voluntary) and Form FDA 3500A (mandatory), may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 30, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–30007 Filed 11–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0228]

Determination of Regulatory Review Period for Purposes of Patent Extension; Neuro Cybernetic Prosthesis (NCP®) System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Neuro Cybernetic Prosthesis (NCP®) System and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device Neuro Cybernetic Prosthesis (NCP®) System. Neuro Cybernetic Prosthesis (NCP®) System is indicated for use as an adjunctive therapy in reducing the frequency of seizures in adults and adolescents over 12 years of age with partial onset seizures, which are refractory to antiepileptic medications. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Neuro Cybernetic Prosthesis (NCP®) System (U.S. Patent No. 4,867,164) from Cyberonics, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 22, 1998, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of Neuro Cybernetic Prosthesis (NCP®) System represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Neuro Cybernetic Prosthesis (NCP®) System is 3,237 days. Of this time, 3,066 days occurred during the testing phase of the regulatory review period, while 171 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a clinical investigation involving this device was begun*: September 6, 1988. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) for human tests to begin became effective on November 15, 1988. However, FDA records indicate that the IDE was determined substantially complete for clinical studies to have begun on September 6, 1988, which represents the IDE effective date.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e)*: January 27, 1997. The applicant claims December 16, 1991, as the date the premarket approval application (PMA) for Neuro Cybernetic Prosthesis (NCP®) System (PMA 910070) was initially submitted. However, FDA records indicate that PMA 910070 submitted on December 6, 1991, was incomplete. FDA refused this application and notified the applicant of this fact by letter dated February 11, 1992. The completed PMA was then submitted and renumbered PMA 970003 on January 27, 1997, which is considered to be the PMA initially submitted date.

3. *The date the application was approved*: July 16, 1997. FDA has verified the applicant's claim that PMA 970003 was approved on July 16, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,761 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before January 11, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before May 10, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies

(except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 2, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–30005 Filed 11–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Donor Suitability; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing the following public workshop: Blood Donor Suitability. The workshop is intended to gather current scientific data on certain high risk criteria used in donor deferral.

Date and Time: The workshop will be held on Monday, November 23, 1998, 8:30 a.m. to 5 p.m.

Location: The workshop will be held at the Parklawn Bldg., conference rooms D and E, 5600 Fishers Lane, Rockville, MD 20857.

Contact: Robbin Gordon, Project Manager, Conference Management Associates, Inc., Three Corporate Sq., suite 180, Atlanta, GA 30329–2013, 404–633–9117, FAX 404–636–6311.

Registration: Send or fax registration information (including name, title, firm name, address, telephone, and fax number) to the contact person by Friday, November 13, 1998.

Registration at the site will be done on a space available basis on the day of the workshop beginning at 7:30 a.m. There is no registration fee for the workshop.

If you need special accommodations due to disability, please contact Carol White Hales at least 7 days in advance.

SUPPLEMENTARY INFORMATION: The purpose of the workshop is to gather current scientific data on certain blood donor suitability issues. At the workshop, FDA will review the use of certain donor deferral criteria based on high risk behavior (i.e., intravenous drug abuse, male to male sex, and sex for drugs or money).

Transcripts: Transcripts of the workshop 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 workshop at a cost of 10 cents per page. The workshop transcript will also be available on the Center for Biologics Evaluation and Research website at ''http://www.fda.gov/cber/minutes/workshop-min.htm''.

Dated: November 2, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–30006 Filed 11–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0964]

Draft ''Guidance for Industry: Content and Format of Chemistry, Manufacturing and Controls Information and Establishment Description Information for a Biological In Vitro Diagnostic Product;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance document entitled ''Guidance for Industry: Content and Format of Chemistry, Manufacturing and Controls Information and Establishment Description Information for a Biological *In Vitro* Diagnostic Product.'' The draft guidance document, when finalized, is intended to assist applicants in the preparation of the chemistry, manufacturing, and controls (CMC) section and the establishment description section of a biologics license application (BLA), revised Form FDA 356h, for biological in vitro diagnostic products. This action is part of FDA's continuing effort to achieve the objectives of the President's ''Reinventing Government'' initiatives and FDA Modernization Act of 1997, and it is intended to reduce unnecessary burdens for industry without diminishing public health protection.

DATES: Written comments may be submitted at any time, however, comments should be submitted by January 11, 1998, to ensure their adequate consideration in preparation of the final document.

ADDRESSES: Submit written requests for single copies of ''Guidance for Industry: Content and Format of Chemistry, Manufacturing and Controls Information and Establishment Description Information for a Biological *In Vitro* Diagnostic Product'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

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

FOR FURTHER INFORMATION CONTACT: Robert A. Yetter, Center for Biologics Evaluation and Research (HFM–10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry: Content and Format of Chemistry, Manufacturing and Controls Information and Establishment Description Information for a Biological *In Vitro* Diagnostic Product.'' This draft document, when finalized, is intended to provide general information for the content and format of the CMC section and establishment description section of the BLA for biological in vitro diagnostic products. This draft document is intended for use by those firms which manufacture any licensed in vitro diagnostic product used to screen donor blood, determine donor suitability, test for retroviral infection, or determine transfusion compatibility (e.g., blood grouping and typing reagents). This draft document is not intended to cover those in vitro diagnostic products used to test for endotoxins, such as limulus amebocyte lysate (LAL), or those products for which a premarket application (PMA) or a 510(k) must be submitted.

In the **Federal Register** of July 8, 1997 (62 FR 36558), FDA announced the availability of a new harmonized Form FDA 356h entitled ''Application to

Market a New Drug, Biologic, or an Antibiotic for Human Use.'' The new harmonized form is intended to be used by applicants for all drug and biological products. The new harmonized form, when fully implemented, will allow biological product manufacturers to submit a single application, the BLA, instead of two separate license application submissions, a product license application (PLA), and an establishment license application (ELA).

This draft guidance document represents the agency's current thinking on content and format of the CMC information and establishment description information for biological in vitro diagnostic products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this document to be all inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Comments

This draft document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit written comments to the Dockets Management Branch (address above) regarding the draft guidance document. Written comments may be submitted at any time, however, comments should be submitted January 11, 1998, to ensure their adequate consideration in preparation of the final document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments and requests for copies should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance document by using the World Wide Web (WWW). For WWW access connect to CBER at ''http://www.fda.gov/cber/guidelines.htm''.

Dated: November 2, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–30094 Filed 11–9–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1048–N]

RIN 0938–AJ27

Medicare Program; Request for Nominations for the Practicing Physicians Advisory Council

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice requests nominations from medical organizations representing physicians for individuals to serve on the Practicing Physicians Advisory Council (the Council).

Section 4112 of the Omnibus Budget Reconciliation Act of 1990 established the Council to advise the Secretary of the Department of Health and Human Services on proposed regulations and manual issuances related to physicians' services. Four council members' terms of service are scheduled to expire on February 28, 1999.

EFFECTIVE DATE: Nominations will be considered if we receive them at the appropriate address, provided below, no later than 5 p.m. on November 30, 1998.

ADDRESSES: Mail or deliver nominations to the following address: Health Care Financing Administration, Center for Health Plans and Providers, Office of Professional Relations, Attention: Aron Primack, M.D., Executive Director, Practicing Physicians Advisory Council, Room 435H, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Aron Primack, M.D., Executive Director, Practicing Physicians Advisory Council, (202) 690–7418.

SUPPLEMENTARY INFORMATION: Section 4112 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), added a new section 1868 to the Social Security Act (the Act), which established the Practicing Physicians Advisory Council (the Council). The Council advises the Secretary of the Department of Health and Human Services (the Secretary) on proposed regulations and manual issuances related to physicians' services. An advisory committee created by the Congress, such as this one, is subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2).

Section 1868(a) of the Act requires that the Council consist of 15 physicians, each of whom must have submitted at least 250 claims for physicians' services under Medicare in the previous year. At least 11 Council members must be physicians as defined in section 1861(r)(1) of the Act; that is, State-licensed physicians of medicine or osteopathy. The other four Council members may include dentists, podiatrists, optometrists, and chiropractors.

The Council must include both participating and nonparticipating physicians, as well as physicians practicing in rural and underserved urban areas. In addition, section 1868(a) of the Act provides that nominations to the Secretary for Council membership must be made by medical organizations representing physicians.

This notice is an invitation to all organizations representing physicians to submit nominees for membership on the Council. Current members whose terms expire in 1999 will be considered for reappointment, if renominated, subject to the Federal Advisory Committee Management Handbook. The Secretary will appoint new members to the Council from among those candidates determined to have the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

Each nomination must state that the nominee has expressed a willingness to serve as a Council member and must be accompanied by a short resume or description of the nominee's experience. To permit an evaluation of possible sources of conflict of interest, potential candidates will be asked to provide detailed information concerning financial holdings, consultant positions, research grants, and contracts.

Section 1868(b) of the Act provides that the Council meet once each calendar quarter, as requested by the Secretary, to discuss proposed changes in regulations and manual issuances that relate to physicians' services. Council members are expected to participate in all meetings.

Section 1868(c) of the Act provides for payment of expenses and a per diem allowance for Council members at a rate equal to payment provided members of other advisory committees. In addition to making these payments, the Department of Health and Human Services provides management and support services to the Council.

Authority: Section 1868 of the Social Security Act (42 U.S.C. 1395ee); 5 U.S.C. App. 2; and 45 CFR part 11.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program).

Dated: October 30, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 98–30103 Filed 11–9–98; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Evaluation of High-Risk Youth Substance Abuse Prevention Initiatives— 0930–0178 (Extension, no change)—The Center for Substance Abuse Prevention (CSAP) is conducting a cross-site evaluation of 47 demonstration projects targeting high-risk youth to assess the effectiveness of the demonstration program in: (1) preventing and/or reducing substance abuse among at-risk youth; and (2) intervention strategies for reducing selected risk factors and enhancing protective factors. Youth participating in the programs and comparison group youth complete self-administered questionnaires at four points in time: baseline; at program exit; 6 months after program exit; and 18 months after program exit. The project annual burden estimate, annualized over the 5-year project period, is shown below:

	Number of respondents	Number of responses/respondent	Average burden/response (hours)	Annualized burden hours
Youth Questionnaires*	11,100	4	.64	4,522
Tracking Form	11,100	1	.05	111
Total				4,633

*Burden estimate based on an average of 45 minutes for baseline and exit questionnaires and 30 minutes for each follow-up questionnaire. Annualized estimates reflect actual attrition rates.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Daniel Chenok, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: November 3, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–30057 Filed 11–9–98; 8:45 am]

BILLING CODE 4162–20 P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of Draft Comprehensive Conservation Plan and Environmental Assessment for the Management of Florida Panther National Wildlife Refuge in Collier County, Florida, and Notice of Meeting To Seek Public Comments

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and meeting.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service, Southeast Region, has made available for public review a draft comprehensive conservation plan for the management of a national wildlife refuge in Collier County, Florida, and plans to hold a public meeting in the vicinity of the refuge to solicit public comments on the draft plan. A copy of the plan is available at local libraries in Collier and Lee counties, Florida. A copy may also be obtained by contacting the Fish and Wildlife Service's Regional Office in Atlanta, Georgia, at the address given below.

DATES: The Service will hold a public meeting on December 5, 1998, 10 a.m. to 6 p.m., at the Fish and Wildlife Service office located in the Comfort Inn, 3860 Tollgate Boulevard, Naples, Florida 34114. In addition, written comments on the draft plan should be sent no later than December 21, 1998, to the address given below.

FOR FURTHER INFORMATION CONTACT: Mr. Charles R. Danner, U.S. Fish and Wildlife Service, Southeast Regional Office, 1875 Century Boulevard, Atlanta, GA 30345 (Telephone 1–800–419–9582).

SUPPLEMENTARY INFORMATION: The refuge covers approximately 26,400 acres and lies within the Big Cypress Swamp physiographic region of Florida. The plan presents three alternatives for the protection and management of the refuge including a ''no action'' alternative. The refuge's mission is to conserve and manage lands and waters in concert with other agency land efforts within the Big Cypress Watershed, primarily for the Florida panther, other endangered and threatened species, natural diversity, and cultural resources for the benefit of the American people.

Dated: November 4, 1998.

Sam D. Hamilton,

Regional Director.

[FR Doc. 98–30059 Filed 11–9–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. TE 003208–0

Applicant: Frances Prevost, Ponchatoula, Lousiana

Applicant requests authorization to purchase in interstate commerce masked bobwhites (*Colinus virginianus*

ridgwayi) to conduct captive propagation activities.

Permit No. PRT–830213

Applicant: EcoPlan Associates, Inc., Mesa, Arizona

Applicant requests authorization for scientific research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) and cactus ferruginous pygmy-owls (*Glaucidium brasilianum cactorum*) in Arizona.

Permit No. PRT–813088

Applicant: Bureau of Land Management, Albuquerque, New Mexico

Applicant requests authorization for scientific research and recovery purposes to sample, identify, measure, and immediately release unharmed Comanche Springs pupfish (*Cyprinodon elegans*), and Pecos gambusia (*Gambusia nobilis*) in various sites on the Rio Grande River, and on the Rio Grande River Drainage, Phantom Lake Spring Refugium near Balmorhea, Texas.

Permit No. TE004131–0

Applicant: Steiner C. Kierce, Castroville, Texas

Applicant requests authorization for scientific research and recovery purposes to conduct presence/absence surveys for the following endangered and threatened species in south Texas from I–10 to San Antonio, Texas, to Ozona, Texas, south on the Rio Grande River to the Gulf of Mexico:

Mammals—
- jaguarundi (*Felis yagouaroundi*)
- ocelot (*Felis pardalis*)

Birds—
- interior least term (*Sterna antillarum*)
- black-capped vireo (*Vireo atricapillus*)
- golden-cheeked warbler (*Dendroica chrysoparia*)

Amphibian—
- Houston toad (*Bufo houstonensis*)

Plants—
- South Texas ambrosia (*Ambrosia cheiranthifolia*)
- Tobusch fishhook cactus (*Ancistrocactus (=Echinocactus mammillaria*) *tobuschii*
- Texas ayenia (*Ayenia limitaris*)
- black lace cactus (*Echinocereus reichenbachii var. albertii* (=*E. melanocentrus*)
- Johnston's frankenia (*Frankenia johnstonii*)
- slender rush-pea (*Hoffmannseggia tenella*)
- Walker's manioc (*Manihot walkerae*)
- Navasota ladies'-tresses (*Spiranthes parksii*)
- Texas snowbells (*Styrax texanus*)
- ashy dogweed (*Thymophylla (=Dyssodia*) *tephroleuca*)
- star cactus (*Astrophytum* (=*Echinocactus*) *asterias*)

Permit No. TE–004401–0

Applicant: Robert J. Schmalzel, Oracle, Arizona

Applicant request authorization for scientific research and recovery purposes to collect 5 plants of the Nichol's Turk's Head cactus (*Echinocactus horizonthalonius var. nicholii L. Benson*) from the Tohono O'Odham Nation with written permission.

Permit No. TE–004439–0

Applicant: Albuquerque Biological Park, Albuquerque, New Mexico

Applicant request authorization to obtain and hold Loggerhead sea turtles (*Caretta caretta*), green sea turtle (*Chelonia mydas*), Kemp's ridley sea turtles (*Lepidochelys kempii*), and Hawksbill sea turtle (*Eretmochelys imbricata*), for public display and educational purposes.

Permit No. TE–004472–0

Applicant: James R. Dixon, Bryan, Texas

Applicant requests authorization for scientific research and recovery purposes to collect a blood sample, mark (by pit tag, toe clip, or cold brand), weigh, measure and release unharmed back into the wild the following endangered and threatened amphibians and reptiles: Barton Springs salamander (*Eurycea sosorum*), San Marcos salamander (*Eurycea nana*), Texas blind salamander (*Typhlomolge rathbuni*), Houston toad (*Bufo houstonensis*), American alligator (*Alligator mississippiensis*), American crocodile (*Crocodylus acutus*), and the Concho water snake (*Nerodia harteri paucimaculata*).

Permit No. TE–004510–0

Applicant: William D. Boyett, Greenville, Wisconsin

Applicant request authorization for research and recovery purposes to live-trap, mark, and immediately release unharmed unlimited numbers of Hualapai Mexican vole (*Microtus mexicanus hualapaiensis*) in the Hualapai Mountains in northwest Arizona.

Permit No. TE–TE004573–0

Applicant: Raven Ecological Services, Huntsville, Texas

Applicant requests authorization for scientific research and recovery purposes to conduct presence/absence surveys for aplomado falcon (*Falco femoralis*), black-capped vireo (*Vireo atricapillus*), and golden-cheeked warbler (*Dendroica chrysoparia*), bald eagle (*Haliaeetus leucocephalus*), and Houston toad (*Bufo houstonensis*).

Permit No. TE–004654–0

Applicant: Dennis J. Abbate, Tucson, Arizona

Applicant requests authorization for scientific research and recovery purposes to conduct presence/absence surveys for cactus ferruginous pygmy-owls (*Glaucidium brasilianum cactorum*) in Pima, Pinal, and Maricopa Counties, Arizona.

DATES: Written comments on these permit applicants must be received on or before December 10, 1998.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Steven M. Chambers,

ARD-Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 98–30061 Filed 11–9–98; 8:45 am]

BILLING CODE 4510–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces the Fall 1999 field trip and meeting of the Aquatic Nuisance Species Task Force. The focus of the field trip and meeting topics are identified in the **SUPPLEMENTARY INFORMATION**.

DATES: The field trip will take place from 8:30 a.m. to 12:15 p.m., Tuesday, November 17, 1998. The Aquatic Nuisance Species Task Force will meet from 1:30 p.m. to 5:00 p.m., Tuesday, November 17, 1998, and 8:30 a.m. to 4:00 p.m., Wednesday, November 18, 1998.

ADDRESSES: The field trip will begin and the meeting will be held in the Auditorium, Building 1006, U.S. Army Engineers Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, Mississippi.

FOR FURTHER INFORMATION CONTACT: Bob Peoples, Executive Secretary, Aquatic Nuisance Species Task Force at 703–358–2025 or by e-mail at: robert__people@fws.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a field trip and meeting of the Aquatic Nuisance Species Task Force. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

The field trip will consist of a briefing about and a tour of the U.S. Army Engineers Waterways Experiment Station. Topics to be covered during the meeting Tuesday afternoon include briefings about regional nonindigenous species problems and initiatives, ballast water issues and activities, CAL–FED nonindigenous species initiatives, and the mitten crab infestation in California and actions to address that problem, and updates about the proposed Invasive Species Executive Order and the Task Force's regional panels. Topics to be covered during the meeting on Wednesday include the Executive Secretary's report, types of control to be included in Task Force-approved control programs, the green crab control program proposal, preliminary recommendations of the National Nonindigenous Aquatic Species Survey Program Work Group, a New Zealand Mud Snail Control Proposal, voluntary national recreational activity guidelines, the 100th Meridian Initiative to Prevent Westward Spread of Zebra Mussels, Asian swamp eel problems and initiatives, Caulerpa taxifolia concerns and possible actions, and an ANS Task Force awards program.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 851, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and will be available for public inspection during regular business hours, Monday through Friday.

Dated: November 4, 1998.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries.

[FR Doc. 98–30076 Filed 11–9–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P]

Notice for Publication AA–8447–A, AA–8447–B, AA–8447–D, AA–8447–A2, AA–8447–B2; Alaska Native Claims Selections

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decisions to issue conveyance (DIC) to The Eyak Corporation, notice of which was published in the **Federal Register**, 63 FR 55402, on October 15, 1998, is modified by adding, modifying, or removing certain public easements; modifying a portion of the land description for rescission of prior tentative approval to the State of Alaska; and modifying the description of a certain third party interest to which a portion of the conveyance is subject.

Notice of the modified DICs will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News.* Copies of the modified DICs may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until December 10, 1998 to file an appeal on the issues in the modified DICs. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed with the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given October 15, 1998, is final.

Heather A. Coats,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 98–30063 Filed 11–9–98; 8:45 am]

BILLING CODE 4310–$$–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf: Operations, Current List of Notices to Lessees and Operators (NTLs) Issued by the National Office and OCS Regions

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice.

SUMMARY: The MMS periodically issues NTLs to lessees and operators of oil and gas or sulphur leases in the Outer Continental Shelf (OCS). This **Federal Register** notice: (1) informs the public, industry, and other Government agencies of NTLs that are in effect as of November 1, 1998; (2) officially rescinds several NTLs and Letters to Lessees and Operators (LTLs); and (3) announces a new method of numbering regional NTLs.

ADDRESSES: You may obtain copies of NTLs through our website at WWW.MMS.GOV or by contacting the National office or the OCS Region that issued the NTL at the following addresses:

National Office

Minerals Management Service, Engineering and Operations Division, 381 Elden Street, Herndon, VA 20170–4817, Attention: Ms. Alexis London; Telephone (703) 787–1600.

Alaska OCS Region

Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, AK 99508–4363, Attention: Ms. Christine Huffaker; Telephone (907) 271–6621.

Gulf of Mexico (GOM) OCS Region

Minerals Management Service, 1201 Elmwood Park Blvd., New Orleans, LA 70123–2394, Attention: Mr. Michael Dorner; Telephone (504) 736–2599.

Pacific OCS Region

Minerals Management Service, 770 Paseo Camarillo, Camarillo, CA 93010–6064, Attention: Ms. Freddie Mason; Telephone (805) 389–7566.

FOR FURTHER INFORMATION CONTACT: Alexis London, Engineering and Operations Division; Telephone (703) 787–1600.

SUPPLEMENTARY INFORMATION: The MMS is responsible for oil and gas or sulphur operations in the OCS to ensure operational safety and protection of the environment. In addition to our regulations, we issue NTLs to provide guidance and to further clarify,

interpret, or describe regulatory requirements on a national or regional basis. In the past we have also issued LTLs for this purpose or to communicate information to OCS lessees and operators.

Recently issued final regulations have eliminated the need for certain NTLs and LTLs or have required changes in others. This year we have also updated and reissued many of our NTLs to reflect current technologies, correct regulatory citations, and include a statement on the Paperwork Reduction Act of 1995 as it pertains to the NTL.

For your convenience, the following table lists the current active NTLs issued by the National office and the OCS Regions. Therefore, if an NTL issued before November 1, 1998, is not listed, it is canceled and no longer in effect. However, although not listed here, those LTLs currently in effect will remain in effect until they are superseded by NTLs or rescinded.

NTL No.	Effective date	Title/subject
Current Notices to Lessees and Operators Issued by the National Office		
93–1N	04/16/93	Guidelines for an Application for Certificate of Oil Spill Financial Responsibility for Offshore Facilities.
96–7N*	12/10/96	Civil Penalties Program (*Modified by 97–5N).
97–2N	08/01/97	Well Naming and Numbering Standards.
97–3N	08/01/97	Annual Performance Review.
97–4N	09/01/97	Civil Penalties Program Annual Summary to be Published.
97–5N*	10/07/97	Civil Penalties Program Revised Assessment Matrix (*Modifies 96–7N).
98–1N	01/02/98	Interim Guidance for Applying Platform Design Criteria from American Petroleum Institute (API) Recommended Practice (RP) 2A, ''Planning, Designing, and Constructing Fixed Offshore Platforms,'' 19th Edition (8/1/91) and 20th Edition (7/1/93) and its Supplement 1 (2/1/97).
98–2N	01/23/98	Guidance Regarding API Specification 14A, ''Specification for Subsurface Safety Valve Equipment,'' Ninth Edition (7/1/94) and Supplement 1.
98–4N	03/04/98	Interim Guidance for Applying ''Simplified Fatigue Analysis'' Procedure from API RP 2A.
98–5N	04/01/98	Application and Audit Fees for Requests for Royalty Relief or Adjustment Under 30 CFR Part 203.
98–6N	04/01/98	Performance Measures for OCS Operators and Form MMS–131.
98–7N	04/15/98*	Reminder Concerning Periodic Inspection of Platforms. . . . (*Rescind on 11/2/98).
98–8N	06/01/98	Deepwater Operations Plans.
98–9N and Addendum.	06/01/98* 07/17/98	Redesignation of 30 CFR Part 250—Oil and Gas and Sulphur Operations in the OCS (*Rescind on 12/31/98).
98–10N	07/01/98	Decentralization of the Lessee Training Program.
98–11N	07/01/98*	Guidelines for an Application for Suspension of Production Due to Uneconomic Market Conditions (*10/15/98 FEDERAL REGISTER notice, 63 FR 55405, as corrected, announced this NTL will be rescinded effective 1/13/99).
98–12N	07/01/98	Determination of Pollution Inspection Frequencies for Unmanned Facilities.
98–13N	07/01/98	Use of New or Alternative Technology and Procedures.
98–14N	07/01/98	Conservation Information.
98–15N	08/24/98*	Invitation to Minerals Management Service (MMS)/Industry Performance Measures/Best Practices Workshops (*Rescind on 11/13/98).
98–16N	10/28/98	API Specification 6D (SPEC 6D), Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves), 21st Edition (3/31/94), and Supplements 1 and 2.
98–17N	11/01/98	Revised Guidelines for Royalty Relief Under 30 CFR Part 203.
No Current Notices to Lessees and Operators Issued by the Alaska OCS Region		
Current Notices to Lessees and Operators Issued by the Gulf of Mexico OCS Region		
85–02	02/04/85	Effect of Drilling ''Window'' Approvals.
86–05	06/18/86	New Form for Designation of Operator.
92–02	05/28/92	Minimum Interim Requirements for Site Clearance (and Verification) of Abandoned Oil and Gas Structures in the GOM.
92–04	07/01/92	Interim Requirements for Oil Spill Contingency Plans and Oil Spill Response Training and Drills.
93–04	09/30/93	OCS Functional Responsibility of New Regulations.
94–02	02/24/94	Air Emissions Reporting Requirements.
96–03	05/08/96	Guidelines for the Offshore Storage and Sub-Seabed Disposal of Wastes Resulting from the Development and Production of Oil and Gas on the OCS.
96–08	11/25/96	Time Allowed for the Correction of Incidents of Noncompliance (INC's) and for the Return of Notification of INC Forms.
96–10	12/05/96	Air Emissions Information for Application for Accessory Platforms to Pipeline Rights-of-Way.
97–04	01/31/97	Addition of Blocks to the Thirty-fifth Drilling Window.
97–06	03/01/97	Timely Submittal of Drilling Well Records in Accordance with 30 CFR 250.66 [Redesignated 30 CFR 250.416].
97–07	03/01/97	Revised Conditions of Approval to Drill, Sidetrack and/or Complete for Oil and Gas Production.
97–15	06/27/98	Interim Guidance for Regional Oil Spill Response Plans.
97–16	08/01/97	Production Within 500 Feet of a Unit or Lease Line.
97–17	08/01/97	Containment Requirements for Bolted or Welded Stock Tanks.
97–18	08/18/97	Timely Submittal of Deepwater Royalty Relief Applications.
98–04	06/08/98	Hurricane and Tropical Storm Evacuation and Production Curtailment Procedures.
98–05	07/01/98	Confirmation of Deepwater Royalty Relief for Leases Issued After November 28, 1995.
98–96	08/10/98	Archaeological Requirements.
98–07	08/10/98	Procedures Regarding Activities Conducted Under Approved Plan.
98–08	08/10/98	Meteorological Data Collection Requirements.
98–09	08/10/98	Proposed and As-Built Pipeline Location Data.

NTL No.	Effective date	Title/subject
98–10	08/10/98	Best Available Control Technology (Sulphur Dioxide).
98–11	08/10/98	Implementation of Measures to Detect and Protect Deep Water Chemosynthetic Communities.
98–12	08/10/98	Implementation of Consistent Biological Stipulation Measures in the Central and Western Gulf of Mexico.
98–13	08/10/98	Minimizing Oil and Gas Structures in the Gulf of Mexico.
98–14	08/10/98	Guidelines for Reducing or Eliminating Trash and Debris in the Gulf of Mexico.
98–15	08/10/98	Time Allowed Between Lease Holding Operations (30 CFR 250.13 [Redesignated 30 CFR 250.113]).
98–16	08/10/98	Hydrogen Sulfide (H_2S) Requirements.
98–17	06/30/98*	Gas Volume Statement Requirements (*Rescind on 12/31/98).
98–18	09/01/98	Change of Address for the Submittal of Certain Drilling Records in Accordance with 30 CFR 250.416.
98–19	09/15/98	Temporary Abandonment of Wells and Maintenance, Protection and Removal of Underwater Casing Stubs.
98–20	09/15/98	Shallow Hazards Requirements.
98–21	09/15/98	Environmental Information Guidelines for OCS Plans.
98–22	10/05/98	Reorganization of the Office of Field Operations to Activate the Lake Charles District, Realign the District Boundaries, and Establish District and Pipe Section Procedures for After-Hours, Weekend and Holiday Calls, and Related Submittals.
98–23	10/15/98	Interim Reporting Requirements for 30 CFR 250, Subpart K, Oil and Gas Production Rates.
98–24	10/15/98	Rate Control Section Address, Office Hours, and Telephone Procedures.
98–25	11/01/98	Economic Assumptions for RSVP Deepwater Royalty Relief Model.
Current Notices to Lessees and Operators Issued by the Pacific OCS Region		
92–01	03/24/92	Warning Signs: Pipelines and Power Cables.
97–02	09/22/97	Pipeline Right-of-Way Applications and Assignment Fees: Requirements for Filing of Lease Transfers.
98–01	03/05/98	Santa Maria District Office Phone Call Procedures and Hours.
98–02	03/05/98	Camarillo District Office Phone Call Procedures and Hours.
98–04	07/01/98	Gas Volume Statement Requirements.
98–05	08/04/98	Archaeological Survey and Report Requirements.
98–06	08/04/98	Change of Ownership/Operatorship of Leases and Pipeline.
98–07	08/04/98	Helideck Closures.
98–08	08/04/98	Biological Survey Criteria.
98–09	08/11/98	Hydrogen Sulfide (H_2S) Requirements.
98–10	08/21/98	Liquid Royalty Measurement Facilities.
98–11	08/31/98	Submission of Digitized Well Log Data on Magnetic Tape.
98–12	08/11/98	Guidelines for Shallow Hazards and Report Requirements for Exploration Drilling.
98–13	08/11/98	Guidelines for Shallow Hazards and Report Requirements for OCS Development Operations.

You are advised that effective with the publication of this notice, we are officially rescinding the following previously issued NTLs and LTLs that are no longer current, have served their purpose, or because recently revised regulations and policies have eliminated the need for them.

National Office

93–02N—Liability of Assignors, Assignees, and Colessees for Plugging and Removal Property on Termination of An Outer Continental Shelf Oil and Gas Lease.

95–01N—Suspension of Requirements for Updating Safety and Pollution Prevention Equipment Inventory Lists.

96–02N—Reporting Oil Spills.

97–01N—Blowout Preventer (BOP) Requirements.

Alaska OCS Region

82–01—Interim Minimum Requirements for Marking of Equipment.

86–02—Preliminary and Other Activities Conducted on Leased Lands—Beaufort Sea.

89–01—Minimizing Potential for Incidental Taking of Polar Bear and Walrus During Preliminary and Other Activities Conducted on Leased Areas in the Beaufort and Chukchi Seas.

89–02—Preliminary Activities, Shallow Hazards Geophysical Surveys and Geotechnical Evaluations.

Gulf of Mexico OCS Region

73–03—The Use of Polychlorinated Biphenols (PCB's).

88–02—Submission of List of Safety and Pollution-Prevention Equipment.

88–03—Information to Be Made Available to the Public on the Reports Required in Subpart K of 30 CFR Part 250.

89–05—Timelapse in Exploratory Drilling Operations Not to Exceed 180 Days for Deepwater (400 Meters or Deeper) Leases.

89–07—Supplemental Bonds.

91–01—Submittal of Electric, Radioactive, and Other Well Bore Surveys.

91–06—Notice to the Designated Operators of Liquid Royalty Measurement Facilities.

93–05—Procedures and Policies Concerning Transition Period for Use of the New Semiannual Well Test Report Form.

96–04—Air Pollutant Emissions Reporting Requirements.

96–05—Departures for Testing Blowout Preventers (BOP).

97–01—Air Pollution Emissions Reporting Requirement.

97–05—Incorporation by Reference into the MMS Regulations of API RP 2A Nineteenth Edition, August 1, 1991, for Planning, Designing, and Constructing Fixed Offshore Platforms.

97–11—Special Security Handling of Well Logs and Data Generated from Oil and Gas Leases.

LTL dated 07/20/95—Requests for Suspensions of Operations Based on Rig Delays.

LTL dated 07/25/96—Suspensions of Productions/Operations Program Overview.

Pacific OCS Region

80–02—Minimum Requirements for Environmental Reports.

88–05—Requirements for Exploratory Operations OCS California.

97–03—Invitation to Workshop.

98–03—Invitation to Royalty Relief Workshop.

LTL dated 06/26/95—Contacts and Functional Directory.

LTL dated 02/15/96—Guidelines for the Application, Review, Approval and Administration of the Royalty Relief Program.

This notice also advises you that beginning in January 1999, we will include a letter designation in regional as well as National NTL numbers to avoid possible confusion with duplicate numbers. The letter designation before the NTL number will indicate whether it applies on a National basis or to which specific Region it pertains. For example:

- NTL 99–N01 will apply on a National basis.
- NTL 99–A01 will pertain only to the Alaska OCS Region.
- NTL 99–G01 will pertain only to the Gulf of Mexico OCS Region.
- NTL 99–P01 will pertain only to the Pacific OCS Region.

Dated: October 30, 1998.

Michael C. Hunt,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 98–30131 Filed 11–9–98; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan and Draft Environmental Impact Statement, Lyndon B. Johnson National Historical Park, Texas; Notice of Availability

AGENCY: National Park Service, US Department of the Interior.

ACTION: Availability of draft general management plan and environmental impact statement for Lyndon B. Johnson National Historical Park.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a draft general management plan and environmental impact statement (GMP/DEIS) for Lyndon B. Johnson National Historical Park, Texas.

DATES: The GMP/DEIS is available for public review through January 22, 1999. If any public meetings are held concerning the GMP/DEIS, they will be announced at a later date.

ADDRESSES: Comments on the GMP/DEIS should be sent to the Superintendent, Lyndon B. Johnson National Historical Park, PO Box 329, Johnson City, TX 78636. Public reading copies of the GMP/DEIS will be available for review at the following location: Office of the Superintendent, Lyndon B. Johnson National Historical Park, PO Box 329, Johnson City, Texas 78636, Telephone: (830) 868–7128.

SUPPLEMENTARY INFORMATION: The GMP/DEIS analyzes three alternatives for management and development of the national historical park. Alternative 1, the no-action alternative, describes a continuation of the present management course. Alternative 2 reflects a modest increase in the level of staffing and in park maintenance, interpretation, and administration. It allows a limited schedule of visitation at the Texas White House and changes the bus tour to a shuttle system. It provides a higher level of protection for park historic resources and expands educational outreach into the local community. Minimal additional staff would be added. Alternative 3, the National Park Service's proposed action, describes a comprehensive change in the overall visitor experience of the ranch with the Texas White House open on a regularly scheduled basis, the bus tour becoming a shuttle system, and new facilities for visitor contact, maintenance, ranching, and park interpretive staff. In Johnson City, the visitor experience of the settlement would become much more unique and educational. Staffing would be significantly upgraded. All alternatives would preserve and maintain exteriors of all historic buildings, would improve interpretive programs and educational outreach, and enhance partnerships. The GMP/DEIS in particular evaluates the environmental consequences of the proposed action and the other alternatives on archeological and historic resources, soils, water resources and water quality, floodplains, economy and social environment, and visitor use/experience and interpretation.

FOR FURTHER INFORMATION CONTACT: Superintendent, Lyndon B. Johnson National Historical Park, at the above address and telephone number.

Peggy A. Halderman,

Assistant Regional Director, Intermountain Region, National Park Service.

[FR Doc. 98–30128 Filed 11–9–98; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–398]

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: On October 30, 1998, the Commission received a request from the United States Trade Representative (USTR) for an investigation under section 332(g) of the Tariff Act of 1930 for the purpose of providing advice concerning possible modifications to the Generalized System of Preferences (GSP). Following receipt of the request and in accordance therewith, the Commission instituted investigation No. 332–398 in order to provide as follows—

(1) With respect to the article listed in Part A of the attached Annex, advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the removal of such article from eligibility for duty-free treatment under the GSP for imports from beneficiary developing countries other than those countries designated as least-developed beneficiary countries; and

(2) In accordance with section 503(d)(1)(A) of the 1974 Act, advice on whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act for the country specified with respect to the articles in Part B of the attached Annex.

With respect to the competitive need limit in section 503(c)(2)(A)(i)(I) of the 1974 Act, the Commission, as requested, will use the dollar value limit of $85,000,000.

As requested by USTR, the Commission will seek to provide its advice not later than February 1, 1999.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT:

(1) Project Manager, Cynthia B. Foreso (202–205–3348)
(2) Agricultural and forest products, William Hoffmeier (202–205–3321)
(3) Energy, chemicals, and textiles, Christopher Robinson (202–205–2334)
(4) Minerals, metals, machinery, and miscellaneous manufactures, David Lundy (202–205–3439)
(5) Electronics and transportation, James M. Brandon (202–205–3433)

All of the above are in the Commission's Office of Industries. For information on legal aspects of the investigation contact William Gearhart of the Commission's Office of the General Counsel at 202–205–3091.

Background

The USTR letter noted that the Trade Policy Staff Committee (TPSC)

announced in the October 26, 1998 **Federal Register** the acceptance of product petitions for modification of the GSP received as part of the 1998 annual review. The letter stated that modifications to the GSP which may result from this review will be announced in May 1999 and become effective on or about July 1, 1999.

Public Hearing

A public hearing in connection with this investigation is scheduled to begin at 9:30 a.m. on December 1, 1998, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, D.C. All persons have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file a letter asking to testify with the Secretary, United States International Trade Commission, 500 E St., SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on November 18, 1998. In addition, persons testifying should file prehearing briefs (original and 14 copies) with the Secretary by the close of business on November 20, 1998. Posthearing briefs should be filed with the Secretary by close of business on December 15, 1998. In the event that no requests to appear at the hearing are received by the close of business on November 18, 1998, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after November 18, 1998 to determine whether the hearing will be held.

Written Submissions

In lieu of or in addition to appearing at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on December 15, 1998. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

By order of the Commission.

Issued: November 4, 1998.

Donna R. Koehnke,

Secretary.

Annex I (HTS Subheadings)[1]

A. Petition to remove duty-free status from beneficiary developing countries, other than those designated as least-developed beneficiary developing countries, for a product on the list of eligible articles for the GSP.

2934.20.05

B. Petitions for waiver of competitive need limit for a product on the list of eligible products for the specified country.

2841.70.10 (Chile)
2916.31.15 (Estonia)
4412.13.50 (Indonesia)
4412.22.30 (Indonesia)
7113.11.50 (Thailand)
7113.19.29 (India)
7403.13.00 (Chile)
7403.19.00 (Chile)
7418.19.20 (India)
8483.10.30 (Brazil)
8527.39.00 (Indonesia)
8528.12.16 (Thailand)
8531.20.00 (Philippines)
8708.39.50 (Brazil)
9001.30.00 (Indonesia)

[FR Doc. 98–30079 Filed 11–9–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 17, 1998 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–776 (Final) (Certain Preserved Mushrooms from Chile)—briefing and vote.
5. Outstanding action jackets:
   1. Document No. ID–98–022: Approval of final report in Inv. No. 332–384 (The Changing Structure of the Global Large Civil Aircraft Industry and Market: Implications for the Competitiveness of the U.S. Industry).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: November 6, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–30224 Filed 11–6–98; 11:53 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 153–98]

Privacy Act of 1974; Notice of Modified System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Justice Management Division, Department of Justice, proposes to modify a system of records entitled, ''Department of Justice (DOJ) Controlled Parking Records, Justice/JMD–017.'' Notice of the system was last published in the **Federal Register** on October 2, 1990 (55 FR 40244). Modifications to the system include:

''System Name'' has been changed to ''Department of Justice (DOJ) Employee Transportation Facilitation System, Justice/JMD–017.'' [1]

The purpose of this system of records has been expanded. Information in the system was used to assign, manage, and control the use of vehicle parking spaces. Information will be added to assist in managing the issuance of transit subsidies.

Existing routine use (5) has been modified. First, disclosure may be made to ensure that Federal employees do not simultaneously receive both a parking benefit and transit subsidy—either from their respective agencies or in conjunction with another Federal agency. Second, disclosure of non-Federal ridesharing applicant information may be made to enable DOJ and other Federal agencies to validate parking permit eligibility for their employees.

Two new routine uses identified as routine uses (3) and (4) have been added.

The ''Categories of Individuals Covered by the System'' has been

[1] See USTR **Federal Register** notice of October 26, 1998 (63 F.R. 57150) for article description.

[1] The Office of the Federal Register shall remove from DOJ's compilation of Privacy Act issuances the system of records entitled ''Department of Justice (DOJ) Controlled Parking Records, Justice/JMD–017,'' and add to DOJ's compilation the modified system of records entitled, ''Department of Justice (DOJ) Employee Transportation Facilitation System, Justice/JMD–017.''

expanded to include all applicants for any benefit provided under the expanded program, e.g., ridesharing and transit subsidy applicants.

Appropriate changes related to the addition of this information have been made throughout the system description. In addition, other appropriate revisions, e.g., additional authority citations have been added. Finally, the necessary edits have been made to report this system of records as a Department-wide system, i.e., these records may be maintained by all Department components.

This 5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment on new routine uses; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 40-day period in which to review the system modifications. Therefore, please submit comments by December 10, 1998. The public, OMB, and the Congress are invited to comment on the modification to this system. Comment may be submitted to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530 (Room 850 WCTR Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report on the system modification to OMB and the Congress. The system description is reprinted below.

Dated: October 30, 1998.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/JMD–017

SYSTEM NAME:

Department of Justice (DOJ) Employee Transportation Facilitation System, Justice/JMD–017.

SYSTEM LOCATION(S):

Records are located in the offices of the Employee Transportation Coordinator of the respective DOJ components as listed in Appendix I of part 16, 28 CFR.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Covered are any individuals who may apply for or participate in the ridesharing, parking, or transit subsidy programs of the DOJ. Individuals include: (1) DOJ employees and other Federal and non-Federal agency employee applicants for, and/or recipients of ridesharing information; (2) DOJ applicants for and/or recipients of parking privileges; (3) DOJ and other Federal and non-Federal agency employees, who may participate as riders in the parking program with DOJ employees who have applied for or who have been granted parking privileges; (4) DOJ applicants for, and/or recipients of, transit subsidies and authorized use of home-to-work transportation.

DOJ employee applicants and recipients may include former DOJ employees; non-Federal employees may include private sector and other State and local government employees.

CATEGORIES OF RECORDS IN THE SYSTEMS:

Records in the system include any records necessary to carry out the responsibilities authorized by law related to parking, ridesharing, and transit subsidy programs.

Paper records may include DOJ car/vanpool parking space applications and written requests for executive, unusual and handicapped parking assignments; ridesharing applications which provide or request applicant information related to availability for car/vanpools, and/or which provide or request similar information related to potential car/vanpool members; transit subsidy applications and certifications; correspondence to applicants; and administrative reports—including status reports and reports of disbursements to transit subsidy recipients.

Paper records may also include the notifications described under ''Routine Uses of Records Maintained in the System, * * *.''

Computer records may include data from the employee applications and/or from personnel records. Data from personnel records may include any data needed to process an application—such as that needed to verify employment, e.g., Federal service computation data, organization code, or that needed to identify parking assignments or fare subsidies that are no longer valid, e.g., separation date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 40 U.S.C. 471 *et seq.;* Executive Order 12191 of February 1, 1980, on the Federal Facility Ridesharing Program; the Federal Employees Clean Air Incentives Act (Pub. L. 103–172), effective January 1, 1994; and Treatment of Employer-Provided Transportation Benefits (Pub. L. 102–486, section 1911), effective December 31, 1992.

PURPOSE(S):

Information in the system will be used to assign, manage, and control the use of vehicle parking spaces and the issuance of transit subsidy benefits; to assist employees and the public in forming car/vanpools; and to ensure the integrity of the parking and transit subsidy programs of the Department of Justice and other Federal agencies by validating parking assignments and transit subsidy requests. Federal employees will not be able to participate in their transit subsidy program if they are provided parking/rider benefits by any Federal agency. Similarly, Federal employees will not be able to participate in their agency parking program if they receive either parking/rider benefits from another Federal agency, or transit subsidy benefits from their own agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant records may be disclosed:

(1) As is necessary to respond to congressional inquiries on behalf of constituents;

(2) To the National Archives and Records Administration and to the General Services Administration in records management inspections conducted under the authority of Title 44 U.S.C. 2904 and 2906; and

(3) To DOJ employees to enable them to contact other individuals covered by this system of records for the purpose of forming or participating in a car/vanpool.

(4) To Federal agencies and/or to the Metropolitan Council of Governments, and similar organizations, to enable such organizations—through coordinating efforts with other Federal agencies—to provide information to any person for the purpose of contacting any individuals covered by this system of records in order to form or participate in a car/vanpool. Disclosure may include a list of program participants or, where appropriate, it may relate to only one or multiple individuals.

(5) To Federal agencies, DOJ may also provide information as follows:

DOJ employee information:

(a) Upon request, either a list of DOJ employees, or an affirmative, negative or ''non-DOJ employee'' response as to whether or not a DOJ employee(s) (or name represented to be a DOJ employee)—is listed as a participant (or as an applicant in DOJ's parking or transit subsidy programs; or is authorized to use a DOJ vehicle for home-to-work transportation (or has requested such authorization). Disclosure is made to enable that Federal agency to determine or validate a DOJ employee's eligibility to participate in its parking program.

(b) Upon DOJ initiative, either a DOJ employee name(s) or a list on which DOJ employees are named as participants (or as applicants) in DOJ's parking or transit subsidy programs, or as employees authorized to use a DOJ vehicle for home-to-work transportation (or as employees who have requested such authorization). Disclosure is made

to elicit an affirmative or negative response as to whether such DOJ employee(s) participate with another Federal agency employee in that agency's parking program (or have requested such participation), and thus enable DOJ to determine or validate DOJ employee eligibility for any form of DOJ parking privileges, or for DOJ transit subsidies.

Other Federal Agency Employee Information:

(c) Upon request, either a list of another Federal agency's employees or an affirmative or negative response as to whether or not such agency employee(s) participate (or have requested participation) in DOJ's parking program. Disclosure is made to enable that agency to determine or validate eligibility for any form of parking privileges, or transit subsidy benefits, for its employees.

(d) Upon DOJ initiative, either a Federal agency employee name(s) or a list on which such agency's employee(s) are named as participating in DOJ's parking program (or has requested such participation). Disclosure is made to elicit from that agency an affirmative, negative, or ''non-employee'' response as to whether such employee(s) participate (or have requested participation) in that agency's parking or transit subsidy programs, or are authorized to use a vehicle for home-to-work transportation (or have requested such authorization), and thus enable DOJ to determine or validate other Federal agency employee eligibility to participate in DOJ's parking program.

Non-Federal Employee Information:

(e) Upon request, either the name(s) of non-Federal employees, a list of names, or a list which includes their name(s). Disclosure is made to enable the agency to determine whether a non-Federal employee may also be listed as a rider in DOJ's parking program and, as a result, enable the agency to determine or validate parking permit eligibility for its employees.

(f) Upon DOJ initiative, either the name(s) of non-Federal employees, a list of names, or a list which include their name(s). Disclosure is made to enable the DOJ to determine whether a non-Federal employee may also be listed as a rider in that agency's parking program and, as a result, enable the DOJ to determine or validate parking permit eligibility for DOJ employees.

Parking spaces may be assigned according to a variety of established priorities among Federal agencies and, in some instances, according to specific criteria, e.g., carpools with the greatest number of participants (except in a tie). Therefore, these disclosures would enable other Federal agencies and DOJ to review the validity of parking space assignments, identify and take appropriate action with respect to those who violate parking assignment policies (as set forth in published agency operating procedures and policies), and thus allocate spaces fairly. In addition, because transit subsidies are offered to encourage the use of public transportation for those not allocated parking privileges, such disclosures would also enable other Federal agencies and DOJ to ensure that both parking privileges and transit subsidies are not provided to the same employee(s).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in hard copy form and/or electronically.

RETRIEVABILITY:

Records may be retrieved by individual name, social security number, residential zip code, vehicle tag number, vehicle type, or other information from the application or personnel records. Records may be retrieved by name or other identifier directly and/or by asking the system to segregate a list, by name, of those who work for a particular DOJ component. Former DOJ employee names are retrieved by asking the system to segregate a list, by name, of those parking participants who have separated from employment with DOJ. Other Federal agency employee names are retrieved by asking the system to segregate a list, by name, of those parking participants who are identified as employees of a particular Federal agency. Non-Federal agency employee names may be similarly segregated.

SAFEGUARDS:

These files are stored in locked file cabinets in secured facilities, and access is restricted to personnel having an official need. Automated records are protected through computer password security.

RETENTION AND DISPOSAL:

Data is deleted from the data base when the individual covered by the system no longer participates in the Employee Transportation Facilitation program, e.g., is no longer on the ridesharing listing; is no longer a member of a car/vanpool; or, no longer receives a transit subsidy. Paper copies of reports and listings are retained (under General Records Schedule 6) for six years starting with October 1 of the next fiscal year after the date that the individual no longer participates in the program.

SYSTEMS MANAGER(S) AND ADDRESS:

Director, Facilities and Administrative Services Staff, Justice Management Division, NPB Suite 1070, Department of Justice, Washington, DC 10530.

NOTIFICATION PROCEDURES:

Individuals wanting to know whether information about them is maintained in this system of records may review their own ridesharing, parking, transit subsidy, or other personal data upon presentation of a picture identification card at the appropriate address indicated under ''Records Access Procedures.''

RECORDS ACCESS PROCEDURES:

Except as otherwise noted, employees of the Offices, Boards, and Divisions (listed in Appendix I of part 16, 28 CFR) may appear in person or address their requests for access to: Employee Transportation Coordinator, Facilities and Administrative Services Staff, Justice Management Division, NPB Suite 1070, Department of Justice, Washington, DC 10530.

Except as otherwise noted, employees of the bureaus (listed in Appendix I of part 16, 28 CFR) may appear in person or address their requests for access to the following bureau officials, attention Employee Transportation Coordinator:

Director, Bureau of Prisons, HOLC Building, 320 First Street, NW., Washington, DC 20534

Administrator, Drug Enforcement Administration, 700 Army Navy Drive, Arlington, VA 22202

Director, Federal Bureau of Investigation, J. Edgar Hoover Building, 935 Pennsylvania Avenue, NW., Washington, DC 20535–0001

Commissioner, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536

Director, U.S. Marshals Service, 600 Army Navy Drive, Arlington, VA 22202

Individuals who park in a DOJ building (or DOJ-leased space) other than the one in which they work, may review their parking record by presenting the required identification to the Employee Transportation Coordinator at the appropriate building address.

CONTESTING RECORD PROCEDURES

Individuals may request changes to their own record by submitting the proposed changes in writing at the appropriate address indicated under ''Records Access Procedures.''

Individuals who submit proposed changes to information provided by third parties should be prepared to provide information supporting their contention that such third-party information is erroneous.

RECORD SOURCE CATEGORIES:

DOJ and other Federal Agency applicants; DOJ personnel records; participating Department components and other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 98–30156 Filed 11–9–98; 8:45 am]

BILLING CODE 4410–CH–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: November 30, 1998, 2:00 pm, U.S. Department of Labor, N–3437 A/B, 200 Constitution Ave., NW, Washington, DC 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to 19 U.S.C. 2155(f) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

For further information, contact: Jorge Perez-Lopez, Director, Office of International Economic Affairs, Phone: (202) 219–7597.

Signed at Washington, DC this 2nd day of November 1998.

Andrew James Samet,

Deputy Under Secretary, International Affairs.

[FR Doc. 98–30117 Filed 11–9–98; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of October, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–34,837; Sonoco Products Co., Paper Div., Speciality Products, Holyoke, MA.

TA–W–34,976; Cordis Corporation, Warren, NJ.

TA–W–34,864; AMP, Inc., Selingsgrove, PA.

TA–W–34,822; The Arnold Palmer Golf Co. (Formerly Progroup), Ooltewah, TN.

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–35,035; Smith Corona Corp., Cortland, NY.

TA–W–34,966; Central Resources, Inc., Midland, TX.

TA–W–34,994; Naxos of America, Inc., Pennsauken, NJ.

TA–W–34,816; Cone International, L.L.C., Portland, OR.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–34,936; Polaroid Corp., Norwood MA.

TA–W–34,984; Firstenergy Corp., Akron, OH and Various Locations in the State of Ohio.

TA–W–34,851; Weyerhaeuser Co., Containerboard Div—Linerboard Mill, Springfield, OR.

TA–W–34,802; Fina Pipe Line Co., Big Spring, TX.

TA–W–34,910; American Bank Note Co., Philadelphia, PA.

TA–W–34,993; Alcoa Fujikura Ltd, Electro-Mechanical Products, Owosso, MI.

TA–W–34,670; Rexworks, Inc., Milwaukee, WI.

TA–W–34,947, Texas Instruments, Midland, TX.

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–35,036; Woodhall Weaving Mills, Inc., Pawtucket, RI: September 17, 1997.

TA–W–35,010; The Outdoor Recreation Group, Los Angeles, CA; September 11, 1997.

TA–W–34,999; Siebe Automotive—Algood, Siebe Automotive North America, Algood, TN: September 15, 1997.

TA–W–35,030; Wolverine Drilling, Inc., Kenmare, MD: September 14, 1997.

TA–W–34,945; St. Paul Apparel, St. Paul, VA: August 25, 1997.

TA–W–34,806 & A; Donnkenny Apparel, Inc., Rural Retreat, VA and Christiansburg, VA: July 21, 1997.

TA–W–34,783 & A; Huber Lace and Embroidery, Inc., West New York, NJ and Clover Trimmings, Inc., New York, NY: July 6, 1997.

TA–W–35,011; Richard's Sportswear, Inc., San Fernando, CA: September 9, 1997.

TA–W–34,034; Geneva Steel, Provo, UT: September 18, 1997.

TA–W–35,044; Givens Industries, Inc., Moulton, AL: September 21, 1997.

TA–W–34,967; Wundies, Inc., Wellsboro, PA: July 4, 1998.

TA–W–35,063; Apehead Mfg, Inc., Cookeville, TN: October 5, 1997.

TA–W–35,781; Armco, Inc., Mansfield Operations, Mansfield, OH: July 18, 1997.

TA–W–34,758; Nordictrack, Glencoe, MN: July 7, 1997.
TA–W–35,000; Santa's Best, Millville, NJ: September 8, 1997.
TA–W–34,855; Ricon Resins, Inc., Grand Junction, CO: August 4, 1997.
TA–W–34,832; Inter Lake Papers, Inc., Kimberly, WI: July 29, 1997.
TA–W–34,929; Allegheny Ludlum Corp., Leechburg, PA: August 5, 1997.
TA–W–35,007; ICI Explosives USA, Inc., Explosivs Div., Tamaqua, PA: September 16, 1997.
TA–W–35,020; Lane Punch Corp., New Berlin, WI: September 10, 1997.
TA–W–34,778; Syroco, Inc., Siloam Springs, AR: July 7, 1997.
TA–W–34,860; Sandvik Rock Tools, Inc., Houston, TX: August 3, 1997
TA–W–35,049; Borden Foods Corp., Tolleson, AZ: September 23, 1997.
TA–W–34,766; B & H, Inc., Leighton, AL: July 6, 1997.
TA–W–34,830; M. Fine & Sons Manufacturing Co., Inc., Lawrenceburg, TN: July 22, 1997.
TA–W–34,768; The Faulhaber Co., Monroeville, OH: July 6, 1997.
TA–W–34,983; M. Wile and Co., d/b/a Intercontinental Branded Apparel (Elmwood Ave & Goodell Street Plants), Buffalo, NY: April 16, 1998.
TA–W–34,852; Thomas & Betts Corp., Montgomeryville, PA: May 17, 1998.
TA–W–34,946; GCO Apparel, Inc., Bowdon, GA: August 26, 1997.
TA–W–34,969; Teledyne Electronics Technologies, Analytical Instruments, City of Industry, CA: September 4, 1997.

Also, pursuant to Title V of the North American Free Trade Agreement Implemnetation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of October, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally of partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increased imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–02657; Miller Sports (dba) Miller Golf Bags, Walnut Ridge, AR
NAFTA–TAA–02607; Sensus Technologies, Inc., Uniontown, PA
NAFTA–TAA–02520; XEL Communications, Aurora, CO
NAFTA–TAA–02567; Globe Business Furniture, Inc., Hendersonville, TN
NAFTA–TAA–02578; Fujitsu Computer Products of America, Inc., Hillsboro, OR
NAFTA–TAA–02579; BWD Automotive Corp., Ottawa, IL
NAFTA–TAA–02559; Ricon Resins, Inc., Grand Junction, CO
NAFTA–TAA–02515; Syroco, Inc., Siloam Springs, AR
NAFTA–TAA–02569; Cordis Corp., Warren, NJ
NAFTA–TAA–02540; Sonoco Products Co., Paper Div-Specialty Products, Holyoke, MA
NAFTA–TAA–02540; Rexworks, Inc., Milwaukee, WI
NAFTA–TAA–02583; GCO Apparel Co, Bowdon, GA

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–02655; Hvide Maine, Inc., Offshore Towing Div., Fort Lauderdale, FL
NAFTA–TAA–02604; Naxos of America, Inc., Pennsauken, NJ
NAFTA–TAA–02597; Central Resources, Inc., Midland, TX
NAFTA–TAA–02532; GE Power Systems, Parts and Services Operations, Schenectady, NY

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–02633; Jasper Textile Corp., Jasper, FL: September 11, 1997.
NAFTA–TAA–02592; Stone Apparel, North, SC: August 24, 1997.
NAFTA–TAA–02556; Cross Creek Apparel, Carthage, NC: October 5, 1997.
NAFTA–TAA–02610; Teledyne Electronic Technologies, Analytical Instruments, City of Industry, CA: September 4, 1997.
NAFTA–TAA–02648; McCulloch Corp., Lake Havasu City Warehouse, Lake Havasu City, AZ: February 10, 1998.
NAFTA–TAA–02640; The Russell Group Limited, Rockingham, NC: September 17, 1997.
NAFTA–TAA–02539; Inter Lake Papers, Inc., Kimberly, WI: July 29, 1997.
NAFTA–TAA–02628; ICI Explosives USA, Inc., Explosives Div., Tamaqua, PA: September 16, 1997.
NAFTA–TAA–02641; Owens-BriGam Medical Co., Newland, NC: September 28, 1997.
NAFTA–TAA–02623; The Outdoor Recreation Group, Los Angeles, CA: September 11, 1997.
NAFTA–TAA–02595; Richard's Sportswear, Inc., San Fernando, CA: September 2, 1997.
NAFTA–TAA–02646; Borden Foods Corp., Tolleson, AZ: September 23, 1997.
NAFTA–TAA–02600; Lear Corp., Midland, TX: September 8, 1997.
NAFTA–TAA–02608; Alcoa Fujikura Ltd. Electro Mechanical Products, Owosso, MI: August 31, 1997.
NAFTA–TAA–02613; M. Wile and Co d.b.a. Intercontinental Branded Apparel (Elmwood Ave and Goodell Street Plants), Buffalo, NY: January 19, 1998.
NAFTA–TAA–02662; Sonoco Products Co., Amsterdam, NY: October 6, 1997.

I hereby certify that the aforementioned determinations were issued during the month of October, 1998. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 28, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–30106 Filed 11–9–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,216, TA–W–34,216A]

JoLene Company, Inc., Provo, Utah and Salt Lake City, Utah; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Trade Adjustment Assistance on March 25, 1998, applicable to all workers of JoLene Company, Incorporated, located in Provo, Utah. The notice was published in the **Federal Register** on April 21, 1998 (63 FR 19752).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information received from the company shows that worker separations will occur at the Salt Lake City, Utah facility of JoLene Company, Incorporated when it closes at the end of November, 1998. The workers are engaged in the production of infants' and children's dresses.

The intent of the Department's certification is to include all workers of JoLene Company, Incorporated who were adversely affected by increased imports of infants' and children's dresses.

Accordingly, the Department is amending the certification to cover the workers of JoLene Company, Incorporated, Salt Lake City, Utah.

The amended notice applicable to TA–W–34,216 is hereby issued as follows:

''All workers of JoLene Company, Incorporated, Provo, Utah (TA–W–34,216), and Salt Lake City, Utah (TA–W–34,216 A) who became totally or partially separated from employment on or after January 19, 1997 through March 25, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 20th day of October, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment.

[FR Doc. 98–30108 Filed 11–9–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 20, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 20, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 19th day of October, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 10/19/1998]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
35,093	Okie Apparel Factory (Wrks)	Hugo, OK	10/13/1998	Sports Clothing.
35,094	Pearl Izumi (Comp)	Broomfield, CO	09/30/1998	Sports Clothing.
35,095	McCulloch Corp (Wrks)	Lake Havasu Cty, AZ	09/29/1998	Machined Parts for Yardware.
35,096	U.S. Technologies (Comp)	Sewell, NJ	09/19/1998	Distribution Center for Lamps.
35,097	Wallet Works, Inc (Wrks)	Boise Cave, KY	09/28/1998	Retail Sales of Wallets.
35,098	Hardin Knitwear, Inc (Comp)	Bronx, NY	09/29/1998	Knitwear.
35,099	Creative Expressions (Wrks)	Indianapolis, IN	10/01/1998	Paper Party Goods.
35,100	AET (Comp)	Covington, VA	10/05/1998	Packaging Films.
35,101	General Electric (Wrks)	Somersworth, NH	09/19/1998	Residential Meter Subassembly.
35,102	Mitchell Manufacturing (Wrks)	Clare, MI	10/02/1998	Door Panels, Seat Frames & Covers.
35,103	Harman Consumer Mfg (Wrks)	El Paso, TX	09/25/1998	CD Player.
35,104	W. Seitchik and Sons (Comp)	Philadelphia, PA	09/19/1998	Men's Tailored Clothing.
35,105	Thurmond Apparel, Inc (Comp)	State Road, NC	09/29/1998	Ladies' Sportswear.
35,106	OPT Industries (USWA)	Phillipsburg, NJ	09/28/1998	Electronic Components.
35,107	Int'l Product Options (Wrks)	New York, NY	09/30/1998	Ladies' Dresses, Pants, Skirts.
35,108	Gulf States Steel, Inc (USWA)	Gadsden, AL	09/19/1998	Hot & Cold Rolls, Galvanized Plates, Coils.
35,109	MKE-Quantum Components (Wrks)	Shrewsbury, MA	09/21/1998	Wafers.
35,110	M.I. Phoenix, Inc (Wrks)	New Medford, MA	10/06/1998	Ladies' Jackets.
35,111	Associated Plastics (Wrks)	Jonesboro, AR	09/28/1998	Telephone Boxes, Pads.
35,112	Reliability, Inc (Wrks)	Durham, NC	10/07/1998	Burned-In & Test Memory Chips.

[FR Doc. 98–30107 Filed 11–9–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34, 326]

Rubbermaid-Cortland, Inc., Cortland, New York; Notice of Negative Determination on Reconsideration

On August 25, 1998, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on September 4, 1998 (63 FR 47327).

The Department initially denied TAA to workers of Rubbermaid-Cortland because the ''contributed importantly'' group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. Production and sales at the Cortland, New York plant increased during the relevant time period. Furthermore, in early 1998, the production of molded plastic household products was shifted from Cortland to other domestic Rubbermaid production facilities. The workers at the subject firm were engaged in employment related to the production of molded plastic household products.

The petitioners asserted that the subject firm shifted production of toolboxes to Canada and Europe and imported into the U.S. and further, that imports of toolboxes and other household products from other countries impacted on the subject firm's market share.

On reconsideration, the Department requested that the Rubbermaid, Incorporated provide additional information about foreign toolbox production, other foreign production of household products, and information concerning overall sales and production for the Household Products Division.

Additional information provided by the company indicates that production equaling less than 10 percent of the former production of toolboxes at Cortland was transferred to another country for three months then transferred back to another domestic facility of the company. The investigation also revealed that the subject firm is not importing like or directly competitive articles into the U.S. from recently acquired facilities in Europe. Further, the investigation revealed that the sales by Rubbermaid's Household Products Division is relatively unchanged.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Rubbermaid-Cortland, Incorporated, Cortland, New York.

Signed at Washington, DC, this 21st day of October 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–30109 Filed 11–9–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,398, TA–W–34,398A]

Semitool, Inc.; Kalispell, Montana and Maine Service Center, South Portland, Maine; Amended Certification Regarding Eligibility To Apply for Working Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Working Adjustment Assistance on May 28, 1998, applicable to all workers of Semitool, Incorporated located in Kalispell, Montana. The notice was published in the **Federal Register** on June 22, 1998 (63 FR 33958).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information received by the company shows that worker separations occurred at the Maine Service Center of Semitool, Incorporated located in South Portland Maine. Workers at the South Portland, Maine location provide administrative and customer support services for Semitool's wafer processing equipment production facilities including Kalispell, Montana.

The intent of the Department's certification is to include all workers of Semitool, Incorporated who were adversely affected by increased imports. Accordingly, the Department is amending certification to cover the workers of Semitool, Incorporated, Maine Service Center, South Portland, Maine.

The amended notice applicable to TA–W–34,398 is hereby issued as follows:

All workers of Semitool, Incorporated, Kalispell, Montana (TA–W–34,398), and the Maine Service Center, South Portland, Maine (TA–W–34,398A) who became totally or partially separated from employment on or after March 14, 1997 through May 28, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 20th day of October, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–30111 Filed 11–9–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,116, TA–W–34,116A]

Tonkawa Gas Processing Woodward, Oklahoma and Delhi Gas Pipeline Corp., Dallas, Texas; Notice of Negative Determination on Reconsideration on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in *Former Employees of Tonkawa Gas Processing and Delhi Pipeline Corp.* v. *Secretary of Labor,* No. 98–04–00889.

The Department's initial denial for the workers of Tonkawa Gas Processing, Woodward, Oklahoma and Delhi Gas Pipeline Corporation, Dallas, Texas issued on March 16, 1998 and published in the **Federal Register** on April 3, 1998 (63 F.R. 16,574), was based on the fact that criterion (3) of the group eligibility requirements of section 222 of the Trade Act of 1974, as amended, was not met.

The petitioners request for reconsideration resulted in a Dismissal of Application for Reconsideration which was issued on April 7, 1998 and published in the **Federal Register** on April 22, 1996 (63 FR 19,756). The Department's review of the application for reconsideration found no new substantial information which would bear importantly on the Department's determination.

On remand, the Department contacted company officials, both from the parent company and the subject facility, to obtain (1) information on the business of Delhi Gas Pipeline and it's relationship with Tonkawa Gas processing; (2) information on the business of Tonkawa Gas Processing and the Woodward, Oklahoma facility; and (3) additional information on production and employment at the subject facility.

Tonkawa Gas Processing is a wholly-owned subsidiary of the Delhi Group

which was sold to Koch Industries, Inc. in November, 1997. The Tonkawa Gas Processing facility in Woodward, Oklahoma processes liquefied natural gases, e.g. Ethane, Propane, Normal Butane, and Isobutane. The gas processed by the Woodward facility is only gas from Delhi pipelines. Production at the Woodward facility remained relatively constant during both 1996 and 1997. In December, 1997, with the acquisition of the Delhi Group by Koch Industries, an employment streamlining was implemented at the Woodward facility which resulted in a net employment loss of one position, a plant operator.

It is determined, therefore, upon further investigation, that employment declines at the Woodward facility were not as a result of a decline in production at the facility but rather, were the result of attempts by the firm acquiring the subject facility to increase operating efficiencies. Further, declines in production at the facility subsequent to the acquisition and the net employment reduction were attributable to a decline in the supply of raw materials (natural gas) which were used in the production of liquefied gas products at that facility and could not, therefore, have been attributable to increased imports of like or directly competitive products. Further, a review of imports of liquefied natural gases indicates that imports declined during 1997 compared to the previous year and are less than 10% relative to domestic production.

Conclusion

After consideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Tonkawa Gas Processing, Woodward, Oklahoma and Delhi Gas Pipeline Corporation, Dallas, Texas.

Signed at Washington, DC, this 23rd day of October 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–30110 Filed 11–9–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration (ETA)

Unemployment Compensation for Ex-servicemembers (UCX) Program: Unemployment Insurance Program Letter Amending the Consolidated List of ''Acceptable'' Narrative Reasons for Separation Transmitted in UIPL No. 3–95, Change 1 to Include Those Dealing With ''Inaptitude.''

ETA has responsibility for administration of the UCX program, providing unemployment compensation benefits for ex-servicemembers. ETA issues interpretations affecting the UCX program in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies (SESAs). The UIPL described below is published in the **Federal Register** in order to inform the public.

UIPL 3–95, Change 2

To be eligible for UCX, an ex-servicemember must, among other requirements, meet the definition of ''Federal service.'' This requires that the servicemember be separated under honorable conditions and have completed a first full term of service. If separated before completing the first full term, the separation must be for, among other reasons, ''inaptitude,'' but only if the service was continuous for at least 365 days. On December 6, 1994, UIPL No. 3–95 was issued to all SESAs formally transmitting a new consolidated list of acceptable narrative reasons for separation, except those for ''inaptitude,'' and instructions for their use in determining individual eligibility for UCX benefits.

UIPL No. 3–95 informed the SESAs that ETA would amend the list of ''acceptable'' narrative reasons for separation when it was determined which narrative reasons for separation were for ''inaptitude.'' DOL has now finalized the list of ''acceptable'' narrative reasons for separation dealing with ''inaptitude'' in UIPL No. 3–95, Change 2.

Dated: November 5, 1998.

Raymond L. Bramucci,

Assistant Secretary of Labor.

DIRECTIVE: Unemployment Insurance Program Letter No. 3–95, Change 2

TO: All State Employment Security Agencies

FROM: Grace A. Kilbane, Director, Unemployment Insurance Service

SUBJECT: UCX Narrative Reasons for Separation from Military Service

1. *Purpose.* To amend the consolidated list of ''acceptable'' narrative reasons for separation transmitted in Unemployment Insurance Program Letter (UIPL) No. 3–95 and UIPL No. 3–95, Change 1 to include those dealing with ''inaptitude.''

2. *References.* UIPL No. 3–95; UIPL No. 3–95, Change 1; 5 U.S.C. 8521(a)(1); and 20 CFR Part 614.

3. *Background.* On December 6, 1994, UIPL No. 3–95 was issued to all State Employment Security Agencies (SESAs) formally transmitting a new consolidated list of acceptable narrative reasons for separation, except those for ''inaptitude,'' and instructions for their use in determining individual eligibility for UCX benefits. The military services began to use exclusively the consolidated list of ''acceptable'' narrative reasons for separation after October 1, 1993.

After the issuance of UIPL No. 3–95, the Department of Labor (DOL) received several inquiries from SESAs regarding the effective date of the new instructions for using the consolidated list of acceptable narrative reasons for separation that was contained in UIPL No. 3–95. UIPL No. 3–95 stated that the new consolidated list of acceptable narrative reasons for separation was effective for all separations from military service on or after December 6, 1994, the date of the directive. Since the DOL did not provide for a retroactive application of the consolidated list in UIPL No. 3–95, some SESAs assumed that UIPL No. 25–83 and Changes 1-12 were controlling for the period October 1, 1993, to December 5, 1994.

Consequently, UIPL No. 3–95, Change 1 was issued revising the effective date of UIPL No. 3–95 and provided clarifying instructions concerning the effective dates of lists of ''acceptable'' narrative reasons for separation.

Further, UIPL No. 3–95 informed the SESAs that the DOL would amend the list of ''acceptable'' narrative reasons for separation when it was determined which narrative reasons for separation were for ''inaptitude.'' DOL has now finalized the list of ''acceptable'' narrative reasons for separation dealing with ''inaptitude.''

The contents of this directive will also be issued as a Change 14 to *ET Handbook No. 384, Second Edition.*

4. *DOL Definition of ''Inaptitude.''* DOL defines ''inaptitude'' as being ''unsuitable for military service for reasons largely related to personal characteristics not reflected by acts of serious misbehavior.''

5. *Narrative Reasons for Separation Meeting DOL's Definition of Inaptitude.* DOL determined that 20 narrative reasons, listed in the attachment to this directive, constitute ''inaptitude'' under the above definition for UCX qualifying purposes. DOL estimates that this broader definition will allow approximately 2,500 to 3,000 additional claimants per year to qualify for UCX.

6. *Effective Date.* The narrative reasons for separation that DOL has determined constitute ''inaptitude'' within the meaning of 5 U.S.C. 8521(a)(1)(B)(ii)(IV) shall be effective for all initial claims filed on and after the date of this directive. However, where State law permits, a monetary redetermination must be issued when: (1) a claimant requests a redetermination on a new or previously denied claim or files an additional or renewed claim for benefits, and (2) the claimant's military service is within

the State's base period at the time of the request or effective date of claim.

Any redetermination of monetary eligibility must be based upon the ''new list'' of acceptable narrative reasons for discharge. This applies to any claimant who has or who would have had a benefit year in effect which would have included UCX wage credits, if not for the denial based on the prior list of acceptable narrative reasons for discharge. However, this new interpretation only impacts weeks of unemployment after the date of this directive, i.e., although a redetermination may result in future eligibility or a higher weekly benefit amount, no back payments will be made as a result of wage credits that were unavailable to the claimant prior to the date of this directive.

The new list of ''acceptable'' narrative reasons for separation constituting ''inaptitude'' represents a substantial expansion from October 1, 1993, of both the types and the numbers, of separations designated as ''inaptitude.'' Prior to October 1, 1993, there was only one DOD narrative reason used to denote discharges for ''inaptitude.'' This reason was designated as ''Unsuitability—Inaptitude.'' However, since October 1, 1993, the DOD had ceased using this narrative reason.

Although it is a sound rule of administrative law to apply new statutory interpretations prospectively, UIPL No. 3–95 announced an intent to make retroactive the amended list of ''acceptable'' narrative reasons for separation constituting ''inaptitude.'' DOL initially believed that a substantial number of ex-servicemembers might have been prejudiced by having no discharges designated as ''inaptitude'' from late 1993 until the new ''inaptitude'' list was released and thus examined whether to apply this expanded list retroactively to October 1, 1993. However, as explained below, DOL, in consultation with DOD, has since determined that very few servicemembers would be prejudiced by an application that was only prospective and, therefore, the public interest would not be served by a retroactive application.

DOD has informed DOL that there were only seven discharges with a narrative reason related to ''inaptitude'' (designated as ''Unsuitability—Inaptitude'') during the three fiscal years immediately prior to October 1, 1993. This information suggests that very few servicemembers likely would have been discharged after 1993 for the ''inaptitude'' narrative reason for separation had the pre-October 1, 1993 narrative reason continued in use. Thus, very few individuals discharged after October 1, 1993, but prior to the date of this issuance, would have had any expectation of qualifying for benefits under the prior inaptitude list.

7. *Action Required.* SESAs are required to:

a. Distribute the contents of this directive and the attachment to all appropriate staff members.

b. Destroy the Attachment to UIPL 3–95 Change 1 and utilize the Attachment to this Change 2 to UIPL 3–95.

c. Announce in a newspaper of general circulation, and in other appropriate media such as veterans publications, the application of the operating instructions contained in this directive and their effect on UCX eligibility. The announcements shall include mention of the authority under 20 CFR 614.9(a) to issue redeterminations of previously denied UCX claims.

8. *Inquiries.* Direct inquiries to the appropriate Regional Office.

9. *Attachment.* Revised List of ''Acceptable'' Narrative Reasons for Separation Meeting the Requirements of 5 U.S.C. 8521(a)(1)(B)(ii)(I)–(IV).

''ACCEPTABLE'' Narrative Reasons for Separation Meeting the Requirements of 5 U.S.C. 8521(a)(1)(B)(ii)(I)–(IV)

For the convenience of the government under an early release program (5 U.S.C. 8521(a)(1)(B)(ii)(I))
Medal of Honor Recipient
Completion of Required Active Service
Insufficient Retainability (Economic Reasons)
Reduction in Force
To Attend School
Holiday Early Release Program
Defective Enlistment Agreement
Erroneous Entry (Other)
Intradepartmental Transfer*
Miscellaneous/General Reasons**

Because of medical disqualification, pregnancy, parenthood, or Service-incurred injury or disability (5 U.S.C. 8521(a)(1)(B)(ii)(II))
Pregnancy or Childbirth
Parenthood or Custody of Minor Children
Conditions, not Disability
Disability, Severance Pay
Disability, Permanent
Disability, Temporary
Disability, Existed Prior to Service, PEB
Disability, Existed Prior to Service, Med BD
Disability, Aggravated
Disability, Other

Because of hardship (5 U.S.C. 8521(a)(1)(B)(ii)(III))
Surviving Member
Hardship

*Effective for separations on or after September 1, 1994.

**Pertaining only to Army Officers' separations occurring from October 1, 1994 through August 31, 1995 and November 14, 1995 through July 1, 1996.

Because of personality disorders or inaptitude, but only if the service was continuous for 365 days or more (5 U.S.C. 8521(a)(1)(B)(ii)(IV))
Personality Disorder

The following are narrative reasons for separation that DOL has determined constitute ''inaptitude'' within the meaning of 5 U.S.C. 8521(a)(1)(B)(ii)(IV) and which are effective for all separations from military services on and after the date of this directive:

Conscientious Objector
Weight Control Failure
Ecclesiastical Endorsement
Secretarial Authority
Physical Standards
Erroneous Entry, Alcohol Abuse
Erroneous Entry, Drug Abuse
Non-selection, Permanent Promotion
Non-selection, Temporary Promotion
Failure to Complete a Commission or Warrant Program
Failure to Complete a Course of Instruction
Unsatisfactory Performance
Substandard Performance
Personal Alcohol Abuse
Alcohol Rehabilitation Failure
Drug Rehabilitation Failure
Military Personnel Security Program
Homosexual Admission
Homosexual Act
Non-retention on Active Duty

[FR Doc. 98–30138 Filed 11–9–98; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–2–94]

Electro-Test, Inc., Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of Electro-Test, Inc., for expansion of its recognition as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of this application.

DATES: Comments submitted by interested parties must be received no later than January 11, 1999.

ADDRESSES: Send comments concerning this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N3653, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program at the above address, or phone (202) 219–7056.

SUPPLEMENTARY INFORMATION:

Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that Electro-Test, Inc. (ETI) has applied for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). ETI's expansion request covers the use of an additional test standard. OSHA recognizes an organization as an NRTL, and processes applications related to such recognitions, following requirements in § 1910.7 of Title 29, Code of Federal Regulations (29 CFR

1910.7). Appendix A to this section requires that OSHA publish this public notice of the preliminary finding on an application.

ETI's previous application as an NRTL covered its initial recognition (60 FR 30495, June 9, 1995, which OSHA granted on October 6, 1995 (60 FR 52417).

The current addresses of the ETI testing facilities already recognized by OSHA are:

* Electro-Test, Inc., 1320 El Capitan Drive, 4th Floor, Danville, California 94526
Electro-Test, Inc., 3150–B E. Birch Street, Brea, California 92821
* Due to city boundary lines, this site is partially located in San Ramon, California.

General Background on the Application

ETI has submitted a request, dated September 2, 1998 (see Exhibit 11), to expand its recognition as an NRTL for one additional test standard. ETI seeks recognition for testing and certification of products to demonstrate compliance to the following test standard, and OSHA has determined it is appropriate, as prescribed by 29 CFR 1910.7(c): ANSI/UL 508C Power Conversion Equipment. The designation and title of this test standard were current at the time of the preparation of this notice. OSHA recognition of any NRTL for a particular test standard is limited to products for which OSHA standards require third party testing and certification before use in the workplace.

Preliminary Finding on the Application

ETI has submitted an acceptable request for expansion of its recognition as an NRTL. In connection with this request, OSHA did not perform an on-site review of ETI's NRTL testing facilities. However, NRTL Program audit staff reviewed information pertinent to the request, and in a memo dated September 9, 1998 (see Exhibit 12), recommended that ETI's recognition be expanded to include the additional test standard listed above.

Following a review of the application file, the auditor's recommendation, and other pertinent documents, the NRTL Program staff has concluded that OSHA can grant, to the Electro-Test, Inc. facilities listed above, the expansion of recognition to use the additional test standard. The staff therefore recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendation of the staff, the Assistant Secretary has made a preliminary finding that the Electro-Test Inc. facilities listed above can meet the recognition requirements, as prescribed by 29 CFR 1910.7, for the expansion of recognition. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comments, in sufficient detail, as to whether ETI has met the requirements of 29 CFR 1910.7 for expansion of its recognition as a Nationally Recognized Testing Laboratory. Your comment must consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESSES**), no later than the last date for comments (see **DATES** above). You may obtain or review copies of ETI's request, the recommendation on the expansion, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL–2–94, the permanent record of public information on ETI's recognition.

The NRTL Program staff will review all timely comments, and after resolution of issues raised by these comments, will recommend whether to grant ETI's expansion request. The Assistant Secretary will make the final decision on granting the expansion, and in making this decision, may undertake other proceedings that are prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Signed at Washington, DC, this 28th day of October, 1998.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 98–30116 Filed 11–9–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–2–93]

Entela, Inc.; Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of Entela, Inc., for expansion of its recognition as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of this application.

DATES: Comments submitted by interested parties must be received no later than January 11, 1999.

ADDRESSES: Send comments concerning this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program at the above address, or phone (202) 219–7056.

SUPPLEMENTARY INFORMATION:

Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that Entela, Inc. (ENT) has applied for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). ENT's expansion request covers the use of additional test standards. OSHA recognizes an organization as an NRTL, and processes applications related to such recognitions, following requirements in § 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Appendix A to this section requires that OSHA publish this public notice of the preliminary finding on an application.

ENT's previous application as an NRTL also covered an expansion for use of additional test standards (63 FR 19275, April 17, 1998), which OSHA granted on July 10, 1998 (63 FR 37416).

The current addresses of the ENT testing facilities already recognized by OSHA are:

Entela, Inc., 3033 Madison, S.E., Grand Rapids, Michigan 49548
Entela Taiwan Laboratories, 3F No. 260 262 Wen, Lin North Road, Pei Tou, Taipei, Taiwan.

General Background on the Application

ENT has submitted a request, dated August 10, 1998 (see Exhibit 15), to expand its recognition as an NRTL for additional test standards. OSHA's recognition of ENT's site in Taipei, Taiwan, currently includes certain limitations that are applicable to the testing and evaluation of products under the test standards listed below. These limitations are repeated in this notice.

ENT's request for expansion also includes its timely request for renewal of its recognition. However, ENT's recognition as an NRTL does not expire until July 26, 1999. Prior to this date, staff for the NRTL Program plans to perform an on-site review of one or both of the ENT testing sites. These reviews

are part of the normal process for granting an NRTL a renewal of its recognition, and in this case, ENT's recognition.

ENT seeks recognition for testing and certification of products to demonstrate compliance to the following 18 test standards, and OSHA has determined the standards are appropriate, as prescribed by 29 CFR 1910.7(c). OSHA recognition of any NRTL for a particular test standard is limited to products for which OSHA standards require third party testing and certification before use in the workplace.

ANSI/UL 187 X-Ray Equipment
ANSI/UL 563 Ice Makers
ANSI/UL 867 Electrostatic Air Cleaners
ANSI/UL 916 Energy Management Equipment
ANSI/UL 924 Emergency Lighting and Power Equipment
UL 962 Household and Commercial Furnishings
ANSI/UL 1069 Hospital Signaling and Nurse-Call System
ANSI/UL 1088 Temporary Lighting Strings
ANSI/UL 1236 Battery Chargers
ANSI/UL 1418 Implosion-Protected Cathode-Ray Tubes for Television-Type Appliances
ANSI/UL 1472 Solid-State Dimming Controls
ANSI/UL 1492 Audio and Video Equipment
ANSI/UL 1564 Industrial Battery Chargers
ANSI/UL 1573 Stage and Studio Lighting Units
ANSI/UL 1638 Visual Signaling Appliances
UL 1993 Self-Ballasted Lamps and Lamp Adapters
ANSI/UL 2044 Commercial Closed Circuit Television Equipment
UL 3044 Surveillance Closed Circuit Television Equipment

The designations and titles of the above test standards were current at the time of the preparation of this notice.

Limitations on the Recognition

The following limitations apply to the recognition of the Taiwan facility:

a. The Taiwan facility shall be limited to carrying out minor mechanical and electrical testing of instruments and small appliances.

b. Performance of inspections shall be limited to Entela personnel.

Preliminary Finding on the Application

ENT has submitted an acceptable request for expansion of its recognition as an NRTL. In connection with this request, OSHA did not perform an on-site review of ENT's NRTL testing facilities. However, NRTL Program audit staff reviewed information pertinent to the request, and in a memo dated September 9, 1998 (see Exhibit 16), recommended that ENT's recognition be expanded to include the additional 18 standards listed above.

Following a review of the application file, the auditor's recommendation, and other pertinent documents, the NRTL Program staff has concluded that OSHA can grant, to the Entela, Inc. facilities listed above, the expansion of recognition to use the additional 18 test standards, with the limitations to be applied as noted. The staff therefore recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendation of the staff, the Assistant Secretary has made a preliminary finding that the Entela, Inc. facilities listed above can meet the recognition requirements, as prescribed by 29 CFR 1910.7, for the expansion of recognition, subject to the above limitations. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comments, in sufficient detail, as to whether ENT has met the requirements of 29 CFR 1910.7 for expansion of its recognition as a Nationally Recognized Testing Laboratory. Your comment must consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESSES**), no later than the last date for comments (see **DATES** above). You may obtain or review copies of ENT's request, the recommendation on the expansion, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL–2–93, the permanent record of public information on ENT's recognition.

The NRTL Program staff will review all timely comments, and after resolution of issues raised by these comments, will recommend whether to grant ENT's expansion request. The Assistant Secretary will make the final decision on granting the expansion, and in making this decision, may undertake other proceedings that are prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Signed at Washington, DC this day of 28th day of October, 1998.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 98–30112 Filed 11–9–98; 8:45 am]

BILLING CODE 4510–26–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–1–88]

MET Laboratories, Inc., Application Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of MET Laboratories, Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of the application.

DATES: Comments submitted by interested parties must be received no later than January 11, 1999.

ADDRESSES: Send comments concerning this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N3653, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program at the above address, or phone (202) 219–7056.

SUPPLEMENTARY INFORMATION:

Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that MET Laboratories, Inc. (MET), has applied for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). MET's expansion request covers the use of additional test standards. OSHA recognizes an organization as an NRTL, and processes applications related to such recognitions, following requirements in § 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Appendix A to this section requires that OSHA publish this public notice of the preliminary finding on an application.

MET's previous application as an NRTL covered the renewal and an expansion of its recognition (61 FR 41661, August 6, 1996), which OSHA granted on November 20, 1996 (61 FR 59114).

The current address of the MET testing facility already recognized by OSHA is: MET Laboratories, Inc., 914 West Patapsco Avenue, Baltimore, Maryland 21230.

General Background on the Application

MET has submitted a request, dated June 3, 1998 (see Exhibit 20A), to expand its recognition as an NRTL for additional test standards. MET provided some additional information related to its request on August 21, 1998 (see Exhibit 20B). MET will notify OSHA, as stated in this letter, regarding a change in its existing capability to perform explosion tests. Relatedly, OSHA intends to impose limitations on the testing permitted under certain test standards.

MET seeks recognition for testing and certification of products to demonstrate compliance with the following 17 standards, and OSHA has determined the standards are appropriate, as prescribed by 29 CFR 1910.7(c). OSHA recognition of any NRTL for a particular test standard is limited to products for which OSHA standards require third party testing and certification before use in the workplace.

ANSI/UL 5 Surface Metal Raceways and Fittings
ANSI/UL 50 Enclosures for Electrical Equipment
ANSI/UL 65 Electric Wired Cabinets
ANSI/UL 201 Garage Equipment
ANSI/UL 482 Portable Sun/Heat Lamps
ANSI/UL 514A Metallic Outlet Boxes, Electrical
UL 664 Commercial Dry-Cleaning Machines (Type IV)
ANSI/UL 698 Industrial Control Equipment for Use in Hazardous (Classified) Locations[1]
UL 775 Graphic Arts Equipment
ANSI/UL 886 Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations [1]
ANSI/UL 1017 Vacuum Cleaning Machines and Blower Cleaners
ANSI/UL 1018 Electric Aquarium Equipment
ANSI/UL 1054 Special-Use Switches
ANSI/UL 1203 Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations [1]
ANSI/UL 1310 Direct Plug-In Transformer Units
ANSI/UL 1573 Stage and Studio Lighting Units
ANSI/UL 6500 Audio/Visual and Musical Instrument Apparatus for Household, Commercial, and Similar General Use

Preliminary Finding on the Application

MET has submitted an acceptable request for expansion of its recognition as an NRTL. In connection with this request, OSHA did not perform an on-site review of MET's NRTL testing facilities. However, NRTL Program audit staff reviewed information pertinent to the request, and in a memo dated September 9, 1998 (see Exhibit 21), recommended that MET's recognition be expanded to include the 17 additional test standards listed above.

Following a review of the application file, the auditor's recommendation, and other pertinent documents, the NRTL Program staff has concluded that OSHA can grant, to the MET Laboratories, Inc. facility listed above, the expansion of recognition to use the additional 17 test standards. The staff therefore recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendations of the staff, the Assistant Secretary has made a preliminary finding that the MET Laboratories, Inc. facility listed above can meet the requirements, as prescribed by 29 CFR 1910.7, for the expansion of recognition. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comments, in sufficient detail, as to whether MET has met the requirements of 29 CFR 1910.7 for expansion of its recognition as a Nationally Recognized Testing Laboratory. Your comment must consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESSES**), no later than the last date for comments (see **DATES** above). You may obtain or review copies of MET's request, the recommendation on the expansion, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL–1–88, the permanent record of public information on MET's recognition.

The NRTL Program staff will review all timely comments, and after resolution of issues raised by these comments, will recommend whether to grant MET's expansion request. The Assistant Secretary will make the final decision on granting the expansion, and in making this decision, may undertake other proceedings that are prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Signed at Washington, DC, this 28th day of October, 1998.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 98–30113 Filed 11–9–98; 8:45 am]

BILLING CODE 4510–26–U

[1] Testing and certification of products under this test standard is limited to Class I locations. Explosion testing is also limited to current test chamber capabilities.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–3–90]

Southwest Research Institute, Applications for Renewal and Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the applications of Southwest Research Institute for renewal and for expansion of its recognition as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of these applications.

DATES: Comments submitted by interested parties must be received no later than January 11, 1999.

ADDRESSES: Send comments concerning this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, at the above address, or phone (202) 219–7056.

SUPPLEMENTARY INFORMATION:

Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that Southwest Research Institute (SwRI) has applied for renewal and for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). SwRI's expansion request covers the use of additional test standards. OSHA recognizes an organization as an NRTL, and processes applications related to such recognitions, following requirements in § 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Appendix A to this section requires that OSHA publish this public notice of the preliminary finding on an application.

When first recognized, OSHA identified the Department of Fire Technology as the SwRI unit to which the recognition would, and still does, apply. The renewal and expansion will continue to apply primarily to this part of SwRI, although part of the recognition, such as the requirement for independence, applies to SwRI as a whole.

SwRI's previous application as an NRTL covered its recognition as an NRTL (57 FR 30237, July 8, 1992), which OSHA granted on the date noted below.

The current address of the SwRI testing facility already recognized by OSHA is: Southwest Research Institute, Department of Fire Technology, 6620 Culebra Road, Post Office Drawer 28510, San Antonio, Texas 78228.

General Background on the Applicant and Applications

According to publicly available information, SwRI is an ''independent, nonprofit, applied engineering and physical sciences research and development organization * * *'' In addition, SwRI has ''12 technical divisions,'' one of which is the Chemistry and Chemical Engineering Division. This division includes the Department of Fire Technology.

SwRI has submitted a request for renewal of its recognition, dated October 1, 1997 (see Exhibit 6A). SWRI received its recognition as an NRTL on July 13, 1993 (58 FR 37752), for a period of five years ending July 13, 1998. Appendix A to 29 CFR 1910.7 stipulates that the period of recognition of an NRTL is five years and that an NRTL may renew its recognition by applying not less than nine months, nor more than one year, before the expiration date of its current recognition. SwRI has submitted its request within the time allotted, and retains its recognition pending OSHA's final decision in this renewal process.

SwRI has also submitted a request, dated October 1, 1997 (see Exhibit 6B) to expand its recognition for additional test standards. However, OSHA has determined that some of the standards that were requested are not appropriate, as prescribed by 29 CFR 1910.7(c). Therefore, OSHA does not intend to include these standards for recognition.

Renewal of Recognition

SwRI seeks renewal of its recognition for testing and certification of products to demonstrate compliance to the following 7 test standards, which OSHA has previously recognized for SwRI:

UL 10A Tin-Clad Fire Doors
ANSI/UL 10B Fire Tests of Door Assemblies
ANSI/UL 94 Tests for Flammability of Plastic Materials for Parts in Devices and Appliances
ANSI/UL 155 Tests of Fire Resistance of Vault and File Room Doors
ANSI/UL 555 Fire Dampers
ANSI/UL 910 Test Method for Fire and Smoke Characteristics of Electrical and Optical-Fiber Cables Used in Air Handling Spaces
ANSI/UL 1887 Fire Test of Plastic Sprinkler Pipe for Flame and Smoke Characteristics

The designations and titles of the above test standards were current at the time of the preparation of this notice. They may differ from those that OSHA used in the original recognition of the test standards published in the **Federal Register**. In addition, OSHA had recognized SwRI for ASTM E152 but the standards organization has since withdrawn this standard. As a result, this standard is not included in SwRI's renewal. The standards organization has indicated that it is working on a replacement standard.

Expansion of Recognition—Additional Test Standards

SwRI seeks recognition for testing and certification of products to demonstrate compliance to the following 3 test standards, and OSHA has determined the standards are appropriate, as prescribed by 29 CFR 1910.7(c). OSHA recognition of any NRTL for a particular test standard is limited to products for which OSHA standards require third party testing and certification before use in the workplace.

UL 162 Foam Equipment and Liquid Concentrates
ANSI/UL 711 Rating and Fire Testing of Fire Extinguishers
UL 2085 Insulated Aboveground Tanks for Flammable and Combustible Liquids

Preliminary Finding on the Applications

SwRI has submitted acceptable requests for renewal and expansion of its recognition as an NRTL. In connection with the requests, OSHA has performed an on-site review of the SwRI facility in San Antonio, Texas, on March 30–April 2, 1998. The review focused on the testing and certification activities performed by the Department of Fire Technology in its capacity as an NRTL. Discrepancies noted by the auditor during the on-site review were addressed by SwRI following the on-site evaluation and are included in the on-site review report (see Exhibit 7).

Following a review of the application file, the on-site review report, and other pertinent documents, the NRTL Program staff has concluded that OSHA can grant to the SwRI Department of Fire Technology facility in San Antonio, Texas: (1) The renewal of recognition for the test standards noted above, and (2) the expansion to use the additional 3 test standards. The staff therefore recommended to the Assistant Secretary that the applications be preliminarily approved.

Based upon the recommendation of the staff, the Assistant Secretary has made a preliminary finding that the SwRI Department of Fire Technology San Antonio, Texas can meet the recognition requirements, as prescribed by 29 CFR 1910.7, for the renewal and the expansion of recognition. This preliminary finding does not constitute an interim or temporary approval of the applications.

OSHA welcomes public comments, in sufficient detail, as to whether SwRI has met the requirements of 29 CFR 1910.7 for the renewal and expansion of its recognition as a Nationally Recognized Testing Laboratory. Your comment must consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESS**), no later than the last date for comments (see **DATES** above). You may obtain or review copies of SwRI's requests, the on-site review report, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL–3–90, the permanent record of public information on SwRI's recognition.

The NRTL Program staff will review all timely comments, and after resolution of issues raised by these comments, will recommend whether to grant SwRI's renewal and expansion requests. The Assistant Secretary will make the final decision on granting the renewal and expansion, and in making this decision, may undertake other proceedings that are prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Signed at Washington, DC, this 28th day of October, 1998.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 98–30114 Filed 11–9–98; 8:45 am]

BILLING CODE 4510–26–U

LEGAL SERVICES CORPORATION

Intent to Award—Grant Awards to Applicants for Funds to Provide Civil Legal Services to Eligible Low-Income Clients Beginning January 1, 1999

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to make 1999 competitive grant awards.

SUMMARY: The Legal Services Corporation (LSC or Corporation) hereby announces its intention to award grants and contracts to provide

economical and effective delivery of high quality civil legal services to eligible low-income clients, beginning January 1, 1999.

DATES: All comments and recommendations must be received on or before the close of business on December 10, 1998.

ADDRESSES: Legal Services Corporation—Competitive Grants, Legal Services Corporation, 750 First Street, N.E., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Reginald Haley, Office of Program Operations, (202) 336–8827.

SUPPLEMENTARY INFORMATION: Pursuant to the Corporation's announcement of funding availability on April 22, 1998 (63 FR 19960) and Grant Renewal applications due on September 1, 1998, the LSC will award funds to one or more of the following organizations to provide civil legal services in the indicated service areas.

Service area	Applicant name	Anticipated 1999 award amounts
AL–1	Legal Services Corporation of Alabama Inc	$4,527,314
AL–2	Legal Services of North-Central Alabama Inc	515,039
AL–3	Legal Services of Metro Birmingham Inc	915,553
MAL	Legal Services Corporation of Alabama Inc	27,827
AK–1	Alaska Legal Services Corporation	550,568
NAK–1	Alaska Legal Services Corporation	456,588
AZ–1	Pinal & Gila Counties Legal Aid Society	268,741
AZ–2	DNA—People's Legal Services Inc	515,205
AZ–3	Community Legal Services, Inc	2,488,448
AZ–4	Southern Arizona Legal Aid Inc	1,270,438
MAZ	Community Legal Services, Inc	125,569
NAZ–1	Pinal & Gila Counties Legal Aid Society	28,441
NAZ–2	Community Legal Services, Inc	26,144
NAZ–3	Papago Legal Services Inc	186,680
NAZ–4	Southern Arizona Legal Aid Inc	259,268
NAZ–5	DNA—People's Legal Services Inc	2,203,060
AR–1	Ozark Legal Services	485,922
AR–2	Legal Services of Northeast Arkansas Inc	414,253
AR–3	Western Arkansas Legal Services	341,104
AR–4	East Arkansas Legal Services	532,791
AR–5	Center for Arkansas Legal Services	1,623,115
MAR	Center for Arkansas Legal Services	59,319
CA–1	California Indian Legal Services Inc	25,230
CA–2	Greater Bakersfield Legal Assistance Inc	558,335
CA–4	Legal Aid Foundation of Long Beach	860,528
CA–5	Legal Aid Foundation of Los Angeles	5,057,019
CA–6	Legal Aid Society of Alameda County	1,010,747
CA–6	Volunteer Legal Services Corporation	1,010,747
CA–7	Channel Counties Legal Services Association	552,586
CA–8	San Fernando Valley Neighborhood Legal Services Inc	1,528,045
CA–9	Legal Services Program for Pasadena and San Gabriel-Pomona Valley	1,467,552
CA–10	Legal Aid Society of San Mateo County	309,364
CA–11	Contra Costa Legal Services Foundation	443,065
CA–12	Inland Counties Legal Services Inc	2,346,096
CA–13	Legal Services of Northern California Inc	2,204,363
CA–14	Legal Aid Society of San Diego Inc	2,077,909
CA–15	California Rural Legal Assistance Inc	2,375,420
CA–16	San Francisco Neighborhood Legal Assistance Foundation	689,231
CA–17	Legal Aid of the North Bay	143,718
CA–18	Community Legal Services Inc	789,248
CA–19	Legal Aid Society of Orange County Inc	2,641,447
CA–23	Redwood Legal Assistance	324,734
CA–25	Legal Aid of the Central Coast	330,599
CA–26	Central California Legal Services	2,039,494
MCA	California Rural Legal Assistance Inc	2,232,645
NCA–1	California Indian Legal Services Inc	745,893
CO–2	Colorado Rural Legal Services Inc	893,500
CO–3	Legal Aid Society of Metropolitan Denver Inc	1,510,516
CO–5	Pikes Peak/Arkansas River Legal Aid	574,143
MCO	Colorado Rural Legal Services Inc	125,610
NCO–1	Colorado Rural Legal Services Inc	24,095
CT–1	Statewide Legal Services of Connecticut Inc	1,783,807
MCT	Statewide Legal Services of Connecticut Inc	14,087
NCT–1	Pine Tree Legal Assistance Inc	13,218
DE–1	Legal Services Corporation of Delaware Inc	444,082
MDE	Legal Aid Bureau Inc	20,994
DC–1	Neighborhood Legal Services Program of the District of Columbia	796,411
FL–1	Central Florida Legal Services Inc	965,185
FL–2	Legal Aid Service of Broward County, Inc	985,038
FL–3	Florida Rural Legal Services Inc	1,950,702
FL–4	Jacksonville Area Legal Aid Inc	771,438

Service area	Applicant name	Anticipated 1999 award amounts
FL–5	Legal Services of Greater Miami Inc	2,725,284
FL–6	Legal Services of North Florida Inc	827,340
FL–7	Greater Orlando Area Legal Services Inc	780,322
FL–8	Bay Area Legal Services, Inc	1,097,702
FL–9	Withlacoochee Area Legal Services Inc	438,532
FL–10	Three Rivers Legal Services Inc	615,230
FL–11	Northwest Florida Legal Services Inc	424,122
FL–12	Gulfcoast Legal Services Inc	929,351
MFL	Florida Rural Legal Services Inc	759,576
GA–1	Atlanta Legal Aid Society Inc	1,762,150
GA–2	Georgia Legal Services Program	5,542,015
MGA	Georgia Legal Services Program	331,591
GU–1	Guam Legal Services Corporation	156,812
HI–1	Legal Aid Society of Hawaii	839,525
MHI	Legal Aid Society of Hawaii	58,285
NHI–1	Native Hawaiian Legal Corporation	107,869
ID–1	Idaho Legal Aid Services Inc	922,137
MID	Idaho Legal Aid Services Inc	158,086
NID–1	Idaho Legal Aid Services Inc	54,850
IL–1	Cook County Legal Assistance Foundation Inc	981,307
IL–2	Legal Assistance Foundation of Chicago	4,805,228
IL–3	Land of Lincoln Legal Assistance Foundation Inc	2,595,248
IL–4	Prairie State Legal Services Inc	2,195,694
IL–5	West Central Illinois Legal Assistance	186,112
MIL	Legal Assistance Foundation of Chicago	211,126
IN–1	Legal Services of Maumee Valley Inc	290,149
IN–2	Legal Services of Northwest Indiana Inc	587,618
IN–3	Legal Services Organization of Indiana Inc	2,836,451
IN–4	Legal Services Program of Northern Indiana Inc	934,703
MIN	Legal Services Organization of Indiana Inc	96,162
IA–1	Legal Services Corporation of Iowa	2,271,217
IA–2	Legal Aid Society of Polk County	239,847
MIA	Legal Services Corporation of Iowa	31,913
KS–1	Kansas Legal Services Inc	2,261,630
MKS	Kansas Legal Services Inc	10,051
KY–2	Legal Aid Society	1,153,695
KY–3	Central Kentucky Legal Services Inc	476,765
KY–5	Appalachian Research and Defense Fund of Kentucky	2,023,479
KY–6	Cumberland Trace Legal Services Inc	391,960
KY–7	Western Kentucky Legal Services Inc	808,149
KY–8	Northern Kentucky Legal Aid Society Inc	750,030
MKY	Appalachian Research and Defense Fund of Kentucky	35,991
LA–1	Capital Area Legal Services Corporation	1,398,480
LA–2	Southwest Louisiana Legal Services Society Inc	424,072
LA–3	North Louisiana Legal Assistance Corporation	786,410
LA–4	New Orleans Legal Assistance Corporation	1,952,464
LA–5	Northwest Louisiana Legal Services Inc	762,000
LA–6	Acadiana Legal Service Corporation	1,644,059
LA–7	Kisatchie Legal Services Corporation	412,847
LA–8	Southeast Louisiana Legal Services Corporation	595,418
MLA	Acadiana Legal Service Corporation	23,286
ME–1	Pine Tree Legal Assistance Inc	1,001,962
MME	Pine Tree Legal Assistance Inc	60,708
NME–1	Pine Tree Legal Assistance Inc	54,416
MD–1	Legal Aid Bureau Inc	3,110,271
MMD	Legal Aid Bureau Inc	76,897
MA–1	Volunteer Lawyers Project of the Boston Bar Association Inc	1,482,482
MA–2	South Middlesex Legal Services Inc	160,336
MA–3	Legal Services for Cape Cod and Islands Inc	195,790
MA–4	Merrimack Valley Legal Services Inc	717,687
MA–5	New Center for Legal Advocacy, Inc	523,320
MA–10	Massachusetts Justice Project	1,202,285
MMA	Massachusetts Justice Project	14,071
MI–1	Legal Services of Southeastern Michigan Inc	542,767
MI–2	Legal Services Organization of Southcentral Michigan Inc	233,973
MI–3	Wayne County Neighborhood Legal Services Inc	3,281,071
MI–3	Legal Aid and Defender Association of Detroit	3,281,071
MI–4	Legal Services of Eastern Michigan	1,294,278
MI–5	Legal Aid of Central Michigan	509,232
MI–6	Lakeshore Legal Aid	552,429

Service area	Applicant name	Anticipated 1999 award amounts
MI–7	Oakland Livingston Legal Aid	544,670
MI–8	Berrien County Legal Services Bureau Inc	182,629
MI–9	Legal Services of Northern Michigan Inc	783,780
MI–10	Legal Aid of Western Michigan	1,010,772
MI–11	Legal Aid Bureau of Southwestern Michigan Inc	404,757
MMI	Legal Services of Southeastern Michigan Inc	509,092
NMI–1	Michigan Indian Legal Services Inc	121,203
MP–1	Micronesia Legal Services, Inc	1,388,231
MN–1	Legal Aid Service of Northeastern Minnesota	464,076
MN–2	Judicare of Anoka County Inc	101,026
MN–3	Central Minnesota Legal Services Inc	1,217,481
MN–4	Legal Services of Northwest Minnesota Corporation	454,894
MN–5	Southern Minnesota Regional Legal Services Inc	1,194,369
MMN	Southern Minnesota Regional Legal Services Inc	169,212
NMN–1	Anishinabe Legal Services Inc	201,762
MS–1	Central Mississippi Legal Services	922,270
MS–2	North Mississippi Rural Legal Services Inc	2,210,915
MS–3	South Mississippi Legal Services Corporation	576,608
MS–4	East Mississippi Legal Services Corporation	454,505
MS–5	Southeast Mississippi Legal Services Corporation	538,474
MS–6	Southwest Mississippi Legal Services Corporation	468,832
MMS	Central Mississippi Legal Services	48,267
NMS–1	East Mississippi Legal Services Corporation	70,179
MO–1	Southeast Missouri Legal Services Inc	548,789
MO–2	Meramec Area Legal Aid Corporation	325,511
MO–3	Legal Aid of Western Missouri	1,679,679
MO–4	Legal Services of Eastern Missouri Inc	1,765,203
MO–5	Mid-Missouri Legal Services Corporation	344,487
MO–6	Legal Aid of Southwest Missouri	752,388
MMO	Legal Aid of Western Missouri	68,897
MT–1	Montana Legal Services Association	986,618
MMT	Montana Legal Services Association	46,166
NMT–1	Montana Legal Services Association	112,606
NE–1	Legal Services of Southeast Nebraska	323,733
NE–2	Legal Aid Society Inc	605,717
NE–3	Western Nebraska Legal Services Inc	446,125
MNE	Western Nebraska Legal Services Inc	35,760
NNE–1	Legal Aid Society Inc	27,907
NV–1	Nevada Legal Services Inc	987,701
MNV	Nevada Legal Services Inc	2,126
NNV–1	Nevada Legal Services Inc	112,265
NH–1	Legal Advice & Referral Center, Inc	563,215
MNH	Pine Tree Legal Assistance Inc	8,413
NJ–1	Cape-Atlantic Legal Services Inc	227,712
NJ–2	Warren County Legal Services Inc	39,763
NJ–3	Camden Regional Legal Services Inc	845,605
NJ–4	Union County Legal Services Corporation	285,070
NJ–5	Hunterdon County Legal Service Corporation	22,392
NJ–6	Bergen County Legal Services	258,450
NJ–7	Hudson County Legal Services Corporation	656,995
NJ–8	Essex-Newark Legal Services Project Inc	881,754
NJ–9	Middlesex County Legal Services Corporation	268,468
NJ–10	Passaic County Legal Aid Society	360,634
NJ–11	Somerset-Sussex Legal Services Corporation	85,028
NJ–12	Ocean-Monmouth Legal Services Inc	427,604
NJ–13	Legal Aid Society of Mercer County	186,840
NJ–14	Legal Aid Society of Morris County	92,746
MNJ	Camden Regional Legal Services Inc	102,052
NM–1	DNA—People's Legal Services Inc	206,486
NM–2	Legal Aid Society of Albuquerque Inc	552,743
NM–3	Southern New Mexico Legal Services Inc	921,376
NM–4	Northern New Mexico Legal Services, Inc	776,211
NM–4	Justice Inc	776,211
MNM	Southern New Mexico Legal Services Inc	73,869
NNM–1	Southern New Mexico Legal Services Inc	12,839
NNM–2	DNA—People's Legal Services Inc	11,237
NNM–3	Indian Pueblo Legal Services Inc	367,339
NY–1	Legal Aid Society of Northeastern New York Inc	686,278
NY–3	Legal Aid for Broome and Chenango	224,428
NY–4	Neighborhood Legal Services Inc	944,464
NY–5	Chautauqua County Legal Services Inc	153,727
NY–6	Chemung County Neighborhood Legal Services Inc	267,822

Service area	Applicant name	Anticipated 1999 award amounts
NY–7	Nassau/Suffolk Law Services Committee Inc	887,023
NY–8	Legal Aid Society of Rockland County Inc	541,286
NY–9	Legal Services for New York City	11,314,289
NY–10	Niagara County Legal Aid Society Inc	190,148
NY–13	Legal Services of Central New York Inc	703,120
NY–14	Legal Aid Society of Mid-New York Inc	619,573
NY–15	Westchester/Putnam Legal Services Inc	606,197
NY–16	North Country Legal Services Inc	324,932
NY–17	Southern Tier Legal Services	254,935
NY–18	Monroe County Legal Assistance Corporation	885,459
MNY	Legal Aid Society of Mid-New York Inc	234,106
NC–1	Legal Services of North Carolina Inc	4,978,592
NC–2	Legal Services of Southern Piedmont, Inc	669,130
NC–3	North Central Legal Assistance Program, Inc	360,204
NC–4	Legal Aid Society of Northwest North Carolina Inc	403,367
MNC	Legal Services of North Carolina Inc	453,289
NNC–1	Legal Services of North Carolina Inc	117,559
ND–1	Legal Assistance of North Dakota Inc	623,899
ND–2	North Dakota Legal Services Inc	8,289
MND	Southern Minnesota Regional Legal Services Inc	98,031
NND–1	Legal Assistance of North Dakota Inc	44,488
NND–2	North Dakota Legal Services Inc	120,012
OH–1	Western Reserve Legal Services	688,635
OH–2	Stark County Legal Aid Society	325,478
OH–3	Legal Aid Society of Cincinnati	1,067,807
OH–4	The Legal Aid Society of Cleveland	1,887,686
OH–5	The Legal Aid Society of Columbus	1,154,829
OH–7	Legal Aid Society of Dayton Inc	581,339
OH–8	Legal Aid Society of Lorain County Inc	249,508
OH–9	Legal Aid Society of Cincinnati	300,927
OH–9	Butler-Warren Legal Assistance Association	300,927
OH–10	Allen County Blackhoof Area Legal Services Association	288,304
OH–12	Legal Services of Northwest Ohio, Inc	722,683
OH–13	The Toledo Legal Aid Society	307,280
OH–14	Wooster-Wayne Legal Aid Society Inc	93,846
OH–15	Northeast Ohio Legal Services	817,819
OH–16	Rural Legal Aid Society of West Central Ohio	536,811
OH–17	Ohio State Legal Services	1,837,260
MOH	Legal Services of Northwest Ohio, Inc	106,535
OK–1	Legal Aid of Western Oklahoma Inc	2,315,357
OK–2	Legal Services of Eastern Oklahoma Inc	1,849,230
MOK	Legal Aid of Western Oklahoma Inc	52,924
NOK–1	Oklahoma Indian Legal Services Inc	306,336
OR–1	Legal Aid Services of Oregon	1,346,871
OR–2	Lane County Legal Aid Service Inc	275,118
OR–3	Legal Aid Services of Oregon	517,149
OR–4	Marion-Polk Legal Aid Service Inc	242,494
MOR	Legal Aid Services of Oregon	471,107
NOR–1	Legal Aid Services of Oregon	155,851
PA–1	Philadelphia Legal Assistance Center	2,558,008
PA–2	Legal Services Inc	215,039
PA–3	Delaware County Legal Assistance Association Inc	303,417
PA–4	Bucks County Legal Aid Society	172,041
PA–5	Laurel Legal Services Inc	629,515
PA–8	Neighborhood Legal Services Association	1,648,733
PA–9	Northern Pennsylvania Legal Services, Inc	358,996
PA–10	Keystone Legal Services Inc	357,971
PA–11	Southwestern Pennsylvania Legal Aid Society Inc	519,366
PA–12	Legal Aid of Chester County Inc	140,078
PA–13	Legal Services of Northeastern Pennsylvania Inc	405,419
PA–14	Susquehanna Legal Services	408,124
PA–15	Northwestern Legal Services	721,434
PA–17	Lehigh Valley Legal Services Inc	309,861
PA–18	Montgomery County Legal Aid Service	194,102
PA–20	Southern Alleghenys Legal Aid Inc	468,766
PA–21	Central Pennsylvania Legal Services	1,067,129
MPA	Philadelphia Legal Assistance Center	140,177
PR–1	Puerto Rico Legal Services Inc	16,460,943
PR–2	Community Law Office Inc	311,780
MPR	Puerto Rico Legal Services Inc	245,893
RI–1	Rhode Island Legal Services Inc	765,069
MRI	Rhode Island Legal Services Inc	1,497

Service area	Applicant name	Anticipated 1999 award amounts
SC–1	Neighborhood Legal Assistance Program Inc	1,207,530
SC–2	Palmetto Legal Services	1,063,779
SC–3	Carolina Regional Legal Services Corporation	243,710
SC–4	Legal Services Agency of Western Carolina Inc	665,896
SC–7	Piedmont Legal Services Inc	934,976
MSC	Neighborhood Legal Assistance Program Inc	167,293
SD–1	Black Hills Legal Services Inc	159,277
SD–2	East River Legal Services	428,663
SD–3	Dakota Plains Legal Services Inc	288,056
MSD	Black Hills Legal Services Inc	3,358
NSD–1	Dakota Plains Legal Services Inc	788,287
TN–1	Southeast Tennessee Legal Services, Inc	623,891
TN–2	Legal Services of Upper East Tennessee Inc	744,670
TN–3	Knoxville Legal Aid Society Inc	548,144
TN–4	Memphis Area Legal Services Inc	1,356,078
TN–5	Legal Aid Society of Middle Tennessee	1,047,301
TN–6	Rural Legal Services of Tennessee Inc	680,570
TN–7	West Tennessee Legal Services Inc	644,943
TN–8	Legal Services of South Central Tennessee Inc	462,909
MTN	Legal Services of Upper East Tennessee Inc	53,644
TX–1	Legal Aid of Central Texas	1,498,373
TX–3	Legal Services of North Texas	2,313,148
TX–4	El Paso Legal Assistance Society	1,223,817
TX–5	West Texas Legal Services, Inc	3,949,399
TX–6	Gulf Coast Legal Foundation	4,788,692
TX–8	Bexar County Legal Aid Association Inc	1,810,682
TX–9	Heart of Texas Legal Services Corporation	490,612
TX–10	Texas Rural Legal Aid Inc	3,647,305
TX–11	East Texas Legal Services Inc	2,731,331
TX–12	Coastal Bend Legal Service	1,343,670
MTX	Texas Rural Legal Aid Inc	1,182,317
NTX–1	Texas Rural Legal Aid Inc	26,423
UT–1	Utah Legal Services Inc	1,534,290
MUT	Utah Legal Services Inc	57,366
NUT–1	Utah Legal Services Inc	37,705
VT–1	Legal Services Law Line of Vermont Inc	434,619
MVT	Legal Services Law Line of Vermont Inc	6,849
VI–1	Legal Services of the Virgin Islands Inc	278,700
VA–1	Legal Services of Northern Virginia Inc	485,302
VA–2	Piedmont Legal Services, Inc	166,160
VA–3	Rappahannock Legal Services Inc	221,135
VA–4	Southwest Virginia Legal Aid Society Inc	224,940
VA–5	Peninsula Legal Aid Center Inc	457,499
VA–6	Central Virginia Legal Aid Society Inc	529,019
VA–7	Legal Aid Society of New River Valley Inc	214,716
VA–8	Legal Aid Society of Roanoke Valley	302,201
VA–9	Tidewater Legal Aid Society	785,252
VA–10	Virginia Legal Aid Society Inc	759,642
VA–11	Southside Virginia Legal Services Inc	135,818
VA–12	Blue Ridge Legal Services Inc	260,709
VA–13	Client Centered Legal Services of Southwest Virginia Inc	383,457
MVA	Peninsula Legal Aid Center Inc	133,394
WA–1	Northwest Justice Project	3,667,009
MWA	Northwest Justice Project	617,331
NWA–1	Northwest Justice Project	203,903
WV–1	Appalachian Research and Defense Fund Inc	736,108
WV–2	Legal Aid Society of Charleston	387,808
WV–3	West Virginia Legal Services Plan Inc	1,699,771
MWV	West Virginia Legal Services Plan Inc	30,921
WI–1	Legal Action of Wisconsin Inc	2,112,825
WI–2	Wisconsin Judicare Inc	999,034
WI–3	Legal Services of Northeastern Wisconsin Inc	615,263
WI–4	Western Wisconsin Legal Services Inc	402,557
MWI	Legal Action of Wisconsin Inc	77,004
NWI–1	Wisconsin Judicare Inc	115,659
WY–4	Wind River Legal Services Inc	423,369
MWY	Wind River Legal Services Inc	10,522
NWY–1	Wind River Legal Services Inc	145,891

These grants and contracts will be awarded under the authority conferred on LSC by the Legal Services Corporation Act, as amended (42 U.S.C. 2996e(a)(1)). Awards will be made so that each service area indicated is served by one of the organizations listed above, although none of the listed organizations are guaranteed an award or contract. This public notice is issued pursuant to the LSC Act (42 U.S.C. 2996f(f)), with a request for comments and recommendations concerning the potential grantees within a period of thirty (30) days from the date of publication of this notice. Grants will become effective and grant funds will be distributed on or about January 1, 1999.

Date Issued: November 5, 1998.

Karen J. Sarjeant,

Acting Vice President for Programs.

[FR Doc. 98–30146 Filed 11–9–98; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[98–162]

Agency Information Collection: Submission for OMB Review, Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this proposal should be received on or before December 10, 1998.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, Office of the Chief Information Officer, (202) 358–1223.

Reports: None.

Title: Cost Reduction Proposals Under the NASA FAR Supplement.

OMB Number: 2700–0094.

Type of review: Extension.

Need and Uses: This program provides an incentive for contractors to propose and implement, with NASA approval, significant cost reduction initiatives on current and follow-on contracts.

Affected Public: Business or other for-profit, Not-for-profit institutions

Number of Respondents: 9.

Responses Per Respondent: 1.25.

Annual Responses: 11.25.

Hours Per Request: 45.

Annual Burden Hours: 506.

Frequency of Report: On occasion.

Donald J. Andreotta,

Deputy Chief Information Officer (Operations), Office of the Administrator.

[FR Doc. 98–30155 Filed 11–9–98; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–160]

NASA Advisory Council (NAC), Aeronautics and Space Transportation Technology Advisory Committee (ASTTAC); Flight Research Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Flight Research Subcommittee meeting.

DATES: Wednesday, December 2, 1998, 8:00 a.m. to 5:00 p.m. and Thursday, December 3, 1998, 8:00 a.m. to 5:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Dryden Flight Research Center, Building 4800, Executive Council Room 2020, Edwards, CA 93535.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria A. Regenie, National Aeronautics and Space Administration, Dryden Flight Research Center, Edwards, CA, 93523, 805/258–3136.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda topics for the meeting are as follows:

—Review of Flight Research Base R&T Program

—Review of the Costs Associated with Varying Types of Flight Research

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–30153 Filed 11–9–98; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–161]

NASA Advisory Council, Minority Business Resource Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Minority Business Resource Advisory Committee.

DATES: Tuesday, November 17, 1998, 9:00 a.m. to 5:00 p.m.; and Wednesday, November 18, 1998, 9:00 a.m. to 12:00 noon.

ADDRESSES: NASA/Goddard Space Flight Center, Code 200 Directorate Conference Room, Building 8, 1st floor, Room 121, Greenbelt, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph C. Thomas III, Code K, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–2088.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—MBRAC Subpanel Reports

—Status of MBRAC Recommendations

—Report on CSOC and ODIN

—Action Items

—Call to Order

—Reading of Minutes

—Agency Small Disadvantaged Business (SDB) Program

—Report of Chair

—Public Comment

—Center Directorate Reports

—Reports on NASA FY 98 SDB Accomplishments

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: November 2, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–30154 Filed 11–9–98; 8:45 am]

BILLING CODE 7510–01–M

NORTHEAST DAIRY COMPACT COMMISSION

Notice of Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider matters relating to administration and the price regulation to include the reports and recommendations of the Commission's standing Committees.

DATES: The meeting is scheduled for Wednesday, November 18, 1998 to commence at 10:00 a.m.

ADDRESSES: The meeting will be held at the New Hampshire State Legislative Office Building, Room 306–308, 33 North Main Street, Concord, New Hampshire (exit 14 off I–93).

FOR FURTHER INFORMATION CONTACT: Kenneth Becker, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT 05601. Telephone (802) 229–1941.

(Authority: (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and 7 U.S.C. 7256)

Dixie L. Henry,

General Counsel.

[FR Doc. 98–30056 Filed 11–9–98; 8:45 am]

BILLING CODE 1650–01–P

PEACE CORPS

Information Collection Requests Under OMB Review

AGENCY: The Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget. (0420–0007).

SUMMARY: Pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35) this notice announces that the Peace Corps has submitted to the Office of Management and Budget a request to approve the new Return Peace Corps Volunteer Speakers enrollment form. A copy of the information collection may be obtained from Betsi Shays, Director of World Wise Schools, Peace Corps, 1111 20th Street, NW, Washington, DC 20526. Ms. Betsi Shays may be contacted by telephone at 202–692–1455. The Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; 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; ways to enhance the quality, utility and clarity of the information to be collected; and, ways to minimize the burden the collection of information those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. Comments on these forms should be addressed to Victoria Becker Wassmer, Desk Officer, Office of Management and Budget, NEOB, Washington, DC 20503.

Information Collection Abstract

Title: Return Peace Corps Volunteer Enrollment Speakers Form.

Need for and use of this information: The Peace Corps needs this information in order to identify prospective applicants for a returned Volunteer speakers bureau. The information is used to determine what program specific information to send to interested individuals.

Respondents: Return Peace Corps Volunteers who are volunteering to become speakers.

Respondents obligation to reply: Voluntary.

Burden on the Public:

a. Annual reporting burden: 750 hours
b. Annual record keeping burden: 0 hours
c. Estimated average burden per response: 3 min
d. Frequency of response: one time
e. Estimated number of likely respondents: 15,000
f. Estimated cost to respondents: $16,800.00

William C. Piatt,

Associate Director for Management.

[FR Doc. 98–30130 Filed 11–9–98; 8:45 am]

BILLING CODE 6051–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23521; 812–10872]

KBK Financial, Inc., et al.; Notice of Application

November 4, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under section 6(c) from sections 2(a)(48) and 55(a) of the Investment Company Act of 1940 (the ''Act'').

Summary of Application: The order would permit KBK Financial, Inc. (''Financial''), which will elect to be regulated as a business development company (''BDC'') under the Act, to look to the assets of its wholly-owned subsidiary, rather than Financial's interest in the subsidiary itself, in determining whether Financial meets certain requirements for BDCs under the Act.

Applicants: Financial and KBK Receivables Corporation (the ''Subsidiary'').

Filing Date: The application was filed on November 21, 1997. Applicants have agreed to file an amendment, the substance of which is incorporated in this notice, during the notice period.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 30, 1998, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 2200 City Center II, 301 Commerce Street, Fort Worth, Texas 76102.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Counsel, at (202) 942–0572, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street NW., Washington, DC 20549 (telephone (202) 942–8090).

Applicants' Representations

1. Applicants are Delaware corporations. All of the issued and outstanding shares of Financial

currently are owned by KBK Capital Corporation and all of the issued and outstanding shares of the Subsidiary are held by Financial. Financial provides working capital financing and asset-based loans to small to medium size companies through term loans, lines of credit, and the discounted purchase of accounts receivable. Financial also securitizes a portion of the accounts receivable through the Subsidiary, which is a bankruptcy remote subsidiary of Financial. Applicants state that, other than with respect to bankruptcy protection, Financial and the Subsidiary effectively operate as one company.

2. Pursuant to a plan of reorganization, all of the issued and outstanding shares of Financial will become publicly owned. Financial will continue to own all of the issued and outstanding shares of common stock of the Subsidiary. Following the reorganization, Financial will elect to be regulated as a BDC under the Act and the Subsidiary will continue to rely on section 3(c)(5) of the Act.

3. Applicants request relief to permit the assets held by the Subsidiary, rather than the common stock of the Subsidiary itself, to be treated as assets held by Financial for the purpose of determining whether Financial meets certain requirements for BDCs under the Act. Applicants request that the relief extend to any future bankruptcy-remote subsidiaries that are wholly-owned by Financial and comply with the terms and conditions of the order (''Future Subsidiaries'').

Applicants' Legal Analysis

1. Section 2(a)(48) of the Act generally defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through (3) of the Act and makes available significant managerial assistance with respect to the issuers of these securities. Section 55(a) of the Act requires a BDC to have at least 70% of its assets invested in assets described in sections 55(a)(1) through (6) (''Qualifying Assets''). Qualifying Assets generally include securities issued by eligible portfolio companies as defined in section 2(a)(46) of the Act. Section 2(a)(46)(B) generally excludes from the definition of an eligible portfolio company an investment company, as defined under section 3 of the Act, and a company that would be an investment company but for the exclusion from the definition of investment company in section 3(c) of the Act.

2. Applicants state that the Subsidiary may not be deemed an eligible portfolio company because it is relying on section 3(c)(5) of the Act. Applicants request relief under section 6(c) from section 55(a) to permit the assets held by the Subsidiary, rather than the Subsidiary itself, to be treated as assets held by Financial for the purposes of: (a) Determining whether Financial is operated for the purpose of making investments in securities described in paragraphs (1) through (3) of section 55(a); (b) determining whether Financial makes available managerial assistance to companies as described in section 2(a)(48); and (c) applying the 70% test in section 55(a).

3. Section 6(c) of the Act permits the SEC to exempt any person or transaction from any provision of the Act, if the exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets the section 6(c) standards for the reasons discussed below.

4. Applicants state that all of the voting securities of the Subsidiary will be held by Financial and Financial will control the operations of the Subsidiary, including the acquisition and disposition of its assets. Applicants also state that the assets of the Subsidiary will be held by the Subsidiary and not directly by Financial only for bona fide business reasons that are unrelated to the policies underlying the Act. In addition, applicants state that any activity carried on by the Subsidiary will in all material respects have the same economic effect on Financial's shareholders as if done by Financial directly. Applicants also acknowledge that any assets or debts of the Subsidiary will be treated as assets or debts of Financial for purposes of the asset coverage requirements under the Act. Therefore, applicants state that it is appropriate to look to the assets held by the Subsidiary, rather than to the common stock of the Subsidiary held by Financial, in determining whether Financial meets the requirements for BDCs under the Act discussed above.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. The Subsidiary, and any Future Subsidiary, may not acquire any asset if the acquisition would cause Financial to violate section 55(a) of the Act.

2. Financial will at all times own and hold, beneficially and of record, all of the outstanding voting capital stock of the Subsidiary and any Future Subsidiary.

3. No person will serve or act as investment adviser to the Subsidiary or any Future Subsidiary unless the directors and shareholders of Financial will have taken the action with respect thereto also required to be taken by the directors and shareholder of the Subsidiary or Future Subsidiary.

4. No person will serve as a director of the Subsidiary or any Future Subsidiary who will not have been elected as a director of Financial at its most recent annual meeting, as contemplated by section 16(a) of the Act and subject to the provisions thereof relating to the filling of vacancies, other than one additional director of the Subsidiary or a Future Subsidiary who is not a director or affiliated person of Financial. Notwithstanding the foregoing, the board of directors of the Subsidiary or a Future Subsidiary will be elected by Financial as the sole shareholder of the Subsidiary or the Future Subsidiary, and the boards will be composed of the same persons, other than as described above, that serve as directors of Financial.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–30012 Filed 11–9–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40635; File No. SR–GSCC–98–03]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Regarding Amendments to GSCC's By-Laws

November 4, 1998.

On August 31, 1998, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–GSCC–98–03) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on September 30, 1998.[2] No comment

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 40463 (September 23, 1998), 63 FR 52313.

letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

GSCC was formed by the National Securities Clearing Corporation (''NSCC'') in 1986. Initially, GSCC was a wholly-owned subsidiary of NSCC. However, in December 1987 GSCC shares were issued in a private placement, and now approximately seventy-five percent of GSCC's shares are owned by its member firms.

GSCC's shareholders agreement provides that NSCC has the right to nominate two individuals for election to the GSCC Board and that GSCC is to designate one of those individuals to the position of Vice-Chairman. Since GSCC was incorporated in 1986, GSCC's by-laws have provided that the Vice-Chairman of GSCC's Board shall automatically be its CEO and that GSCC's President shall automatically be the COO.

GSCC believes that in order to ensure its independence, GSCC's Board of Directors should determine itself which individuals should serve as the CEO and COO. Therefore, the rule change amends GSCC's by-laws to:

(1) Delete the provision that states that the Vice Chairman of the Board shall be CEO of GSCC,

(2) Delete the provision that states that the President shall be the COO of GSCC, and

(3) Make other conforming changes to appropriately reflect the responsibilities of the CEO and COO.

II. Discussion

Section 17A(b)(3)(C) of the Act [3] requires that the rules of a clearing agency be designed to assure a fair representation of its shareholders (or members) and participants in the selection of its directors and administration of its affairs. The Commission believes that the rule change is consistent with GSCC's obligations under Section 17A(b)(3)(C) because the amendments to GSCC's by-laws should increase the flexibility of GSCC's Board of Directors to determine which individuals should serve as GSCC's CEO and COO. As a result, the rule should give GSCC's member firms better representation and control the administration of GSCC's affairs.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with Section 17A of the Act [4] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–98–03) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–30100 Filed 11–9–98; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78q–(b)(3)(C).

[4] 15 U.S.C. 78q–1.

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40634; File No. SR–NSCC–98–13]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Modifying NSCC's Annuities Processing Service

November 4, 1998.

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 8, 1998, as amended by facsimile on October 8, 1998, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–NSCC–98–13) as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will permit members to use the Annuities Processing Service (''APS'') to submit data and to settle payments with respect to life insurance products.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NSCC currently transmits data and information and settles payments with respect to annuities through APS.[3] Under the proposed rule change, NSCC will transmit data and information and settle payments relating to life insurance products as well as annuity products through APS. According to NSCC, the processing of data and information and the settlement of payments with respect to life insurance products would be identical to the processing of annuity products. Since the name ''Annuities Processing Service'' or APS is commonly known and recognized, NSCC has no current plans to change the name of the service.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [4] and the rules and regulations thereunder since it will facilitate the prompt and accurate processing of transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [5] and Rule 19b–4(e)(4) thereunder [6] because the

[1] 15 U.S.C. 78s(b) (1).

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] APS is a centralized communication link connecting participating insurance carriers with broker-dealers, banks, and the broker-dealers' or banks' affiliated life insurance agencies where appropriate. For a more detailed description of APS, refer to Securities Exchange Act Release No. 39096 (September 19, 1997), 62 FR 50416 [File No. SR–NSCC–96–21] (order approving proposed rule change).

[4] 15 U.S.C. 78q–1.

[5] 15 U.S.C. 78s(b)(3)(A)(iii).

[6] 17 CFR 240.19b–4(e)(4).

proposal effects a change in an existing service of NSCC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of NSCC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of DTC or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submission should refer to File No. SR–NSCC–98–13 and should be submitted by December 1, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Johathan G. Katz,

Secretary.

[FR Doc. 98–30098 Filed 11–9–98; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40638; File No. SR–OCC–98–09]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of a Proposed Rule Change Relating to Differential Index Options

November 4, 1998.

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 7, 1998, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, OCC will amend its By-Laws and Rules to provide for the clearance and settlement of differential index options.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Description of Differential Index Options

The American Stock Exchange, Inc. (''AMEX'') has submitted a proposed rule change to the Commission to trade differential index options.[4] The purpose of OCC's proposal is to provide for the issuance, clearance, and settlement of differential index options.

A differential index is a measure, expressed in percentage terms, of the difference between the performance of one security or index (called the ''designated interest'') and the performance of another security or index (called the ''benchmark'') over the life of an option. The determination of the value of a differential index differs from the determination of the value of a standard index although both types of indices have a specific value at any given time.[5]

A differential index option, like other index options, is a cash settled option that entitles an exercising holder to receive and requires an assigned writer to pay an ''exercise settlement amount.'' [6] In the case of a call, the exercise settlement amount is based on the extent to which the aggregate current index value exceeds the aggregate exercise price. In the case of a put, the exercise settlement amount is determined by the extent to which the aggregate exercise price exceeds the aggregate current index value. A differential index option differs from a standard index option in that its exercise settlement amount is based upon the difference between the relative performance of two securities or indices rather than the absolute performance of a single index. The differential index options that AMEX has proposed to trade are European style, meaning that they can be exercised only upon expiration.

The clearance and settlement of differential index options is similar to that of other index options. The reporting authority for the underlying differential index will be required to provide the value of the index to OCC as of a specified date and time.[7] OCC will then use the value of the differential index to determine the exercise settlement amount. OCC believes that differential index options can readily be processed, margined, and settled pursuant to the same rules and

[1] 15 U.S.C. 78s(b) (1).

[2] The complete text of the proposed amendments to OCC's By-Laws and Rules is included in OCC's filing, which is available for inspection and copying at the Commission's public reference room and through OCC.

[3] The Commission has modified the text of the summaries prepared by OCC.

[4] Securities Exchange Act Release No. 40537 (October 8, 1998), 63 FR 56052 [File No. SR–AMEX–98–12].

[5] According to OCC, AMEX has proposed to trade Index Differential Options (a designated index versus a benchmark index), Equity Differential Options (a designed stock versus a benchmark index), and Paired Stock Differential Options (a designated stock versus a benchmark stock).

[6] Differential index options are index options even if the designated security or the benchmark security is an equity security.

[7] Computation of differential index values will be the exclusive function of the reporting authority.

procedures that apply to standard index options with certain modifications.

2. Proposed Amendments to Articles I and VI of the By-Laws

Under the proposed rule change, OCC will add a definition of ''underlying interest'' to Article I of the By-Laws to provide a generic term for underlying securities, indices, currencies, and other underlying interests. In addition, OCC will amend Article IV, Section 11 of the By-Laws to reflect that the term ''index group'' is no longer defined in relation to index options although it is still defined for IPs.

3. Proposed Amendments to Article XVII of the By-Laws

OCC will amend Article XVII of the By-Laws, which applies to index options generally, to add specific provisions applicable to differential index options and to revise certain terms to be sufficiently generic to apply to differential index options as well as other index options. The term ''index group'' will be eliminated altogether. The term ''index security'' will be added to refer to an individual security included in an index of securities.[8] The term ''index security'' will apply to differential index options only when either the designated interest or the benchmark is itself an index. Thus, for example, an individual security that is the designated interest with respect to a differential index is not included in the definition of an ''index security.'' OCC will add other terms referring expressly to differential index options which OCC believes are self-explanatory.

OCC will amend Article XVII, Section 2 of the By-Laws for purposes of clarity. OCC does not intend for this amendment to create a substantive change.

OCC will modify Article XVII, Section 3 of the By-Laws to make it clear that as is the case with any other index option OCC will ordinarily make no adjustments to the terms of a differential index option if index securities are added to or deleted from or if their relative weight is changed in an underlying index that is either the designated interest or the benchmark for the differential index. In addition, OCC will make clear that it will ordinarily make no adjustments to the terms of a differential index option having a security as differential index or benchmark if certain dilutive or concentrative events occur, such as a stock split, or if certain extraordinary events occur, such as a merger of the issuer. OCC will reserve the right to make an adjustment to the terms of a differential index option only if one of the enumerated events causes significant discontinuity in the level of the differential index and OCC determines that the discontinuity has not been adequately remedied.

In addition, OCC will make slight modifications to Article XVII, Section 4, relating to the unavailability or inaccuracy of index values, in order to incorporate provisions for differential index options. In addition, OCC will amend Article XVII, Section 5, relating to the time for determination of current index value, in order to eliminate the reference to index groups.

4. Proposed Amendments to Existing Rules

OCC will modify provisions in Rule 207 to accommodate differential index options. In addition, OCC will modify Interpretation and Policy .03 under Rule 602, Rule 1801(c), and Rule 1801(e) to remove references to index groups with respect to index options.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act[9] and the rules and regulations thereunder because it applies the same procedures and safeguards to differential index options that OCC has employed with respect to other index options. OCC believes that these procedures have proven effective in promoting the prompt and accurate clearance and settlement of securities transactions and in safeguarding securities and funds.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would have any material adverse impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–98–09 and should be submitted by December 1, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–30099 Filed 11–9–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3145]

State of Texas (Amendment #1)

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to establish the incident period as beginning on October 17, 1998 and continuing through October 31, 1998.

All other information remains the same, i.e., the deadline for filing

[8] In addition, OCC will make technical amendments to the By-Laws and Rules to conform to these definitional changes.

[9] 15 U.S.C. 78q–1.

[10] 17 CFR 200.30–3(a)(12).

applications for physical damage is December 19, 1998 and for economic injury the termination date is July 19, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 4, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–30147 Filed 11–9–98; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF STATE

[Public Notice No. 2927]

Shipping Coordinating Committee, International Maritime Organization (IMO) Legal Committee; Notice of Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open meeting at 10:00 a.m., on Thursday, December 3, 1998, in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC. The purpose of this meeting is to report on the 78th session of the IMO Legal Committee, which was held October 19–23, 1998, in London. The meeting will address: provision of financial security for passenger claims, provision of financial security for other maritime claims, compensation for pollution from ships' bunkers, and a draft convention on wreck removal, as well as other matters.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room. For further information, contact either Captain Malcolm J. Williams, Jr., or Lieutenant William G. Rospars, U.S. Coast Guard (G–LMI), 2100 Second Street, SW., Washington, DC 20593, telephone (202) 267–1527, fax (202) 267–4496.

Dated: November 4, 1998.

Stephen M. Miller,

Chairman, Shipping Coordinating Committee.

[FR Doc. 98–30104 Filed 11–9–98; 8:45 am]

BILLING CODE 4710–70–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–100a]

Implementation of WTO Recommendations Concerning the European Communities' Regime for the Importation, Sale and Distribution of Bananas

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of proposed determination of action to be taken; request for public comment; notice of public hearing.

SUMMARY: The United States Trade Representative requests written comments and invites testimony in the context of a public hearing on its proposed determination that the imposition of prohibitive (100 percent *ad valorem*) duties on selected products from the European Communities (EC) is an appropriate action under section 306(b) and 301(a) of the Trade Act of 1974, as amended, should the EC fail to implement the recommendations of the World Trade Organization Dispute Settlement Body concerning the EC's regime for the importation, sale, and distribution of bananas within the prescribed reasonable period of time, which expires on January 1, 1999. The products to be affected by the proposed duty increase will be drawn from the list of products set forth in the Annex to this notice. The USTR intends to publish a notice on December 15, 1998 describing the actions that it would take, beginning as early as February 1, 1999.

DATES: Requests to testify at the public hearing and written testimony for the public hearing are due by noon on Monday, November 30, 1998; the public hearing will be held on Wednesday, December 9, 1998; written comments, in lieu of written and oral testimony, are due by noon on Thursday, December 10, 1998; and rebuttal briefs, if needed, are due by noon on Friday, December 11, 1998.

ADDRESSES: 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Rachel Shub, Associate General Counsel, (202) 395–7305; or Ralph Ives, Deputy Assistant U.S. Trade Representative, (202) 395–3320.

SUPPLEMENTARY INFORMATION: January 1, 1999 is the deadline for the European Communities' (EC) implementation of the recommendations of the World Trade Organization (WTO) Dispute Settlement Body (DSB) concerning the EC's regime for the importation, sale, and distribution of bananas (banana regime). On October 22, 1998, the United States Trade Representative (USTR) published a notice [63 FR 56687] of a proposed affirmative determination under section 306(b) of the Trade Act of 1974, as amended (Trade Act) (19 U.S.C. 2416), that the measures the EC has undertaken to apply as of January 1, 1999 fail to implement the WTO recommendations concerning the EC banana regime. Such a determination will require the USTR also to determine what further action to take under section 301(a) in the event the EC has failed to implement the WTO recommendations by January 1, 1999.

Permissible actions under section 301(a) of the Trade Act include: action to suspend, withdraw or prevent the application of benefits of trade agreement concessions to the EC; imposition of duties or other import restrictions on goods of the EC or fees or restrictions on services of the EC; and restriction or denial of service sector access authorizations with respect to services of the EC. The USTR proposes that the imposition of prohibitive (100 percent *ad valorem*) duties on selected products from the EC is an appropriate action should the EC fail to implement the WTO recommendations within the prescribed reasonable period of time. The products to be affected by the duty increase will be drawn from the list of products set forth in the Annex to this notice.

The USTR intends to publish a notice on December 15, 1998 describing the actions that it would take beginning February 1, 1999. If the EC requests arbitration under Article 22.6 of the WTO Dispute Settlement Understanding (DSU), the USTR would delay implementation of action until the completion of the arbitration proceedings or until March 3, 1999, whichever is earlier.

The announcement of the USTR's determination on December 15 and the subsequent implementation of action are contingent upon the EC's failure to suspend the implementation of its new banana regime and to implement a regime consistent with the WTO's recommendations. The dates on which the USTR intends to implement action—February 1 or no later than March 3, 1999—correspond to the dates contemplated by sections 306(b) and 305(a) of the Trade Act as well as Article 22 of the DSU.

Section 306(b) of the Trade Act requires the USTR to determine what further action it shall take under section 301(a) if the USTR considers that a foreign country has failed to implement a recommendation made pursuant to dispute settlement proceedings under the WTO. The USTR shall make this determination no later than thirty days after the expiration of the reasonable period of time provided for such implementation under Article 21.3 of the DSU, which is January 31, 1999 in this case. Section 305(a)(1) requires the USTR to implement such action by no later than thirty days after the date on which that determination is made, or March 2 in this case.

According to Article 22 of the DSU, the United States can request DSB authorization to suspend the application of concessions or other obligations to the EC for its failure to bring a measure into compliance with a covered agreement or the WTO's recommendations within the reasonable period of time. The United States may make its request twenty days after the expiration of the reasonable period of time, or January 21 in this case. Article 22.6 of the DSU provides that the DSB shall grant the requested authorization not later than thirty days after the expiration of the reasonable period, or January 31 in this case. The DSB must decide by consensus to reject the request for authorization. The EC may object to the level of suspension proposed or the application of the principles and procedures specified in Article 22.3 of the DSU in considering the types of concessions or obligations to suspend, in which case the matter shall be referred to arbitration. The DSU requires that arbitration proceedings be completed within sixty days after the expiration of the reasonable period of time, or March 2 in this case. The United States may not suspend concessions or other obligations during the course of the arbitration proceedings.

Proposed Determination on Appropriate Action

The USTR proposes that the imposition of prohibitive (100 percent ad valorem) duties on selected products from the EC is an appropriate action should the EC fail to implement the WTO recommendations within the prescribed reasonable period of time, which expires on January 1, 1999. The products to be affected by the duty increase will be drawn from the list of products set forth in the Annex to this notice. The USTR also has been considering whether appropriate action may include the imposition of fees or restrictions on, or the restriction or denial of authorizations for, EC services and service suppliers. If the USTR intends to determine that any action with respect to services or service suppliers would be practicable and effective, the USTR will publish a further notice seeking comments on such proposed action.

In determining what action to take, the USTR will consider all written comments, testimony, and rebuttal briefs submitted by interested persons to the Section 301 Committee in accordance with the procedures described below.

Public Comment on Proposed Action; Hearing Participation

In accordance with section 304(b) of the Trade Act, the USTR requests all interested persons to provide written comments on the proposed action. Written comments are due by noon on Thursday, December 10, 1998.

The USTR also invites interested persons to present written and oral testimony and rebuttal briefs in the context of a public hearing to be held pursuant to section 304(b) of the Trade Act. The hearing will be held at 8:00 a.m. on Wednesday, December 9, 1998 in the Main Hearing Room at the U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436. Testimony at the public hearing should be limited to no more than five minutes.

Written comments and written and oral testimony may address: the appropriateness of imposing increased duties upon the products listed in the Annex to this notice; the levels at which U.S. customs duties should be set for particular items; the degree to which increased duties might have an adverse effect upon U.S. consumers of the products listed in the Annex; and any other matter relating to the appropriate action to be taken under section 306(b) and 301(a). Interested persons submitting written comments do not need to present written and oral testimony as well.

Requests To Testify and Written Testimony: Interested persons wishing to present testimony at the hearing must submit a written request to do so by noon on Monday, November 30, 1998, together with twenty copies of their complete written testimony. Requests to testify must conform to the requirements of 15 CFR 2006.9 and include the following information: (1) Name, address, telephone number, fax number, firm or affiliation of the applicant, and interest of the applicant; and (2) a brief summary of the comments to be presented. After considering the request to present oral testimony, the Chairman of the Section 301 Committee will notify the applicant of the time of his or her testimony.

Rebuttal Briefs: To assure each party an opportunity to contest the information provided by other parties, the USTR will entertain rebuttal briefs filed by any party by noon on Friday, December 11, 1998. In accordance with 15 CFR 2006.8(c), rebuttal briefs should be strictly limited to demonstrating errors of fact or analysis not pointed out in written or oral testimony and should be as concise as possible.

Requirements for Submissions: Written comments on the proposed determination, written testimony, and rebuttal briefs must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b). Comments must state clearly the position taken and describe with particularity the supporting rationale, be in English, and be provided in twenty copies to: Chairman, Section 301 Committee, Attn: EU—Bananas Implementation of WTO Recommendations, Room 100.

Written comments, written testimony, and rebuttal briefs will be placed in a file (Docket 301–100a) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Persons wishing to submit business confidential information must certify in writing that such information is confidential in accordance with 15 CFR 2006.15(b), and such information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page on each of twenty copies and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary will be placed in the docket that is open to public inspection.

An appointment to review Docket No. 301–100a may be made by calling Brenda Webb at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101 of the Office of the United States Trade Representative.

Joanna K. McIntosh,

Chairman, Section 301 Committee.

BILLING CODE 3190–01–P

Annex

[The bracketed language in this Annex has been included only to clarify the scope of the numbered subheadings of the Harmonized Tariff Schedule of the United States (HTS) which are being considered, and such language is not itself intended to describe articles which are under consideration.]

HTS Subheading	Article Description
	Cheese and curd:
	[Fresh (unripened or uncured) cheese, including whey cheese, and curd; grated or powdered cheese, of all kinds; processed (process) cheese, not grated or powdered; blue-veined cheese]
	Other cheese:
	Other cheeses, and substitutes for cheese, including mixtures of the above:
	Cheeses made from sheep's milk:
0406.90.57	Pecorino, in original loaves, not suitable for grating
	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty capsules of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:
1905.30.00	Sweet biscuits; waffles and wafers
	Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter:
2009.70.00	Apple juice
	Wine of fresh grapes, including fortified wines; grape must other than that of heading 2009:
	[Sparkling wine]
	Other wine; grape must with fermentation prevented or arrested by the addition of alcohol:
	In containers holding 2 liters or less:
	[Effervescent wine]
	Other:
	Of an alcoholic strength by volume not over 14 percent vol.:
	[If entitled under regulations of the United States Internal Revenue Service to a type designation which includes the name "Tokay" and if so designated on the approved label]
	Other:
	Valued not over $1.05/liter:
2204.21.5005	Red
	Of an alcoholic strength by volume over 14 percent vol.:
	[If entitled under regulations of the United States Internal Revenue Service to a type designation which includes the name "Marsala" and if so designated on the approved label]
2204.21.80	Other
	Other:
	In containers holding over 2 liters but not over 4 liters:
2204.29.40	Of an alcoholic strength by volume over 14 percent vol.
	In containers holding over 4 liters:
2204.29.60	Of an alcoholic strength by volume not over 14 percent vol.
2204.29.80	Of an alcoholic strength by volume over 14 percent vol.
	Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included; prepared room deodorizers, whether or not perfumed or having disinfectant properties:
	Perfumed bath salts and other bath preparations:
	[Bath salts, whether or not perfumed]
3307.30.50	Other
3406.00.00	Candles, tapers and the like

Annex (con.)
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HTS Subheading	Article Description
	Other plates, sheets, film, foil and strip, of plastics, noncellular and not reinforced, laminated, supported or similarly combined with other materials:
3920.10.00	Of polymers of ethylene
3920.20.00	Of polymers of propylene
	Of polycarbonates, alkyd resins, polyallyl esters or other polyesters:
3920.62.00	Of polyethylene terephthalate
	Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper:
	Handbags, whether or not with shoulder strap, including those without handle:
	With outer surface of sheeting of plastic or of textile materials:
4202.22.15	With outer surface of sheeting of plastic
	Articles of a kind normally carried in the pocket or in the handbag:
	With outer surface of sheeting of plastic or of textile materials:
	With outer surface of sheeting of plastic:
4202.32.10	Of reinforced or laminated plastics
	Articles of apparel, clothing accessories and other articles of furskin:
4303.10.00	Articles of apparel and clothing accessories
	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6 mm:
4407.10.00	Coniferous
	Other uncoated paper and paperboard, in rolls or sheets, not further worked or processed than as specified in note 2 to chapter 48 of the HTS:
4805.50.00	Felt paper and paperboard
	Paper and paperboard, coated on one or both sides with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-colored, surface-decorated or printed, in rolls or sheets:
	Paper and paperboard of a kind used for writing, printing or other graphic purposes, of which more than 10 percent by weight of the total fiber content consists of fibers obtained by a mechanical process:
	[Light-weight coated paper]
4810.29.00	Other
	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibers; box files, letter trays and similar articles, of paper or paperboard of a kind used in offices, shops or the like:
4819.20.00	Folding cartons, boxes and cases, of noncorrugated paper or paperboard
	Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings:
	[Postcards]
4909.00.40	Other
	Other printed matter, including printed pictures and photographs:
	[Trade advertising material, commercial catalogs and the like]
	Other:
	Pictures, designs and photographs:
	Printed not over 20 years at time of importation:
	[Suitable for use in the production of articles of heading 4901]
	Other:
	Lithographs on paper or paperboard:
4911.91.20	Not over 0.51 mm in thickness

Annex (con.)
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HTS Subheading	Article Description
	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted:
	Of wool or fine animal hair:
6110.10.10	Wholly of cashmere
	Women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear):
	Suit-type jackets and blazers:
	Of wool or fine animal hair:
	[Containing 30 percent or more by weight of silk or silk waste]
6204.31.20	Other
	Bed linen, table linen, toilet linen and kitchen linen:
	[Bed linen, knitted or crocheted]
	Other bed linen, printed:
	Of cotton:
	[Containing any embroidery, lace, braid, edging, trimming, piping or applique work]
	Other:
6302.21.90	Not napped
	Scissors, tailors' shears and similar shears, and blades and other base metal parts thereof:
	Valued over $1.75/dozen:
	[Pinking shears, valued over $30/dozen]
8213.00.90	Other (including parts)
	Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases; parts thereof:
	Filtering or purifying machinery and apparatus for liquids:
8421.21.00	For filtering or purifying water
	Filtering or purifying machinery and apparatus for gases:
	[Intake air filters for internal combustion engines]
	Other:
	[Catalytic converters]
8421.39.80	Other
	Sewing machines, other than book-sewing machines of heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machine needles; parts thereof:
8452.10.00	Sewing machines of the household type
	Electric storage batteries, including separators therefor, whether or not rectangular (including square); parts thereof:
	[Lead-acid storage batteries, of a kind used for starting piston engines]
	Other lead-acid storage batteries:
	[Of a kind used as the primary source of electrical power for electrically powered vehicles of subheading 8703.90]
8507.20.80	Other
	Electromechanical domestic appliances, with self-contained electric motor; parts thereof:
8509.10.00	Vacuum cleaners
8509.40.00	Food grinders, processors and mixers; fruit or vegetable juice extractors
	Electrical lighting or signaling equipment (excluding articles of heading 8539), windshield wipers, defrosters and demisters, of a kind used for cycles or motor vehicles; parts thereof:
	Windshield wipers, defrosters and demisters:
8512.40.40	Windshield wipers

Annex (con.)
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HTS Subheading	Article Description
	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof:
	[Microwave ovens]
	Other ovens; cooking stoves, ranges, cooking plates, boiling rings, grillers and roasters:
8516.60.40	Cooking stoves, ranges and ovens
	Other electrothermic appliances:
8516.71.00	Coffee or tea makers
	Apparatus and equipment for photographic (including cinematographic) laboratories (including apparatus for the projection or drawing of circuit patterns on sensitized semiconductor materials), not specified or included elsewhere in chapter 90 of the HTS; negatoscopes; projection screens; parts and accessories thereof:
9010.10.00	Apparatus and equipment for automatically developing photographic (including cinematographic) film or paper in rolls or for automatically exposing developed film to rolls of photographic paper
	Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included:
	Chandeliers and other electric ceiling or wall lighting fittings, excluding those of a kind used for lighting public open spaces or thoroughfares:
	[Of base metal]
9405.10.80	Other
	Dolls representing only human beings and parts and accessories thereof:
9502.10.00	Dolls, whether or not dressed
	Other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof:
9503.10.00	Electric trains, including tracks, signals and other accessories thereof; parts thereof
	[Reduced-size ("scale") model assembly kits, whether or not working models, excluding those of subheading 9503.10; parts and accessories thereof; other construction sets and constructional toys, and parts and accessories thereof; toys representing animals or non-human creatures (for example, robots and monsters) and parts and accessories thereof; toy musical instruments and apparatus and parts and accessories thereof; puzzles and parts and accessories thereof; other toys, put up in sets or outfits, and parts and accessories thereof; other toys and models, incorporating a motor, and parts and accessories thereof]
9503.90.00	Other
	Festive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof:
	Articles for Christmas festivities and parts and accessories thereof:
	Christmas ornaments:
9505.10.10	Of glass
	Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating styli; propelling or sliding pencils (for example, mechanical pencils); pen-holders, pencil-holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 9609:
9608.10.00	Ball point pens

[FR Doc. 98–30225 Filed 11–9–98; 8:45 am]
BILLING CODE 3190–01–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Draft Advisory Circular (AC) No. 120–29A, Criteria for Approval of Category I and Category II Weather Minima for Approach

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of a draft advisory circular.

SUMMARY: This notice announces the availability of a draft AC, recommended by the Aviation Rulemaking Advisory Committee (ARAC), which provides information and guidance on obtaining and maintaining approval of Category I and II Weather Minima, including installation and approval of associated aircraft systems. This draft AC would replace AC 120–29 and represents the first steps of harmonization efforts of the Federal Aviation Administration, the European Joint Aviation Authority, and other regulatory authorities. This notice solicits public comment on the draft AC.

DATES: Comments on the draft AC must be received on or before January 11, 1999.

ADDRESSES: To obtain a copy of the draft AC or to send comments on the draft AC, please contact Yolanda Hill, Flight Technologies and Procedures Division (AFS–410), Room 835, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591; telephone: (202) 267–3728. The draft AC may also be accessed on the Internet at www.faa.gov/AVR/afs/afs410/afs410.htm.

FOR FURTHER INFORMATION CONTACT: Technical questions should be addressed to Jim Enias, Technical Programs Division (AFS–400), Federal Aviation Administration, Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7211.

Comments Invited

The FAA invites interested parties to submit comments on this draft AC, as recommended by the ARAC. Commenters should identify AC 120–29A and submit comments to the person and address listed above. The FAA will consider all communications received on or before the closing date for comments before completing its review of this ARAC recommended AC. The recommended draft AC and comments received may be inspected at the Office of Flight Standards Service, Technical Programs Division, Room 835, Federal Aviation Administration (Federal Office Building 10A), between the hours of 9:00 a.m. and 5:00 p.m. weekdays, except Federal holidays.

Background

This draft AC was received from the ARAC in August 1998. The AC recommended by the ARAC would set forth an acceptable means, but not the only means, of obtaining and maintaining approval of operations in Category I and II landing weather minima and low visibility approach criteria including the installation and approval of associated aircraft systems. It includes additional or revised Category I and II criteria for use in conjunction with heads-up displays, use of required navigation performance, satellite navigation sensors, and ''engine inoperative'' Category II criteria.

This draft AC should be reviewed in conjunction with the regulatory requirements of 14 CFR parts 121, 125, and 135, as applicable. This draft AC would not change, add, or delete any regulatory requirement or authorize any deviation from parts 121, 125, or 135.

The FAA is currently reviewing this ARAC recommendation and may make revisions to this document before it is issued. These revisions may include editorial changes to ensure that this AC does not impose requirements on operators independent of the current regulations. The regulations themselves, referenced in the draft AC, may be reviewed for revisions, as appropriate. It should be noted that the draft AC explicitly states that nothing in it is intended to preclude an operator from proposing and demonstrating to the FAA its ability to operate to Category I and II minima with a different equipment configuration, or alternatively to a runway visual range minima lower than presently described in this document.

If, after review of this recommendation, the FAA decides to make any substantive changes in the draft AC, the revised document will be made available again for comment before final issuance.

This draft revision incorporates changes resulting from the first steps toward international all weather operations criteria harmonization taken by the FAA, JAA, and several other regulatory authorities. Subsequent revisions of this AC are planned as additional all weather operations harmonization items are agreed and completed by FAA and JAA, or internationally.

Issued in Washington, DC on November 4, 1998.

Richard O. Gordon,

Acting Director, Flight Standards Service.

[FR Doc. 98–30093 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Dockert No. MARAD–98–4661]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before January 11, 1999.

FOR FURTHER INFORMATION CONTACT: Joe Strassburg, Chief, Division of Marine Insurance, Office of Subsidy and Insurance, Maritime Administration, MAR–575, Room 8117, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone 202–366–4161 or FAX 202–366–7901. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: War Risk Insurance.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0011.

Form Numbers: MA–355; MA–528; MA–742; MA–828; and, MA–942.

Expiration Date of Approval: August 31, 1999.

Summary of Collection of Information: As authorized by Section 1202, Title XII, Merchant Marine Act, 1936, as amended, (46 App. U.S.C. 1282), the Secretary of the U.S. Department of Transportation may provide war risk insurance adequate for the needs of the waterborne commerce of the United States if such insurance cannot be obtained on reasonable terms from qualified insurance companies operating in the United States. This collection is required for the program. It consists of forms MA–355; MA–528; MA–742; MA–828; and MA–942.

Need and Use of the Information: The collected information is necessary to determine the eligibility of the applicant and the vessel(s) for participation in the war risk insurance program.

Description of Respondents: Vessel(s) owner or charterer interested in participation in MARAD's war risk insurance program.

Annual Responses: 1730.

Annual Burden: 930 hours.

Comments: Signed written comments should refer to the docket number that appear at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. Specifically, address whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t. Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at http:/dms.dot.gov.

By Order of the Maritime Administrator.

Dated: November 4, 1998.

Joel C. Richard,

Secretary.

[FR Doc. 98–30080 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Information Collection Available for Public Comments and Recommendations; Correction

Notice Document 98–29414 appearing on page 59359, in the issue of Tuesday, November 3, 1998 cites an incorrect Docket Number for this proceeding. The correct Docket Number is ''Docket No. MARAD–98–4661''.

Dated: November 3, 1998.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 98–30081 Filed 11–9–98; 8:45 am]

BILLING CODE 4910–81–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33657 (Sub–No. 1)]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts the trackage rights described in STB Finance Docket No. 33657 [1] to permit the trackage rights to expire on December 31, 1998, in accordance with the agreement of the parties. [2]

DATES: This exemption will be effective on December 10, 1998. Petitions to reopen must be filed by November 30, 1998.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 33657 (Sub-No. 1) must be filed with the Office of the Secretary, Surface Transportation Board, Case Control Unit, 1925 K Street, NW, Washington, DC 20423-0001. In addition, a copy of all pleadings must be served on petitioner's representative Joseph D. Anthofer, Esq., 1416 Dodge Street, #830, Omaha, NE 68179.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600. [TDD for the hearing impaired (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Suite 210, 1925 K Street, NW, Washington, DC 20006. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: November 2, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–30141 Filed 11–9–98; 8:45 am]

BILLING CODE 4915–00–P

[1] On September 3, 1998, UP filed a notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the agreement by The Burlington Northern and Santa Fe Railway Company (BNSF) to grant temporary overhead trackage rights to UP over approximately 448 miles of BNSF's rail line between milepost 618.0 at Pueblo, CO, and milepost 170 at Peabody, KS. *See Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company,* STB Finance Docket No. 33657 (STB served Sept. 30, 1998). The exemption became effective on September 10, 1998, 7 days after the verified notice was filed.

[2] In the absence of an exemption as being granted here, trackage rights normally remain in effect unless discontinuance authority or approval of a new agreement is obtained. *See Milford—Bennington Railroad Company, Inc.—Boston and Maine Corporation and Springfield Terminal Railway Company,* Finance Docket No. 32103 (ICC served Sept. 3, 1993).

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–29: OTS No. 15554]

Citizens Bank, FSB, Salisbury, NC; Approval of Conversion Application

Notice is hereby given that on October 29, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Citizens Bank, FSB, Salisbury, North Carolina, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Southeast Regional Office, Office of Thrift Supervision, 1475 Peachtree Street, N.E., Atlanta, GA 30309.

Dated: November 4, 1998.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–30009 Filed 11–9–98; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–30: OTS No. 5766]

Ogdensburg Federal Savings and Loan Association, Ogdensburg, New York; Approval of Conversion Application

Notice is hereby given that on October 30, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Ogdensburg Federal Savings and Loan Association, Ogdensburg, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Northeast Regional Office, Office of

Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: November 4, 1998.

By the Office of Thrift Supervision,

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–30010 Filed 11–9–98; 8:45 am]

BILLING CODE 6720–01–P

federal register

Tuesday
November 10, 1998

Part II

Department of Housing and Urban Development

Notice of Regulatory Waiver Requests Granted; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4378–N–01]

Notice of Regulatory Waiver Requests Granted

AGENCY: Office of the Secretary, HUD.

ACTION: Public notice of the granting of regulatory waivers from January 1, 1998 through March 31, 1998.

SUMMARY: Under the Department of Housing and Urban Development Reform Act of 1989 (Reform Act), HUD is required to make public all approval actions taken on waivers of regulations. This notice is the twenty-ninth in a series, being published on a quarterly basis, providing notification of waivers granted during the preceding reporting period. The purpose of this notice is to comply with the requirements of section 106 of the Reform Act.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3055 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address is set out for the particular item, in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989 (the Reform Act), the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by HUD. Section 106 of the Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to *issue* the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 of the Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD on April 22, 1991 (56 FR 16337). This is the twenty-ninth notice of its kind to be published under section 106 of the Reform Act. This notice updates HUD's waiver-grant activity from January 1, 1998 through March 31, 1998.

For ease of reference, waiver requests granted by departmental officials authorized to grant waivers are listed in a sequence keyed to the section number of the HUD regulation involved in the waiver action. For example, a waiver-grant action involving exercise of authority under 24 CFR 58.73 (involving the waiver of a provision in 24 CFR part 58) would come early in the sequence, while waivers of 24 CFR part 990 would be among the last matters listed.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. (For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.)

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred between April 1, 1998 through June 30, 1998.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: November 4, 1998.

Andrew Cuomo,

Secretary.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Officers of the Department of Housing and Urban Development January 1, 1998 through March 31, 1998

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly before each set of waivers granted.

For items 1 and 2, waivers granted for 24 CFR part 5, contact: Gloria J. Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4126, Washington, DC 20410; telephone (202) 401–8812 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

1. Regulation: 24 CFR 5.613.

Project/activity: A request was made by the Chicago Housing Authority (CHA), of Chicago, IL, to permit the establishment of ceiling rents for its entire low-rent inventory.

Nature of requirement: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the following, rounded to the nearest dollar: (1) 30 percent of Monthly Adjusted Income; (2) 10 percent of monthly income; (3) if the family receives Welfare assistance from a public agency and a part of such payments is specifically designated by such agency to meet the family's housing costs, the monthly portion of such payments which is so designated; or (4) the minimum rent set by the PHA.

Granted by: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date granted: February 25, 1997.

Reason waived: The establishment of ceiling rents will permit the CHA to attract wage-earning, low-income applicants, and will help improve the CHA's current vacancy ratio.

2. Regulation: 24 CFR 5.613.

Project/activity: A request was made by the Stevens Point Housing Authority (SPHA), of Stevens Point, WI, to permit the establishment of ceiling rents for certain of its hard-to-rent units.

Nature of requirement: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the following, rounded to the nearest dollar: (1) 30 percent of Monthly Adjusted Income; (2) 10 percent of

Monthly Income; (3) if the family receives Welfare assistance from a public agency and a part of such payments is specifically designated by such agency to meet the family's housing costs, the monthly portion of such payments which is so designated; or (4) the minimum rent set by the PHA.

Granted by: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date granted: March 14, 1997.

Reason waived: The establishment of ceiling rents will permit the SPHA to reduce their vacancy rate and attract a wider range of low-income families.

For items 3 through 24, waivers granted for 24 CFR parts 42, 91, and 92, contact: Debbie Ann Wills, Field Management Officer, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7152, Washington, DC 20410; telephone (202) 708–2565 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

3. Regulation: 24 CFR 42.375.

Project/activity: The State of Ohio requested a waiver of the one-for-one replacement requirements for the use of Community Development Block Grant (CDBG) supplemental disaster appropriations.

Nature of requirement: Section 101(c) of the Housing and Community Development Act of 1974, and the implementing regulations at 24 CFR 42.375 require that lower-income dwelling units that are demolished in connection with a CDBG-assisted activity be replaced with comparable lower-income dwelling units.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date granted: January 8, 1998.

Reasons waived: HUD waived the regulations to allow the State to implement a voluntary program to acquire properties in a flood plain and maintain the properties for open space or recreational purposes. Such property use is required by the Hazard Mitigation Grant Program administered by the Federal Emergency Management Agency (FEMA).

4. Regulation: 24 CFR 42.375.

Project/activity: The State of Indiana requested a waiver of the one-for-one replacement requirements for the use of Community Development Block Grant (CDBG) supplemental disaster appropriations.

Nature of requirement: Section 101(c) of the Housing and Community Development Act of 1974, as amended and implementing regulations at 24 CFR 42.375 require that lower-income dwelling units that are demolished in connection with a CDBG-assisted activity be replaced with comparable lower-income dwelling units.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date granted: March 18, 1998.

Reasons waived: HUD waived the regulation to permit the State to acquire and demolish 79 properties in the flood plain, as part of the State's Hazard Mitigation Grant Program.

5. Regulation: 24 CFR 91.10(b).

Project/activity: The State of Maine requested a waiver of the requirement that a jurisdiction notify HUD in writing regarding changes in its program year.

Nature of requirement: HUD's Consolidated Plan regulations at 24 CFR 91.10(b) require that once a jurisdiction's program year is established, the jurisdiction may either shorten or lengthen its program year provided that it notifies HUD in writing at least two months before the change in the program year.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date granted: March 26, 1998.

Reasons waived: The waiver permitted the State to: (1) Expedite the distribution of funds to homeowners who may have not been eligible for disaster funds; (2) Respond to public forum requests for changes; and (3) Make the change prior to the beginning of citizen participation cycle for the five year consolidated plan.

6. Regulation: 24 CFR 91.225(b)(4).

Project/activity: Lakewood, Ohio requested that it be permitted to modify its selected time period for complying with the requirement that it expend at least 70 percent of its Community Development Block Grant (CDBG) funds for activities that benefit low and moderate income persons.

Nature of requirement: HUD's Consolidated Plan regulations at 24 CFR 91.225(b)(4) provide that each CDBG grantee must certify that it will achieve the primary objective of the CDBG program (using program money for activities that benefit low and moderate income persons).

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: January 9, 1998.

Reasons Waived: The City of Lakewood planned to address a critical infrastructure need of the City by undertaking a large slums and blight project. The City would have been unable to meet the financial needs of this project if the waiver had been denied.

7. Regulation: 24 CFR 92.252(b).

Project/Activity: The City of New York requested a waiver of the HOME program regulation relating to the calculation of rents charged for units occupied by very low income households. The City requested that it be permitted to adjust the rents for 103 of these units by using the Section 8 program rents instead.

Nature of Requirement: HUD's HOME program regulations at 24 CFR 92.252(b) require that rental projects with five or more HOME-assisted rental units, 20 percent of the HOME-assisted units must be occupied by very low income families. Further, § 90.252(b) a cap on the maximum rent that can be charged to these families (30 percent of the family's annual or adjusted income, depending on the median income of the area).

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: February 18, 1998.

Reasons Waived: HUD granted the waiver because the restructuring of rents for 103 units would have imposed an administrative burden on the City.

8. Regulation: 24 CFR 92.254.

Project/Activity: Washington County, Oregon requested a waiver of the requirement that property be transferred to a homebuyer within 42 months after project completion. This waiver would extend the maximum lease period to 60 months for low income first time homebuyers.

Nature of Requirement: HUD's HOME program regulations at 24 CFR 92.254(a) require that property be transferred to a homebuyer within forty-two (42) months after project completion.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: March 16, 1998.

Reasons Waived: The waiver was granted because it would allow potential lease purchasers of 14 new construction townhouses sufficient time to accumulate funds for downpayments and closing costs.

For Item 9, Waiver Granted for 24 CFR Part 203, Contact: Mark Holman, Chief, Mortgage Underwriting and Insurance Branch, Home Mortgage Insurance Division, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 9270, Washington, D.C. 20410–7000; telephone: (202) 708–1220 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

9. Regulation: 24 CFR 203.49(c).

Project/Activity: Waiver of the requirements of 24 CFR 203.49(c) to extend the initial adjustment dates for adjustable rate mortgage (ARM) loans beyond the 12 to 18 month window currently provided for in the regulation.

Nature of Requirement: The regulation provides that lenders may extend the initial interest rate adjustment dates on ARM loans thus rendering the loans eligible for placement in Ginnie Mae pools. Ineligibility of the loans for delivery to Ginnie Mae would result in financial hardship to the mortgagee and will not have an adverse impact on any mortgagors.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner and Art Agnos, Acting General Assistant Secretary for Housing-Federal Housing Commissioner.

Dates Granted: Four waivers: two on March 23, 1998 and two on January 8, 1998.

Reasons Waived: Mortgagees (Banc One, Homeside Lending and HomeTrust) requested to extend the initial change date for ARM loans beyond the 12–18 month window period as required by 24 CFR 203.49(c). Approving the waiver enabled the lender to securitize the loans and rendered no harm to the borrowers or the Department.

For Items 10 Through 25, Waivers Granted for 24 CFR Parts 570 and 576, Contact: Debbie Ann Wills, Field Management Officer, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7152, Washington, DC 20410; telephone (202) 708–2565 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

10. Regulation: 24 CFR 570.1(c) (which codifies section 101(c) of the Housing and Community Development Act of 1974, as amended).

Project/Activity: Rapid City, South Dakota requested a waiver of the requirement that at least 50 of its HUD disaster recovery funds be used for activities which benefit low- and moderate-income persons.

Nature of Requirement: Section 101(c) of the Housing and Community Development Act of 1974, as amended (which HUD has codified in its CDBG regulations at 24 CFR 570.1(c)) requires that CDBG funds principally benefit low and moderate income persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: February 27, 1998.

Reasons Waived: Chapter 10 of Title II of the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters authorizes HUD to suspend certain statutory and regulatory provisions that would otherwise apply to the use of disaster recovery funds in a federal disaster area. The Assistant Secretary granted the waiver because the City indicated little disaster effect on low and moderate income residents.

11. Regulation: 24 CFR 570.1(c) (which codifies section 101(c) of the Housing and Community Development Act of 1974, as amended).

Project/Activity: Grand Forks County, North Dakota requested a waiver of the requirement that at least 50 of its HUD disaster recovery funds be used for activities which benefit low- and moderate-income persons.

Nature of Requirement: Section 101(c) of the Housing and Community Development Act of 1974, as amended (which HUD has codified in its CDBG regulations at 570.1(c)) requires that CDBG funds principally benefit low- and moderate-income persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: March 12, 1998.

Reasons Waived: Chapter 10 of Title II of the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters authorizes HUD to suspend certain statutory and regulatory provisions that would otherwise apply to the use of disaster recovery funds in a federal disaster area. The Assistant Secretary determined that the County's proposal to use its allocation to rebuild county offices that would house social service offices, sheriff/correctional offices, and emergency offices, served a public purpose.

12. Regulation: 24 CFR 570.1(c) (which codifies section 101(c) of the Housing and Community Development Act of 1974, as amended).

Project/Activity: Traill County, North Dakota requested a waiver of the requirement that at least 50 of its HUD disaster recovery funds be used for activities which benefit low and moderate income persons.

Nature of Requirement: Section 101(c) of the Housing and Community Development Act of 1974, as amended (which HUD has codified in its CDBG regulations at 570.1(c)) requires that program funds principally benefit low and moderate income persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: March 12, 1998.

Reasons Waived: Chapter 10 of Title II of the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters authorizes HUD to suspend certain statutory and regulatory provisions that would otherwise apply to the use of disaster recovery funds in a federal disaster area. The requirement was waived because all unmet needs of low and moderate income disaster victims were addressed.

13. Regulation: 24 CFR 570.1(c) (which codifies section 101(c) of the Housing and Community Development Act of 1974, as amended).

Project/Activity: Pembina County, North Dakota requested a waiver of the requirement that at least 50 percent of its HUD disaster recovery funds be used for activities which benefit low- and moderate-income persons.

Nature of Requirement: Section 101(c) of the Housing and Community Development Act of 1974, as amended (which HUD has codified in its CDBG regulations at 24 CFR 570.1(c)) requires that CDBG funds principally benefit low and moderate income persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: March 24, 1998.

Reasons Waived: Chapter 10 of Title II of the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters authorizes HUD to suspend certain statutory and regulatory provisions that would otherwise apply to the use of disaster recovery funds in a federal disaster area. The Assistant Secretary granted the waiver to allow HUD Disaster Recovery Initiative funds to assist disaster victims at all income levels, since other resources were being used to address the needs of low- and moderate-income people.

14. Regulation: 24 CFR 570.1(c) (which codifies section 101(c) of the Housing and Community Development Act of 1974, as amended).

Project/Activity: Mercer County, North Dakota requested a waiver of the requirement that at least 50 of its HUD disaster recovery funds be used for activities which benefit low- and moderate-income persons.

Nature of Requirement: Section 101(c) of the Housing and Community Development Act of 1974, as amended (which HUD has codified in its CDBG regulations at 24 CFR 570.1(c)) requires that CDBG program funds principally benefit low- and moderate-income persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: March 25, 1998.

Reasons Waived: Chapter 10 of Title II of the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters authorizes HUD to suspend certain statutory and regulatory provisions that would otherwise apply to the use of disaster recovery funds in a federal disaster area. The Assistant Secretary granted the waiver because the community lacked sufficient concentrations of lower income populations. Also, without the waiver the County would not be able to implement critically needed mitigation and repair projects, and other safety measures.

15. Regulation: 24 CFR 570.208(a)(3).

Project/Activity: The City of Oakland, California requested a waiver of the Community Development Block Grant (CDBG) regulations at 24 CFR 570.208(a)(3) to permit the use of CDBG funds to assist in the development of a mixed income single family housing project.

Nature of Requirement: The CDBG regulations at 24 CFR 570.208(a)(3) require, as a general rule, that CDBG-assisted housing structures principally benefit low- and moderate-income households.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: January 9, 1998.

Reasons Waived: The application of the regulations would have created undue hardship and adversely affected the purposes of the CDBG program because the City would have been unable to sell 49 percent of the homes to families at 120 percent of the area median income. If the City had been prohibited from doing so, a high level of additional resources would have been needed to make the project financially feasible. HUD determined that making this project financially possible met the purposes of the CDBG program.

16. Regulation: 24 CFR 570.208(a)(3).

Project/Activity: The City of St. Louis, Missouri requested a waiver of the Community Development Block Grant (CDBG) regulations at 24 CFR 570.208(a)(3) to permit the use of CDBG funds to assist in converting two non-residential structures into mixed income residential structures where less than 51 percent of the units in each structure will be occupied by low and moderate income households.

Nature of Requirement: The CDBG regulations at 24 CFR 570.208(a)(3) require, as a general rule, that CDBG-assisted housing structures principally benefit low- and moderate-income households.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: January 9, 1998.

Reasons Waived: The application of the regulation would have adversely affected the purposes of the CDBG program by impeding the provision of affordable housing in the central business district. Denial of the waiver request would have adversely impacted affect the City's ability to create mixed income housing development in the central city.

17. Regulation: 24 CFR 570.309.

Project/Activity: Milwaukee and Waukesha Counties, Wisconsin requested a waiver of the regulation that restricts assistance of activities outside the jurisdiction of the Community Development Block Grant (CDBG) recipient to those that benefit residents within the grantee's jurisdiction.

Nature of Requirement: HUD's CDBG regulations at 24 CFR 570.309 provides that a grantee can only provide CDBG funds for an activity outside of the grantee's jurisdiction if certain conditions are met. First, the grantee must determine that the activity is needed to further the purposes of the CDBG program and the grantee's community's development objectives. Secondly, the grantee must determine that reasonable benefits from the activity will accrue to residents within the jurisdiction of the grantee.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: March 13, 1998.

Reasons Waived: The 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters authorizes HUD to suspend certain statutory and regulatory provisions that would otherwise apply to the use of disaster recovery funds in a federal disaster area. The regulatory requirement was waived because the needs of low- and moderate-income disaster victims were being addressed by the Counties.

18. Regulation: 24 CFR 576.21.

Project/Activity: The Government of Puerto Rico, requested a waiver of the Emergency Shelter Grants (ESG) program regulations at 24 CFR 576.21.

Nature of Requirement: HUD's regulation at 24 CFR 576.21 state that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)). Essential services are commonly defined as services that provide health, employment, drug abuse, and education to homeless persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: January 30, 1998.

Reasons Waived: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.'' The Commonwealth provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

19. Regulation: 24 CFR 576.21.

Project/Activity: The State of New York, requested a waiver of the Emergency Shelter Grants (ESG) program regulations at 24 CFR 576.21.

Nature of Requirement: HUD's regulation at 24 CFR 576.21 state that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)). Essential services are commonly defined as services that provide health, employment, drug abuse, and education to homeless persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: January 30, 1998.

Reasons Waived: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.'' The State provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources. Accordingly, HUD determined that the waiver was appropriate.

20. Regulation: 24 CFR 576.21.

Project/Activity: New York City, New York requested a waiver of the Emergency Shelter Grants (ESG) program regulations at 24 CFR 576.21.

Nature of Requirement: HUD's regulation at 24 CFR 576.21 state that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C.

11374(a)(2)(B)). Essential services are commonly defined as services that provide health, employment, drug abuse, and education to homeless persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: February 10, 1998.

Reasons Waived: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.'' The City provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources. Accordingly, HUD determined that the waiver was appropriate.

21. Regulation: 24 CFR 576.21.

Project/Activity: The State of Wisconsin requested a waiver of the Emergency Shelter Grants (ESG) program regulations at 24 CFR 576.21.

Nature of Requirement: HUD's regulation at 24 CFR 576.21 state that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)). Essential services are commonly defined as services that provide health, employment, drug abuse, and education to homeless persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: February 17, 1998.

Reasons Waived: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.'' The State provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources. Accordingly, HUD determined that the waiver was appropriate.

22. Regulation: 24 CFR 576.21.

Project/Activity: The City of Binghamton, New York requested a waiver of the Emergency Shelter Grants (ESG) program regulations at 24 CFR 576.21.

Nature of Requirement: HUD's regulation at 24 CFR 576.21 state that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)). Essential services are commonly defined as services that provide health, employment, drug abuse, and education to homeless persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: February 26, 1998.

Reasons Waived: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.'' The City provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources. Accordingly, HUD determined that the waiver was appropriate.

23. Regulation: 24 CFR 576.21.

Project/Activity: The City of Colorado Springs, Colorado requested a waiver of the Emergency Shelter Grants (ESG) program regulations at 24 CFR 576.21.

Nature of Requirement: HUD's regulation at 24 CFR 576.21 state that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)). Essential services are commonly defined as services that provide health, employment, drug abuse, and education to homeless persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: March 10, 1998.

Reasons Waived: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.'' The City provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources. Accordingly, HUD determined that the waiver was appropriate.

24. Regulation: 24 CFR 576.21.

Project/Activity: The State of California requested a waiver of the Emergency Shelter Grants (ESG) program regulations at 24 CFR 576.21.

Nature of Requirement: HUD's regulation at 24 CFR 576.21 state that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)). Essential services are commonly defined as services that provide health, employment, drug abuse, and education to homeless persons.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: March 26, 1998.

Reasons Waived: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.'' The State provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources. Accordingly, HUD determined that the waiver was appropriate.

25. Regulation: 24 CFR 576.35.

Project/Activity: The State of California requested a waiver of the Emergency Shelter Grants (ESG) Program regulations at 24 CFR 576.35(a)(2)(ii).

Nature of Requirement: HUD's regulations at 24 CFR 576.35(a)(2)(ii) requires that State recipients receiving grants for homeless prevention activities must spend the funds within 180 days from the date on which the State made the grant funds available to its recipient.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: March 26, 1998.

Reasons Waived: The State requested the waiver in order to enable recipients to have funds available for prevention activities during the winter months.

For Item 26, Waiver Granted for 24 CFR Part 761, Contact: Bruce Knott, Director of Housing and Community Development, U.S. Department of Housing and Urban Development, National Office of Native American Programs, 1999 Broadway, Box 90, Denver, CO 80202; telephone (303) 675–1600 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

26. Regulation: 24 CFR 761.30(b).

Project/Activity: A request was made by the Pueblo of Acoma Housing Authority (PAHA) for an 18-month extension of their fiscal year 1995 Public and Indian Housing Drug Elimination Grant Program (PIHDEP) grant.

Nature of Requirement: The regulations state that the terms of the grant agreement may not exceed 24 months for the PIHDEP program and that only one 6-month extension is allowed. If the grant funds are not expended at the end of the grant term, funds must be remitted to HUD.

Granted by: Deborah Vincent, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 18, 1998.

Reason Waived: The original grant was awarded to the All Indian Pueblo Housing Authority (AIPHA), an umbrella housing authority that served 11 tribes in New Mexico, including the PAHA. When AIPHA was terminated, the grant was transferred to the newly-created PAHA, which wanted to implement the drug prevention/intervention and youth activities that were specified in the approved drug elimination comprehensive plan. A waiver of the regulations was granted to PAHA so that they would be able to successfully implement all drug elimination activities in their community by the end of the extended time frame.

For Items 27 Through 30, Waivers Granted for 24 CFR Part 761, Contact: Gloria J. Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4126, Washington, DC 20410; telephone (202) 401–8812 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

27. Regulation: 24 CFR 761.30(b).

Project/Activity: Redevelopment and Housing Authority of the City of Portsmouth, Virginia; Public and Indian Housing Drug Elimination Program (Grant #VA36DEP0010195).

Nature of Requirement: The regulations state that the terms of the grant agreement may not exceed 24 months for the Public and Indian Housing Drug Elimination Grant Program and that only one 6-month extension is allowed. If the grant funds are not expended at the end of the grant term, funds must be remitted to HUD.

Granted by: Kevin E. Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: February 25, 1998.

Reason Waived: The waiver was granted in order to permit the Portsmouth Redevelopment and Housing Authority to complete its adult basic education and job training programs. These programs were not part of the Authority's original grant. Accordingly, the Authority needed the additional time to establish evaluation criteria and negotiate contracts for these programs.

28. Regulation: 24 CFR 761.30(b).

Project/Activity: Housing Authority of the City of York, Pennsylvania; Public and Indian Housing Drug Elimination Grant Program (Grant #PA26DEP0220195).

Nature of Requirement: The regulations state that the terms of the grant agreement may not exceed 24 months for the Public and Indian Housing Drug Elimination Grant Program and that only one 6-month extension is allowed. If the grant funds are not expended at the end of the grant term, funds must be remitted to HUD.

Granted by: Deborah Vincent, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 27, 1998.

Reason Waived: The waiver was granted in order to permit the York, Pennsylvania Housing Authority three additional months to complete its grant activities (such as foot patrols and other community police services). The extension will also allow the Housing Authority to purchase a van for drug-prevention activities.

29. Regulation: 24 CFR 761.30(b).

Project/Activity: Housing Authority of the City of Waycross, Georgia; Public and Indian Housing Drug Elimination Grant Program (Grant #GA06DEP0280195).

Nature of Requirement: The regulations state that the terms of the grant agreement may not exceed 24 months for the Public and Indian Housing Drug Elimination Grant Program and that only one 6-month extension is allowed. If the grant funds are not expended at the end of the grant term, funds must be remitted to HUD.

Granted by: Deborah Vincent, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 27, 1998.

Reason Waived: The waiver was granted to provide the Waycross Housing Authority with six additional months for completing its grant activities. The extension was necessary to permit the Housing Authority to use grant funds originally budgeted for policing activities to be used for other drug-prevention activities.

30. Regulation: 24 CFR 761.30(b).

Project/Activity: Housing Authority of the City of Concord, New Hampshire; Public and Indian Housing Drug Elimination Program (Grant #NH36DEP005–0195).

Nature of Requirement: The regulations state that the terms of the grant agreement may not exceed 24 months for the Public and Indian Housing Drug Elimination Grant Program and that only one 6-month extension is allowed. If the grant funds are not expended at the end of the grant term, funds must be remitted to HUD.

Granted by: Deborah Vincent, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 27, 1998.

Reason Waived: The departure of the Concord Housing Authority's Executive Director and Drug Prevention Coordinator delayed the implementation of its Public and Indian Housing Drug Elimination Program grant. The extension of the grant term will permit the Housing Authority to use the remaining grant funds to install lighting in and around some of the Housing Authority buildings and on the street.

For Item 31, Waiver Granted for 24 CFR Part 811, Contact: James B. Mitchell, Acting Director, Special Projects Division, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Room 6164, Washington, DC 20410; telephone (202) 708–3730 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8391.

31. Regulation: 24 CFR 811.104(b).

Project/Activity: Refunding of bonds which financed a HODAG assisted project in Palm Beach County, Florida (Spinnaker Landing Apartments, Project No. FL002–HG402).

Nature of Requirement: The regulation prohibits payment of a fee to a Housing Authority other than for actual expenses of a bond refunding transaction.

Granted by: Art Agnos, Acting General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 15, 1998.

Reasons Waived: The refunding bonds were issued on terms which reduced debt service to strengthen the financial condition of the project, transferred ownership to a new entity, and redeemed 1988 bonds which were in default. The Palm Beach County Housing Authority received a fee of $32,500 for its participation in this transaction. Because this fee was paid by the project owner and not from refunding bond proceeds or from debt service reserve residual balances, good cause existed to waive § 811.104(b).

For Items 32 and 33, Waivers Granted for 24 CFR Part 882, Contact: Debbie Ann Wills, Field Management Officer, U.S. Department of Housing and Urban

Development, 451 Seventh Street, SW, Room 7152, Washington, DC 20410; telephone (202) 708–2565 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

32. Regulation: 24 CFR 882.803(a)(3).

Project/Activity: The New England Shelter near Boston, Massachusetts proposed using Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) program funds to renovate a building located on the grounds of a Veterans Administration Memorial Hospital.

Nature of Requirement: HUD's regulation at 24 CFR 882.803(a)(3) provides that units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions are not eligible for Section 8 Moderate Rehabilitation SRO program funds.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning & Development.

Date Granted: February 18, 1998.

Reasons Waived: The waiver was granted because of the organization's difficulty in finding an appropriate site. Failure to approve the waiver would have resulted in further delays for this project, which will provide much needed housing for the locality's homeless population.

33. Regulation: 24 CFR 882.408(a).

Project/Activity: The Metro Dade Housing Authority requested a waiver, to increase the Fair Market Rent (FMR) in its Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) program for a single project.

Nature of Requirement: HUD's regulation at 24 CFR 882.408(a) provides that rental housing assisted with SRO funds cannot charge rents that exceed the current Section 8 FMR.

Granted by: Saul Ramirez, Assistant Secretary for Community Planning and Development.

Date Granted: March 10, 1998.

Reasons Waived: The waiver was granted because the Housing Authority documented that the SRO rents in its locality were higher than the published FMR.

For Items 34 Through 38, Waivers Granted for 24 CFR Part 891, Contact: Willie Spearmon, Director, Office of Business Products, Office of Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6134, Washington, DC 20410; telephone (202) 708–3000 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

34. Regulation: 24 CFR 891.100(d).

Project/Activity: Dorothea Dix House.

Nature of Requirement: HUD's regulations at 24 CFR part 891 describe the policies and procedures governing supportive housing for the elderly and persons with disabilities. The regulation at § 891.100(d) provides that HUD may amend the amount of an approved capital advance only after initial closing has occurred.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 15, 1998.

Reasons Waived: HUD approved the waiver request in order to assure the feasibility of the Dorothea Dix House.

35. Regulation: 24 CFR 891.100(d).

Project/Activity: Valentine Good Samaritan Housing Project.

Nature of Requirement: HUD's regulations at 24 CFR part 891 describe the policies and procedures governing supportive housing for the elderly and persons with disabilities. The regulation at § 891.100(d) provides that HUD may amend the amount of an approved capital advance only after initial closing has occurred.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 3, 1998.

Reasons Waived: HUD approved the waiver request in order to assure the feasibility of the Valentine Good Samaritan Housing Project. The Sponsor had explored all avenues to save money in the design, labor and materials for the project before the approval of the waiver.

36. Regulation: 24 CFR 891.100(d).

Project/Activity: Jeffersontown Good Samaritan Housing Project.

Nature of Requirement: HUD's regulations at 24 CFR part 891 describe the policies and procedures governing supportive housing for the elderly and persons with disabilities. The regulation at § 891.100(d) provides that HUD may amend the amount of an approved capital advance only after initial closing has occurred.

Granted by: Art Agnos, Acting General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 11, 1998.

Reasons Waived: HUD approved the waiver request in order to assure the feasibility of the Jeffersontown Good Samaritan Housing Project.

37. Regulation: 24 CFR 891.310(b).

Project/Activity: ARC HUD III, Inc.

Nature of Requirement: HUD's regulations at 24 CFR part 891 describe the policies and procedures governing supportive housing for the elderly and persons with disabilities. The regulation at § 891.310(b) establishes several accessibility requirements for the Section 811 Program of Supportive Housing for Persons with Disabilities and to Section 202 projects for non-elderly disabled families and individuals. Specifically, the regulation requires that all entrances, common areas, units to be occupied by resident staff, and amenities must be readily accessible to and usable by persons with disabilities. In projects for developmentally disabled or physically disabled persons, all dwelling units in an independent living facility (or all bedrooms and bathrooms in a group home) must be designed to be accessible or adaptable for persons with physical disabilities.

Granted by: Nicolas P. Retsinas, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 23, 1998.

Reasons Waived: HUD approved the waiver to maintain project feasibility and facilitate project development. Requiring all four of the group homes involved in the project to be accessible would have made the project financially infeasible. The sponsor will make one of the homes fully accessible in accordance with the requirements § 891.310(b). Further, the project, as a whole, will comply with the requirements of Section 504 of the Rehabilitation Act of 1973.

38. Regulation: 24 CFR 891.310(b).

Project/Activity: Project Share V.

Nature of Requirement: HUD's regulations at 24 CFR part 891 describe the policies and procedures governing supportive housing for the elderly and persons with disabilities. The regulation at § 891.310(b) establishes several accessibility requirements for the Section 811 Program of Supportive Housing for Persons with Disabilities and to Section 202 projects for non-elderly disabled families and individuals. Specifically, the regulation requires that all entrances, common areas, units to be occupied by resident staff, and amenities must be readily accessible to and usable by persons with disabilities. In projects for chronically mentally ill individuals, a minimum of 10 percent of all dwelling units in an independent living facility (or 10 percent of all bedrooms and bathrooms in a group home, but at least one for each such space) must be designed to be accessible or adaptable for persons with disabilities.

Granted by: Art Agnos, Acting General Deputy Assistant Secretary for

Housing-Federal Housing Commissioner.

Date Granted: March 18, 1998.

Reasons Waived: HUD approved the waiver to maintain project feasibility and facilitate project development. Requiring all four of the group homes involved in the project to be accessible would have imperiled project feasibility. The sponsor will make one of the homes fully accessible in accordance with the requirements § 891.310(b). Further, the project, as a whole, will comply with the requirements of Section 504 of the Rehabilitation Act of 1973.

For Items 39 Through 64, Waivers Granted for 24 CFR Part 982, Contact: Gloria J. Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4126, Washington, DC 20410; telephone (202) 401–8812 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

39. Regulation: 24 CFR 982.201(b).

Project/Activity: Southwestern Idaho Cooperative Housing Authority; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation limits eligibility for both the Section 8 rental certificate and rental voucher programs to specified categories of families.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: February 11, 1998.

Reason Waived: The waiver permitted two single parent families, that would have been eligible if they had applied separately, to continue living as a household sharing both expenses and the care of three disabled children in the household.

40. Regulation: 24 CFR 982.303(b).

Project/Activity: Cuyahoga Metropolitan Housing Authority, Ohio; Section 8 Rental Certificate and Rental Voucher Programs.

Nature of Requirement: The regulation provides for a maximum rental certificate/rental voucher term of 120 days during which a certificate/voucher holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: January 6, 1998.

Reason Waived: The waiver covered 24 families who were issued rental certificates/vouchers for relocation as a result of termination of project-based Section 8 contracts due to HUD contract enforcement activities. The waivers were granted to prevent further hardship to the families who did not appear to have received adequate relocation assistance.

41. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of the City of Alameda, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: January 6, 1998.

Reason Waived: Approval of the waiver prevented further hardship to a certificate holder whose illness prevented him from seeking housing during the time his certificate was in effect.

42. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of Snohomish County, Washington; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin E. Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: January 6, 1998.

Reason Waived: Approval of the waiver prevented further hardship to a certificate holder whose medical condition severely limited her ability to seek housing.

43. Regulation: 24 CFR 982.303(b).

Project/Activity: Portage Metropolitan Housing Authority, Ohio; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: January 22, 1998.

Reason Waived: The program participant was forced to move from her assisted housing due to the sale of the property. Approval of the waiver minimized disruption to the family. The waiver permitted the three children in the family to remain in the same school district, and the head of the household to continue her participation in HUD's Family Self-Sufficiency Program.

44. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of the City of Los Angeles, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: January 28, 1998.

Reason Waived: Approval of the waiver prevented hardship for an elderly certificate holder who was confined to bed and unable to look for housing during much of the time his certificate was in effect.

45. Regulation: 24 CFR 982.303(b).

Project/Activity: Idaho Housing and Finance Association; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: January 28, 1998.

Reason Waived: Approval of the waiver provided extra search time for a certificate holder whose degenerative disorder made it difficult for him to seek housing.

46. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of the County of Alameda, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: January 28, 1998.

Reason Granted: The waiver provided extra search time to a certificate holder who, as a result of her mobility impairment, faced special difficulties in locating a suitable unit.

47. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of Santa Clara County, California; Section 8 Rental Voucher Program.

Nature of Requirement: The regulation provides for a maximum rental voucher term of 120 days during which a rental voucher holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: January 28, 1998.

Reason Granted: Approval of the waiver prevented hardship to the voucher holder who, as a result of serious illness, was unable to seek housing during much of the time her voucher was in effect.

48. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of Alameda County, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: January 28, 1998.

Reason Waived: Approval of the waiver, which provided extra search time, helped prevent further hardship to this single parent family. The head of household could not seek housing during much of the time her rental certificate was in effect due to a variety of medical problems, including the serious injuries she suffered when struck by a car.

49. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of the City of Alameda, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: January 28, 1998.

Reason Waived: Approval of the waiver prevented hardship to an elderly certificate holder, who was unable to complete her planned move due to a heart attack.

50. Regulation: 24 CFR 982.303(b).

Project/Activity: Montgomery County Housing Authority, Pennsylvania; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: January 30, 1998.

Reason Waived: Approval of the waiver allowed the program participant to move to another State where she could receive specialized medical treatment. She was unable to complete the move at the time planned because of complications resulting from her illness.

51. Regulation: 24 CFR 982.303(b).

Project/Activity: Holbrook Housing Authority, Massachusetts; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: February 11, 1998.

Reason Waived: Approval of the waiver prevented hardship to a homeless certificate holder who suffers from Multiple Sclerosis. Her search for suitable housing was made extremely difficult by her illness and by the lack of adequate support in her housing search.

52. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of the County of Santa Clara, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: February 13, 1998.

Reason Waived: The waiver prevented hardship to an elderly certificate holder who, due to illness, was unable to seek housing during much of the time his certificate was in effect.

53. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of the County of Santa Clara, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: February 13, 1998.

Reason Waived: The waiver permitted the disabled certificate holder to find permanent housing located near her doctors. She was unable to seek housing during the required time period due to her hospitalization after suffering a series of strokes.

54. Regulation: 24 CFR 982.303(b).

Project/Activity: Linn-Benton Housing Authority, Oregon; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: February 13, 1998.

Reason Waived: The waiver permitted a disabled certificate holder to complete the necessary paperwork for moving into a suitable unit.

55. Regulation: 24 CFR 982.303(b).

Project/Activity: Boston Housing Authority, Massachusetts; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: February 17, 1998.

Reason Waived: Approval of the waiver provided the certificate holder with additional time to seek housing. Coronary artery disease and other medical conditions severely limited the certificate holder's ability to seek housing during the time her rental certificate was in effect.

56. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of the County of Santa Clara, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: February 17, 1998.

Reason Waived: Approval of the waiver provided the elderly, mobility impaired certificate holder with additional time to find suitable housing. The certificate holder was unable to seek housing during the time her rental certificate was in effect due to poor health and lack of assistance in her housing search.

57. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of St. Louis County, Missouri; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: February 17, 1998.

Reason Waived: The waiver granted the certificate holder additional time to find suitable housing. The certificate holder was unable to seek housing during the required time period due to surgery and rehabilitation treatments.

58. Regulation: 24 CFR 982.303(b).

Project/Activity: Commonwealth of Massachusetts, Department of Housing and Community Development; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: February 17, 1998.

Reason Waived: The waiver was granted to protect the program participant from further hardship. The program participant was forced to move from her assisted unit because of domestic abuse. Her ability to find another suitable unit was severely limited by her serious health problems.

59. Regulation: 24 CFR 982.303(b).

Project/Activity: Boston Housing Authority, Massachusetts; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: February 17, 1998.

Reason Waived: The waiver was granted to protect the family from further hardship. The family has special housing needs due to the medical condition of a child in the family and the illness of other family members. The medical condition of these family members made it difficult for the family to locate suitable housing during the term of the rental certificate.

60. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of Alameda County, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: March 6, 1998.

Reason Waived: The waiver was granted to prevent further hardship to a homeless family. The waiver provided additional time for the family to locate housing near the school and medical facilities used by the disabled son.

61. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of the County of Santa Clara, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Deborah L. Vincent, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 23, 1998.

Reason Waived: The waiver was granted to prevent hardship to a seriously ill certificate holder. The certificate holder was hospitalized during much of the time his certificate was in effect and was, therefore, unable to search for housing during that time.

62. Regulation: 24 CFR 982.303(b).

Project/Activity: Boston Housing Authority, Massachusetts; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Deborah L. Vincent, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 23, 1998.

Reason Waived: The waiver granted the certificate holder, who was seriously ill during much of the time her certificate was in effect, additional time to find suitable housing.

63. Regulation: 24 CFR 982.303(b).

Project/Activity: Metro Housing and Redevelopment Authority; St. Paul, Minnesota; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Deborah L. Vincent, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 26, 1998.

Reason Waived: Approval of the waiver prevented further hardship to a disabled certificate holder. The certificate holder's ability to seek housing during the required time period was severely limited by a mobility impairment.

64. Regulation: 24 CFR 982.303(b).

Project/Activity: Housing Authority of the City of Los Angeles, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate term of 120 days during which a certificate holder may seek housing to be leased under the program.

Granted by: Deborah L. Vincent, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 27, 1998.

Reason Waived: The waiver was granted to prevent hardship to a disabled certificate holder. The certificate holder suffers from multiple health problems that limited her ability to obtain suitable housing.

For Item 65, Waiver Granted for 24 CFR Part 990, Contact: Joan DeWitt, Director, Office of Funding and Financial Management Division, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone (202) 708–1872 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

65. Regulation: 24 CFR 990.109.

Project/Activity: Pennington County, South Dakota Housing and Redevelopment Commission (PCHRC).

Nature of Requirement: Under HUD's Performance Funding System (PFS) regulations at 24 CFR part 990, the energy conservation incentive that relates to energy performance contracting currently applies to only PHA-paid utilities.

Granted by: Kevin Emanuel Marchman, Assistant Secretary for Public and Indian Housing.

Date Granted: March 2, 1998.

Reason Waived: The PCHRC has *both* PHA-paid and tenant-paid utilities. A request was made to permit the PCHRC to benefit from energy performance contracting for developments which have tenant-paid utilities. The PCHRC estimates that it could increase savings substantially if it were able to undertake energy performance contracting for *both* PHA-paid and tenant-paid utilities. The waiver permits the PCHRC to exclude from its PFS calculation of rental income increased rental income due to the difference between updated baseline utility allowances (before implementation of the energy conservation measures) and revised allowances (after implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

[FR Doc. 98–30124 Filed 11–9–98; 8:45 am]

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S. 2427/P.L. 105–345
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H.J. Res. 138/P.L. 105–350

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